



Aviation Group Client Update

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FAA CLARIFIES POLICY ON NON-CITIZEN TRUSTS

Today, FAA issued a Notice of Policy Clarification for the Registration of Aircraft to U.S. Citizen Trustees in Situations Involving Non-U.S. Citizen Trustors and Beneficiaries. The policy, as clarified, is effective **September 16, 2013**.

After a series of public meetings with stakeholders and consideration of written comments from interested parties, the clarified FAA policy states that:

- No distinction is made between an Owner Trustee and an individual aircraft owner in the laws and regulations that establish and govern the FAA Registry. Therefore, Owner Trustees will be held to the same regulatory compliance standards as individual owners who register aircraft on the FAA Registry.
- FAA expects that an Owner Trustee can provide general information regarding the operator, location of maintenance and other aircraft records, and the base of operations for an aircraft within two (2) business days, and more detailed information regarding the operator, crew, and aircraft operations on a specific date, maintenance and other aircraft records, and current airworthiness status of an aircraft within five (5) business days. FAA emphasizes that these timelines are only guidance and not mandatory compliance deadlines.
- Owner Trustees will need to submit a copy of any operating agreement, side letter, or other document affecting the custody and use of the aircraft to Aeronautical Center Counsel as part of the package that currently includes the trust agreement. If requested, the operating agreement will be returned to the applicant and will not be retained in FAA Registry files.
- Trust agreements must be specific with respect to what constitutes sufficient cause for removal of the Owner Trustee by a non-citizen Trustor.
- There are no regulatory restrictions on the ability of an Owner Trustee to resign without first being replaced by a successor trustee.

FAA provided a revised standard trust agreement that reflects the policy clarifications described above. While applicants are not required to use any particular form or version of a trust agreement, FAA confirmed that non-citizen trusts that followed the standard trust agreement will generally be acceptable to the FAA as the basis for registering an aircraft on the FAA Registry.

If you have any questions regarding non-citizen trusts or the policy clarification, please contact our office.

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McBreen & Kopko's Aviation Group represents air carriers, fixed base operators (FBOs), airport managers, aviation service providers, and business aircraft owners and operators on a wide range of aviation issues including regulatory matters, commercial transactions, aircraft finance matters, and bankruptcy and creditors' rights.