



Aviation Group Client Update

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DOT CLARIFIES NEW GUIDANCE FOR PUBLIC CHARTERS

Today, DOT issued a [Clarification](#) of its [November 2012 Guidance](#) on public charter prospectuses. In addition to providing citations to the authorizing laws, the DOT clarified what information and assurances must be included in public charter prospectus filings and its enforcement policies.

1. Although all passenger funds must be deposited initially in escrow accounts (apart from certain deductions allowed in travel agent sales), in the following situations, charter operators may have aircraft, crew, maintenance and insurance (ACMI) only contracts with direct air carriers if: (i) the charter operator and its escrow bank offer assurances that passenger funds have been placed in escrow with appropriate accounting; (ii) the charter operator uses a section 380.84(a) security instrument in an unlimited amount or for the full cost of the air transportation; (iii) a government requires direct payment from the charter operator rather than the escrow bank; and (iv) payment is for government taxes and fees required in advance of the date of travel and a full accounting of such disbursements is kept.
2. The fact that charter operators must retain direct control of all passenger reservation records does not prohibit them from relying on reservations systems provided by third-parties so long as the charter operator will have access to the records.
3. The DOT will not take enforcement action against charter operators that accept debit card payments if they can provide assurances to the DOT that their merchant banks and credit card/debit card processors will provide the same chargeback protections to those using debit cards as credit card users receive.
4. The proscription on the use of vouchers applies only to voucher programs for which the charter operator receives money, not to purely gratuitous or complimentary vouchers distributed for passenger goodwill.
5. Required assurances will only be expected from the charter operator, the bank, and the direct air carrier with respect to the portions of the charter operations in which the entity making the assurance is directly involved.

If you have any questions or would like further information regarding this Guidance, please contact our office.

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