

## Aircraft registration and aircraft mortgages in the Cayman Islands

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The Cayman Islands is a popular jurisdiction for aircraft registrations and aircraft mortgage registrations. It is not difficult to see why.

### **Stable Legal System**

The Cayman Islands provides a stable and highly regarded legal system based on the British legal system. The Legislative Assembly of the Cayman Islands is elected every four years, and is responsible for approving Cayman Islands statutes. Further, statutes passed by the United Kingdom Parliament and extended by Order in Council to the Cayman Islands are also binding in the Cayman Islands. English common law applies in the Cayman Islands with persuasive authority. The Governor of the Cayman Islands is appointed by the Queen every three years and, apart from assenting to statutes and other functions, acts as a liaison between Cayman Islands and the British Government.

The Cayman Islands boasts a straightforward system of aircraft registration and mortgaging based on the British model. The primary source of regulation relating to aviation in the Cayman Islands is the Air Navigation (Overseas Territories) Order 2007 (as amended) (the Order) which has been extended to regulate the aviation industry in the Cayman Islands by a United Kingdom Order in Council. The Order sets out the general regulatory regime, including airworthiness requirements in the Cayman Islands.

### **The Cayman Islands Civil Aviation Authority (CAA)**

The Civil Aviation Authority Law (2005) sets out the powers of the CAA. The role of the CAA is primarily to function as the regulatory organisation responsible for safety oversight and economic regulation of the aviation industry and to ensure that the Cayman Islands aviation industry conforms to the standards and recommended practices of the International Civil Aviation Organisation (ICAO), which was established by the Convention on International Civil Aviation in 1944.

The Director General of the CAA is responsible for the administrative management of the CAA and to implement regulation in a cooperative and cost effective manner, but most importantly to ensure that the Cayman Islands are served by a safe and efficient civil aviation industry. The Director General reports to a board of directors that is responsible for the adequate administrative functioning of the CAA. Apart from its office in Grand Cayman, the CAA also has an office in London to service the interests of aircraft registrants in Europe

## **The Cayman Islands Civil Aviation Authority Aircraft Register (AR)**

The AR is the registry of choice for many aircraft owners, not least because the Cayman aircraft registration mark “VP-C” is regarded as a neutral mark. The CAA proudly maintains a reputation of providing a safe, stable and credible flag for registration of an aircraft, and imposes no specific restrictions on where the aircraft may be operated, subject of course to international restrictions. Standards are exacting but this has led to the register being highly respected throughout the aviation industry internationally.

The AR is primarily private and currently there are approximately 180 aircraft registered on the AR. By convention, and with a few notable exceptions (such as Cayman Airways, the national carrier) the AR is not open for commercial registrations.

Aircraft registrations may be effected either by owners or a charterer by demise of an aircraft. In most cases, a Cayman Islands exempted company will be established (a simple, cost-effective process that can be undertaken within a couple of days) and the aircraft will be registered under the eligibility criterion “firms carrying on business in the Cayman Islands”. For this purpose, there is no need for directors or shareholders in the exempted company to be resident in the Cayman Islands. Importantly, Cayman Islands exempted companies are not charged corporation taxes and this feature enables aircraft financing transaction to be carried out tax neutrally.

Aircraft registrations in the Cayman Islands are competitively priced and the registration process is relatively straightforward. Where possible, the CAA will deploy its airworthiness surveyors to inspect an aircraft in its home base in order to comply with Cayman Islands registration requirements. The average time taken to register an aircraft is between 6 and 8 weeks and the CAA prides itself on its client-friendly and professional approach to registrations. The AR is private and not available for public searches.

## **Cayman Islands Civil Aviation Authority Mortgage Register (MR)**

The Cayman Islands is an attractive choice for lenders in aircraft financing transactions because of the confidence of financiers in the Cayman Islands legal system and their ability to enforce mortgages through the Cayman Islands’ British based court system, where necessary.

The Cayman Islands offers a number of protections for lenders in aircraft financing transactions. A registered mortgage enjoys statutory priority over subsequent registered mortgages and unregistered mortgages, and the priority of a registered mortgage will not be affected by the bankruptcy of the mortgagor. There is a requirement that a registered mortgagee must provide its consent to removal of the mortgaged aircraft from the MR before such removal can take place. Further, a registered mortgage will continue to exist notwithstanding removal of the aircraft from the AR. Additionally, the Cayman Islands Government is required to indemnify a mortgagee for loss suffered as a result of an error or omission in the MR.

The procedure for mortgaging an aircraft in the Cayman Islands is simple and efficient. The mortgagee must provide the CAA with a registration form containing the date, aircraft description, mortgagor contact details and confirmation of the sum secured. This, together with a certified copy of the mortgage, must be supplied to the CAA to effect the registration of mortgage. A registration fee of 0.01% of the sum secured (subject to a cap of US\$30,488) is payable upon registration. This fee is payable once and irrespective of the length of the mortgage. There is no requirement that the mortgage itself be governed by the laws of the Cayman Islands, giving lenders additional flexibility.

Registration of the mortgage does not take effect until the aircraft is registered. However, a mortgagee may secure its interest prior to registration of the aircraft by submitting a "priority notice" to the CAA. This will prevent other security interests over the same aircraft being registered in advance of registration of the mortgage. The CAA policy is not to require payment of the mortgage registration fee upon submission of the priority notice.

De-registration of an aircraft mortgage is similarly straightforward. The mortgagee must provide confirmation of discharge, countersigned by the mortgagor, along with evidence of discharge of the mortgage debt. This will enable the CAA to record the mortgage as discharged in the MR and the CAA will notify the mortgagor and mortgagee accordingly. Readers should note that, unlike the AR, the MR is capable of being searched by the public for a nominal fee.

## **Conclusion**

It is not difficult to see why the system of registration and mortgaging of aircraft in the Cayman Islands enjoys such popularity.

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