Aircraft Registration in the Cayman Islands, Guernsey and Jersey

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Introduction

The registration of aircraft and aircraft engines, together with the registration of aircraft mortgages and aircraft engine mortgages, is possible on each of the aircraft registries in the Cayman Islands, Guernsey and Jersey. With offices in each of these locations (together with BVI, Hong Kong, Luxembourg, Shanghai and Tokyo), Ogier is well placed to provide practical advice on all aspects of aircraft and aircraft engine registration, together with the creation, registration and enforcement of aircraft mortgages and aircraft engine mortgages.

Cayman Islands, Guernsey and Jersey Aircraft Registries

The Cayman Islands has been attracting aircraft registrations for almost thirty years, the Guernsey registry was launched in 2013 and the Jersey registry was launched on 6 November 2015.

The Cape Town Convention

The Cape Town Convention on International Interests in Mobile Equipment, and its Aircraft Equipment Protocol (the Cape Town Convention) has been extended to the Cayman Islands and Guernsey. Extension of the Cape Town Convention to Jersey is expected later this year although no specific timings have been provided.

The Cape Town Convention creates a single harmonised international framework for the creation and registration of international interests (including title and security interests) against internationally mobile assets such as aircraft and aircraft engines. This provides consistency and certainty as the international interests are recognised and enforced across all signatory countries. The Cape Town Convention also gives creditors access to basic default and insolvency related remedies, and establishes an electronic registry of international interests which serves to give notice of interests to third parties. This registration provides lenders with reduced credit risk when financing the lease or purchase of aircraft and aircraft engines, thereby increasing the availability, and reducing the cost, of such financing for borrowers.

The Cayman Islands Aircraft Registry

The Cayman Islands aircraft registry (the Cayman Registry) is highly respected and recognised throughout the international aviation industry.

What

The majority of aircraft registered at the Cayman Registry are private exclusive jets (such as Boeing Business Jet, Airbus A302 and Bombardier Global Express). The category of private aircraft has been expanding, and now includes all turbo-jet aircraft, all other aircraft above 5,700kg and helicopters which are based on yachts.

The Cayman Registry has often been seen as an attractive and more viable alternative to registering an aircraft within the United States. Registration in the Cayman Islands is generally
confidential and is not a matter of public record.

Who

To register an aircraft at the Cayman Registry, the individual seeking registration must prove eligibility in accordance with the Air Navigation (Overseas Territories) Order 2013. The following persons are qualified to hold a legal or beneficial interest by way of ownership in an aircraft registered in Cayman:

- the Crown;
- United Kingdom nationals;
- Commonwealth citizens;
- nationals of an EEA State;
- bodies incorporated in some part of the Commonwealth and having their registered office or principal place of business in any part of the Commonwealth; or
- undertakings formed in accordance with the law of an EEA State and which have their registered office, central administration or principal place of business within the EEA.

Security

The Cayman Registry maintains a register of aircraft and also a register of aircraft mortgages, allowing loans to be secured against the relevant aircraft assets registered on the Cayman Registry. The recognition and enforcement of a mortgage in respect of an aircraft in the Cayman Islands can occur regardless as to whether the mortgage has been granted under the law of the Cayman Islands or foreign law.

The Cayman Registry also permits the filing of priority notices, which gives notice that there is an intention to take security in respect of a particular aircraft asset. Once such security is registered, the security is deemed to have been registered on the date on which the priority notice was filed.

Guernsey

Guernsey’s Aviation Registry, 2-Reg (the Guernsey Registry), has strengthened Guernsey’s position as a leading financial jurisdiction.

What

The Guernsey Registry offers the opportunity to register small general aviation aircraft, private aircraft and off-lease aircraft, regardless of where in the world they are situated. Following the success of the Guernsey Registry in the off-lease market, the States of Guernsey has passed an amendment to the legislation which widens the scope of the Guernsey Registry to allow for the registration of aircraft used for the purpose of commercial air transport. Further to this amendment, Guernsey now offers an air operator’s certificate, both through the traditional route as found elsewhere, and also through two more novel approaches based on the “validation” concept that has been established for airworthiness. Air operator’s certificates are required under international law for aircraft used for the purpose of commercial air transport.

In addition to the registration of aircraft, the Guernsey Registry offers flight crew licence validations for pilots who are flying Guernsey registered aircraft, and aircraft maintenance engineers performing maintenance on, and realising the service of, Guernsey registered aircraft.

The Guernsey Registry offers the ability to select the maintenance certification program to be followed for the aircraft (ie. the certification standards available pursuant to the US Federal
Aviation Administration, the Canadian Transport Canada Civil Aviation or the European Aviation Safety Authority).

Who

To be eligible to register an aircraft at the Guernsey Registry an individual or legal entity must be:

- a national of an EEA State;
- a resident in the British Islands or in a British Overseas Territory;
- a financial services business supervised by the Guernsey Financial Services Commission (or certain other regulated entities); or
- represented by a Guernsey resident agent (resident in Guernsey and licensed under the Regulation of Fiduciaries, Administration Business and Company Directors, etc. (Bailiwick of Guernsey) Law, 2000).

Security

The Guernsey Registry maintains a register of aircraft and aircraft engines, and also a register of mortgages, allowing loans to be secured against the relevant aircraft assets registered on the Guernsey Registry. The recognition and enforcement of a mortgage in respect of an aircraft or aircraft engine in Guernsey can occur regardless as to whether that mortgage has been granted under Guernsey or foreign law.

The Guernsey Registry also permits the filing of priority notices, which gives notice that there is an intention to take security in respect of a particular aircraft asset. Once such security is registered, the security is deemed to have been registered on the date on which the priority notice was filed.

Jersey

The Jersey Aircraft Registry (the Jersey Registry) provides a platform for the registration of aircraft, as well as the creation, registration and enforcement of aircraft mortgages and aircraft engine mortgages. Further, the Jersey Registry provides lenders with the opportunity to finance the lease or purchase of aircraft and aircraft engines which are registered in Jersey.

In order to introduce the Jersey Registry, two pieces of primary legislation have been introduced; the Aircraft Registration (Jersey) Law 2014 (the Aircraft Registration Law) and the Air Navigation (Jersey) Law 2014.

What

The Jersey Registry allows for the registration of aircraft and aircraft engines other than, except in limited circumstances, aircraft that fly for the purpose of commercial air transport or aerial work.

Who

The ability to register aircraft and aircraft engines on the Jersey Registry is only eligible to any owner who is a citizen, resident, incorporated or established in any country in the EEA, Commonwealth or Switzerland.

Security

The Aircraft Registration Law provides that recognition and enforcement of an aircraft
mortgage or aircraft engine mortgage in Jersey can occur regardless of whether that mortgage has been granted under Jersey or foreign law. This will be of a particular benefit once the Cape Town Convention has been extended to Jersey.

Advantages of the Cayman Islands, Guernsey and Jersey Registries

- efficient registration process
- cost effective
- tax neutrality
- reliable, competitive and responsible place to do business
- stable legal, political and regulatory environment

About Ogier

Ogier provides practical advice on BVI, Cayman Islands, Guernsey, Jersey and Luxembourg law through its global network of offices. Ours is the only firm to advise on these five laws. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

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