

OFF TO A FLYING START – CORPORATE AVIATION IN GUERNSEY

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Appleby (Guernsey) LLP are up, up and away: their active and thriving aviation team whose wide-ranging interests in the area, strengthened by the support of Appleby's global aviation team, are building a burgeoning aviation practice in Guernsey. This practice is international in outlook but is certainly strongly connected to the fast-growing success of the relatively young Guernsey aviation registry, 2-REG.

2-REG, a public-private partnership between the States of Guernsey and SGI Aviation, has been quick to secure its position as a market leader. Within 17 months of being established 50 aircraft had been registered, increasing to over 150 aircraft now registered, including a number of high-profile clients and aircraft such as the Boeing 787 Dreamliner, and interest continues to take off.

Distinguishing itself from rival registry jurisdictions, in November 2015 Guernsey ratified the Cape Town Convention on International Interests in Mobile Equipment (the **Cape Town Convention**) and the corresponding Aircraft Protocol. This has proven to be a great benefit to 2-REG giving global certainty and recognition to Guernsey-registered aircraft and international interests created in Guernsey itself. The Cape Town Convention is an ambitious piece of international commercial law with the purpose of providing a stable international regime for the protection of secured creditors, conditional sellers and lessors of aircraft.

Amendments to the aviation laws in Guernsey have also paved the way for the issue of aircraft operator certificates (**AOCs**) by 2-REG, a real "USP" for 2-REG increasing its attractiveness globally. AOCs allow for the

commercial operation of Guernsey-registered aircraft in accordance with international law and provide a valuable opportunity for owners to generate additional revenue from their aircraft when not being used.

All in all the success of 2-REG, the introduction of AOCs and the convenience of Guernsey as a location for a non-EU stop to transfer title in an aircraft have kept the Appleby team extremely busy in an area which is constantly developing.

There are potential clouds on the horizon however in the form of Brexit. Whilst not a problem unique to Guernsey, Brexit is certainly an issue at the forefront of all those operating in the aviation market today. In aviation parlance, turbulence is expected.

As aircraft are a moveable, high-value asset, owners and operators are willing to shift registers to take advantage of the most beneficial regime available. Guernsey has close geographical, political and economic ties with the UK that extend into the aviation sector. Given that the UK is one of the largest aviation markets in the world, the considerable uncertainty generated by the Brexit vote and little reassurance given by the UK government to settle this means that 2-REG may be in a position to capitalise on this.

Perhaps the most significant impact of Brexit could be changes to the access of UK-registered aircraft to Europe. The UK is currently part of the European Common Aviation Area (**ECAA**), membership of which grants automatic access to the single aviation market and removes many limits on aircraft registered with ECAA member states flying between those states. Although leaving the EU does not necessarily prevent the UK from remaining a member of the ECAA - Norway and Lichtenstein have managed to negotiate access – remaining will require the UK to accept all EU aviation legislation and to engage in close economic co-operation with the EU. It is hard to believe that these conditions will be readily accepted. If the UK drops out of the ECAA, it will be forced to negotiate bilateral agreements between both ECAA member states and non-member states as many of the current aviation agreements, such as the EU-US Open Skies Agreement, have been negotiated directly with the ECAA.

An exit from the ECAA would also see restrictions on cabotage. Currently, private aircraft rely heavily on the types of journey whereby they drop a passenger off in one city and make the short journey to another to pick up a passenger for the return leg. These journeys help to avoid wasted fuel and empty legs, which makes short haul flights as profitable as possible. If UK-registered aircraft can no longer fly freely throughout the ECAA, this will severely restrict such journeys and create an incentive to move to another more favourable jurisdiction.

Brexit could also lead to more complex and onerous aviation legislation in the UK as the UK begins to introduce its own regulations to replace EU ones. The UK Civil Aviation Authority is renowned for introducing regulations and requirements that are more extensive than the international norm and therefore as it gains full control over UK aviation legislation it is likely that the amount of regulation that needs to be conformed to will only increase.

2-REG has seen strong growth since its formation due largely to the fact that it is responsive, adopts a pragmatic approach, benefits from a strong regulatory foundation and offers the chance to register aircraft in a tax-friendly jurisdiction. The UK has enjoyed a long period of strength in its aviation market, however the significant uncertainty created by the Brexit vote and the potential implications should the UK leave the ECAA mean that this is now threatened. Guernsey offers a neutral jurisdiction with a long history of political stability and efficient tax rules that together allow access to the International Registry via the Cape Town Convention and thus is in a strong position to capitalise on the uncertainty that currently exists in the UK. Appleby continue to closely monitor the likely impact of Brexit along with other areas on Guernsey and our other

offshore jurisdictions, advising clients on such impact and tailoring structures to suit their needs in a changing regulatory environment. The continued success of 2-REG and Guernsey as an aviation jurisdiction is one we are pleased to help continue to grow and the outlook is certainly good for some high-profile success stories.