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| <i>Subject</i> | <b>Aircraft Leasing and Code-sharing</b> |
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## SCOPE

This information Bulletin informs all AOC holders as well as potential Air Operator Certificate (AOC) applicants about the procedures and requirements of the HCAA concerning aircraft leasing as well as code-share agreements between air operators, pursuant to Regulation (EC) No. 1008/2008, Regulation (EC) 216/2008 and its Implementing Rules.

### *Reason of amendment*

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| Revision 1 | Change is par. 3.1.2 – compliance with AMC1.ARO.OPS.110 |
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|                          |      |
|--------------------------|------|
| Contents                 | page |
| 1. Introduction .....    | 02   |
| 2. Dry Lease .....       | 04   |
| 3. Wet Lease .....       | 07   |
| 4. Code Sharing .....    | 14   |
| 5. Audit Programme ..... | 16   |

## 1. Introduction

### 1.0 Regulations

The following regulations are applicable:

- a) Regulation (EC) No. 1008/2008
- b) Regulation (EC) No. 965/2012 (hereinafter referred to as AIR-OPS).
- c) Annex I to Regulation (EC) No. 2042/2003 (hereinafter referred to as Part M).
- d) Regulation (EC) No. 216/2008 (hereinafter referred to as Basic Regulation);
- e) Regulation (EC) No. 1178/2011 (hereinafter referred to as PART-FCL);

The European regulations can be consulted on the website <http://eur-lex.europa.eu/> and/or [www.easa.europa.eu](http://www.easa.europa.eu).

*(\*) Annex V is not yet in force. Till the date of the entrance in force any reference to “PART-T” should be replaced by the expression “equivalent levels of Safety”*

*Note: Any reference in this IB of the type: “ORO.AOC.110(f)” etc means the corresponding paragraph of AIR-OPS Regulation*

### 1.1. Definitions

The term "Community air carrier" shall be deemed to mean any undertaking within the European Union or States associated therewith (Iceland, Liechtenstein, Norway and Switzerland) whose business includes or consists solely of carriage by air, with an operating licence in accordance with Regulation (EC) No. 1008/2008 and an Air Operator Certificate (AOC) issued in accordance with the requirements of Basic Regulation.

The "term air service" shall be deemed to mean a flight or a series of flights carrying passengers, cargo and/or mail for remuneration and/or hire.

The term "undertaking" shall be deemed to mean any natural person or legal entity, whether profit-making or not, or any official body whether having its own legal personality or not.

The term "dry-lease agreement" shall be deemed to mean any agreement between undertakings under which only the aircraft concerned is operated (without provision of crew) under the AOC and associated conditions of the lessee.

The term "wet-lease agreement" shall be deemed to mean any agreement between commercial operators under which an aircraft is operated under the AOC of the lessor.

The term "audit" shall be deemed to mean an audit in accordance with the approved Audit Programme.

The term "code sharing" shall be deemed to mean any commercial agreement between two operators under which flights are operated for one operator, also referred to as the ‘marketing

operator’, under the flight number of the other operator, also referred to as the ‘operating operator’. Tickets are sold by the ‘marketing operator’, whilst the flight is operated under the AOC of the ‘operating operator’.

## **1.2. Types of Lease**

Pursuant to Article 13 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110 the following types of lease can be distinguished:

### ***A) Dry lease-in***

- i) Between an EU operator and an undertaking which is not an operator (Article 12 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110a.)
- ii) Between EU operators. (Article 13, paragraphs 1 and 2 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110a)
- iii) Between an EU operator and an operator from a third country (Article 13, paragraphs 1 and 2 of Regulation (EC) No. 1008/2008 and AIR-OPS ORO.AOC.110d)

### ***B) Wet lease-in***

- i) Between EU operators. (Article 13, paragraphs 1 and 2 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110a)
- ii) Between an EU operator and an operator from a third country whereby an aircraft registered in that third country is the subject of the lease-in. (Article 13, paragraphs 3 and 4 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110c)

AMC1 ORO.AOC.110 contains the information that the operator should provide to the competent authority, when intending to lease-in an aircraft.

### ***C) Dry lease-out***

- i) Between EU operators. (Article 13, paragraphs 1 and 2 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110e)
- ii) Between an EU operator and an operator from a third country. (Article 13, paragraphs 1 and 2 of Regulation (EC) No. 1008/2008 and AIR-OPS: ORO.AOC.110e)

### ***D) Wet lease-out***

- i) Between operators (AIR-OPS ORO.AOC.110f) including ACMI agreements (Aircraft Crew Maintenance Insurance). Agreements between an EU operator and an undertaking not being an operator are charter agreements and are not considered as ACMI or wet lease.

In the following sections the lease types referred to above will be discussed in detail.

## **2. DRY LEASE**

Pursuant to Regulation (EC) No. 1008/2008 two following types of dry lease can be distinguished:

- ✓ Dry lease on which a Greek operator has one or more aircraft at its disposal through an agreement in order to qualify for an operating licence (article 4 paragraph c);
- ✓ Dry lease between a Greek operator and another operator (Article 13).

Article 12 of Regulation (EC) No. 1008/2008 stipulates that aircraft operated by an EU operator must be registered in the national register or within the EU.

‘Financial lease’ is regarded as an ownership framework. With finance leasing an operator has beneficial ownership of the aircraft, whilst the legal ownership rests with an external financier. This includes sale ‘lease-back’ agreements. Thus, we consider this type of dry lease-in as a form of ownership, opposed to a temporary dry lease-in from another operator.

In ‘dry lease’ agreements with another operator, the aircraft is operated under the AOC of the lessee. The aircraft will be registered in the state of the lessee unless arrangements are made with the State of registration on supervisory obligations. Such a lease is limited to a pre-agreed period, usually up to one year, which could be extended after evaluating the agreements in respect to supervisory obligations.

The European policy concerning ‘Dry-Lease agreements’, for mutual operation of aircraft without crew within the European Union, and the transfer of supervision between Member States in accordance with international agreements, is followed, so that the effective performance of supervisory obligations is ensured. This guide therefore only contains references to the statutory requirements. Applications will be assessed on a case by case basis.

Operators with safety deficiencies according to the criteria of Regulation (EC) No. 2111/2005 do not qualify for dry lease agreements. This ‘List of operators banned or restricted within the EU’ is published by the European Commission on [http://ec.europa.eu/transport/air-ban/list\\_nl.htm](http://ec.europa.eu/transport/air-ban/list_nl.htm)

### **2.1 Dry lease-in; ownership framework (a/f is registered in Greece)**

#### **2.1.1. Dry lease-in, prior approval required.**

A dry lease-in requires the prior approval of HCAA following article 12 and 13, paragraph 2, of Regulation (EC) No. 1008/2008 and ORO.AOC.110(a).

For this purpose an operator must submit an application for approval of the dry lease-in agreement to the HCAA. This is an indirect approval: by adding the aircraft to the AOC the HCAA grants its approval, so the application referred above is considered the “AOC variation – adding an aircraft to the AOC” application.

### 2.1.2. HCAA assessment framework

Approval will be granted if the provisions of Article 12 (registration) and 13 (paragraph 2) of the Regulation (EC) No. 1008/2008 and of AIR OPS, PART-FCL and Part M have been fulfilled.

In the case of ‘sale and leaseback’, where an operator sells an aircraft and immediately leases it back, no removal from or addition to the AOC is needed provided that the holdership by the operator has not been interrupted.

This should be reflected in the signed ‘Holdership Statement’, where the details of the lease are recorded with a statement signed by the lessee, that the parties to the lease agreement fully understand their respective responsibilities under the applicable regulations (refer to AMC1 ORO.AOC.110).

Once an aircraft have been removed from the AOC, or if the holdership by the operator has been interrupted according to the Greek aircraft register (i.e. passed to a third party), again approval must be obtained for the dry lease-in.

## **2.2 Dry lease-in within EU (a/f keeps its EU registration)**

### 2.2.1. Dry lease-in, prior approval required.

According to Article 13 (paragraph 2) and ORO.AOC.110(a) of AIR-OPS, each dry lease-in agreement must be approved.

### 2.2.2. HCAA assessment framework.

Approval is given subject to compliance with the provisions of Article 13(paragraph 2) of Regulation (EC) No. 1008/2008, and the applicable requirements of AIR-OPS (PART-ORO) and PART-FCL-M. As referred in §2.1.1, this is an indirect approval: by adding the aircraft to the AOC the HCAA grants its approval.

In the case of dry lease-in of aircraft registered in another Member State a coordination is needed with the competent authority responsible for the continuing oversight of the aircraft.

## **2.3 Dry lease-in; third country aircraft (a/f keeps its third country registration)**

### 2.3.1. Prior approval is required

According to Article 13 (paragraph 2) of Regulation (EC) No. 1008/2008 and ORO.AOC.110(d), a dry lease agreement must be prior approved.

The operator has to submit to HCAA an application for approval of the dry lease-in. An application is only admissible if the State of Registry of the aircraft makes a formal request to the HCAA for transfer of supervisory obligations, with the conditions thereto (MOU, 83-bis Agreement etc).

This is an indirect approval: by adding the aircraft to the AOC, the HCAA grants its approval.

#### 2.3.2. Assessment framework HCAA

Approval is given subject to compliance with the provisions of Article 13 (paragraph 2) of Regulation (EC) No. 1008/2008 and the applicable requirements of PART-ORO, PART-FCL, PART-T and PART-M. The agreements which are made with the competent authority of the third country, which is responsible for the continuing oversight of the aircraft, are part of this approval.

The applicant for approval of a dry lease-in agreement for a third country aircraft must demonstrate to HCAA that (ORO.AOC.110(d)):

- 1) for operational reasons it is not possible to lease an EU registered aircraft;
- 2) the duration of the dry lease-in is not longer than seven months in any period of 12 consecutive months;
- 3) compliance with the requirements of Regulation (EC) No. 2042/2003 is guaranteed;
- 4) the aircraft is equipped in accordance to PART-CAT (subpart-D: Instruments, Data and Equipment) and PART-SPA (Specific Approvals) if applicable;
- 5) the insurance meets the requirements of Regulation (EU) No 785/2004.

*Note 1: The rationale of the operator that it is not possible for operational reasons to dry lease an aircraft registered in the EU, shall be assessed case by case. This may by example be necessary if under-capacity exists for a specific type of aircraft within the EU.*

*Note 2: The applicable requirements of PART-T, among which the continuing airworthiness requirements of the State of Registration must be equivalent to the requirements of Regulation No 2042/2003 (including PART-M, Subpart B, Subpart-C, Subpart-G and PART-145).*

### 2.4. Dry lease-out (a/f keeps its Greek registration)

#### 2.4.1. Prior authorization is required

According to Regulation (EC) No. 1008/2008 (Article 13, paragraph 2), and PART-ORO.AOC.110(e) a dry lease-out agreement should be prior approved.

The operator has to submit to HCAA an application for approval of the dry lease-out agreement. The application shall be accompanied by copies of the lease agreement or a description of the lease provisions (excluding financial arrangements) and any other relevant documentation.

Approval by HCAA is granted indirectly by removing the aircraft from the AOC.

#### 2.4.2. Assessment Framework HCAA

Approval is given subject to compliance with the provisions of Article 13 (paragraph 2), of Regulation (EC) No. 1008/2008 and the applicable requirements of PART-ORO and PART-FCL-M.

The agreements made with the competent authority responsible for the operation of the aircraft are part of this approval, if this is not the same authority (ARO.OPS.110 (d)).

#### 2.4.3. Foreign Flight Crew Licences

Pursuant to Article 4(b) of the Basic Regulation, PART-FCL does not apply to aircraft if the regulatory safety oversight has been delegated to a third country, provided that the aircraft is not used by an EU operator.

An operator from a third country may apply to the HCAA for a block validation for its flight crew personnel. This application must be accompanied by a statement from the foreign authority that the crew members, who will fly the Greek aircraft, have a valid pilot licence which has been issued in accordance with the requirements of Annex I to the Chicago Convention. The third country authority shall supervise these crew members.

For all other situations covered by the Basic Regulation individual validations for commercial and public transport flights must be applied for under PART-FCL.

*Note: In the case the leased-out aircraft leaves the Greek Registry the above are not applicable.*

### **3. WET LEASE**

Regulation (EC) No. 1008/2008 provides rights to a Greek operator to operate air services. If the identification code of the Greek operator is used by another operator under a 'wet lease' agreement, this can be regarded as a contracted activity performed by an organization that itself is certified for that activity.

The basic principle is that the Greek operator provides a method of ensuring that effectiveness of the management system and level of safety performance of the other operator are equivalent to the own organization. When leasing involves third country operators, the Greek operator must also demonstrate compliance with the European standards, or that the standards are equivalent to the applicable European requirements.

Operators with safety deficiencies according to the criteria of Regulation (EC) No.2111/2005 do not qualify for wet lease-in agreements. This 'List of operators banned or restricted within the EU' is published by the European Commission on [http://ec.europa.eu/transport/air-ban/list\\_nl.htm](http://ec.europa.eu/transport/air-ban/list_nl.htm).

Greek operators with a limited operating license (air service regulation Article 5.3) can only wet lease aircraft under 10 tonnes MTOW (MTOM) and/or 20 seats.

In all wet-in cases, HCAA shall assess available reports on ramp inspections performed on the aircraft of the lessor before giving any approval.

HCAA shall not approve a wet lease-in agreement, if the routes intended to be flown are not contained within the authorized areas of operations specified in the AOC of the lessor.

### **3.1 Wet lease-in (within EU)**

A wet lease-in agreement under which a Greek operator wet leases an aircraft from an EU operator.

#### **3.1.1. Free operation of aircraft registered within the EU**

Pursuant to Article 13 of the air service regulation EU operators may freely operate wet-leased aircraft registered within the EU. Free operation is not permitted if it would compromise safety.

Pursuant to ORO.AOC.110(a) any lease should be prior approved by the competent authority. To minimise administrative burden HCAA may grant approval in the form of 'no objection' if the Greek operator has procedures to ensure that the HCAA assessment framework is applied.

HCAA may also give approval to a framework agreement for 'short-term wet lease-in', based on an approved procedure in the Operation Manual.

#### **3.1.2. Assessment Framework HCAA**

The Greek operator notifies HCAA in advance of any plans for Wet lease-in of an EU operator. HCAA will grant approval in the form of 'no objection' if the Greek operator has procedures to ensure that:

- ✓ The EU operator has a valid and appropriate AOC for which the competent authority of the EU operator has not taken 'Level 1' measures in accordance with ARO.GEN.350(d)(1);
- ✓ The EU operator makes a corrective action plan available to the Greek operator for review, if the competent authority has taken measures 'Level 2' in accordance with ARO.GEN.350(d)(2);



- ✓ The contracted activities comply with the applicable requirements, particularly with regard to Management System and safety performance of the EU operator (ORO.GEN.205(a)).

If there is no approved wet lease-in procedure, or in case of wet lease without full crew, an assessment must be done by HCAA and explicit prior approval must be obtained for the agreement in accordance with ORO.AOC.110(a).

### **3.2. Wet lease-in (outside the EU)**

A wet lease-in agreement whereby a Greek operator wet leases an aircraft from a non-EU operator.

#### **3.2.1. Prior approval required.**

Pursuant to Regulation (EC) No. 1008/2008 (Article 13.3) and ORO.AOC.110(c) prior approval must be obtained. If HCAA sets conditions to the approval, these conditions must be incorporated in the wet lease-in agreement.

When applying for approval of the wet lease-in agreement (AMC1 ORO.AOC.110), the Greek operator provides a statement of the 'exceptional circumstances' justifying the leasing of aircraft registered in third countries.

The applicant must provide a signed 'audit compliance statement', with final assessment and review of the corrective actions and closed findings, which demonstrates that the operator is satisfied that the third country operator complies with equivalent safety standards. The conditions for an audit program are outlined in Chapter 5 of this IB.

The “audit compliance statement” must contain a full description of the Flight Time Limitations, operational procedures and safety standards referred to in AMC1 ORO.AOC.110(c).

#### **3.2.2. Assessment Framework HCAA**

HCAA may grant approval if the Greek operator demonstrates that:

- A. The third country operator holds a valid AOC issued in accordance with ICAO Annex 6 and the aircraft has a standard CofA issued in accordance with ICAO Annex 8 (ORO.AOC.110(c));
- B. the safety standards of the third country operator with regard to continuing airworthiness and air operations are equivalent to the applicable requirements established in AMC1 ORO.AOC.110(c);

C. the operator from the third country complies with the insurance requirements of Regulation (EU) No 785/2004;

D. one of the following conditions of Article 13.3 of the Regulation (EC) 1008/2008 is applicable:

- i. exceptional needs; or
- ii. seasonal capacity needs; or
- iii. operational difficulties.

*Note 1: The Greek operator demonstrates that exceptional needs is the basis for the 'wet lease-in'. In that case, the wet-lease may be approved for seven months. This period may be extended once for 7 months.*

HCAA will assess applications for exceptional needs on a case by case basis. Exceptional needs should be temporary (not stable or final) and delimited. Examples include (but are not limited to) 'special or outsized cargo', transport capacity for prospecting new markets, long-term aircraft replacement. Justification may also be replacing an aircraft for a limited time due to circumstances which could not have been avoided even if all reasonable measures have been taken by the operator.

In principle there will be no objection as long as the leased capacity is not disproportional to the existing capacity of the operator. After a maximum of fourteen months, either the need has been disappeared, or flights are operated by own aircraft.

*Note 2: The Greek operator demonstrates to HCAA that 'wet lease-in' is required to satisfy seasonal capacity needs. The operator also demonstrates that it is not possible to fulfil capacity needs by wet leasing aircraft registered in the EU. By example the lack of adequate aircraft on the Community market.*

The test of 'reasonability' covers economic or commercial considerations specific to the operator requesting the approval. In principle there will be no objection as long as the leased capacity is not disproportional to the existing capacity of the operator.

*Note 3: The Greek operator demonstrates to HCAA that the 'wet lease-in' is needed to overcome operational difficulties, and that it is not possible or reasonable to lease an aircraft registered in the EU. The 'wet lease-in' is limited to the duration strictly necessary to remedy the operational difficulties.*

### 3.2.3. Conditions of approval

HCAA may attach conditions to the approval, such conditions shall form part of the wet lease agreement.

HCAA may refuse to grant an approval if there is no reciprocity regarding wet leasing with the third country where the wet-leased aircraft is registered (Article 13.4 of Regulation (EC) No. 1008/2008).

### **3.3 ‘Short-notice, short-term wet lease-in’**

Objective of ‘Short-term wet lease-in’ is to reduce delays and/or inconvenience to passengers if an aircraft break down and the passengers have to be transported to their destination in the shortest possible time. ‘Short-term wet lease-in’ is explicitly not intended to expand capacity.

To cater for operational difficulties in situations that direct, unforeseen and urgent it is possible to wet lease-in an EU operator through a pre-approved procedure or, if that is not possible or reasonable, a third country operator that has been placed on a ‘white list’ of the Greek operator.

For ‘Short-term wet lease-in’ the following limitation applies:

- The wet lease-in period is limited to the duration strictly necessary to overcome the operational difficulties;
- The lessor provides the aircraft with complete crew;
- The Flight Time Limitations during the lease period are not beyond the applicable European and Greek legislation.

Pursuant to Regulation (EC) No. 1008/2008 the Greek operator has to determine whether at least one other European operator with an appropriate EU aircraft is available on or near the airport of departure. The phrase ‘appropriate’ include issues such as AOC Operations Specifications, type of aircraft, available seat capacity/seating plan, time and cost of positioning of aircraft and crew etc.

For example it may be reasonable to use an aircraft of a third country operator if the wet lease-in of an EU aircraft would lead to additional discomfort for passengers, delayed departure and/or arrival compared to the planned flight schedule, changes to the planned route, additional costs due to Denied Boarding Compensation etc.

If it is not possible or reasonable to lease an aircraft registered in the EU a wet lease-in may be entered under a framework agreement with a third country operator which prior has been placed on a ‘white list’ of the Greek operator.

#### **3.3.1. Prior approval EU operator**

Pursuant to ORO.AOC.110(a) any lease should be prior approved by the competent authority. From a practical view, HCAA may grant prior approval to a general framework for ‘Short-term wet lease-in’ with any other EU operator, if the Greek operator demonstrates that it has procedures to ensure that:

A. The EU operator has a valid and appropriate AOC for which the competent authority of the EU operator has not taken 'Level 1' measures in accordance with ARO.GEN.350 (d) (1);

B. The contracted operations comply with the applicable requirements, particularly with regard to Management System and safety performance of the EU operator (ORO.GEN.205(a)).

The Greek operator may use a preferred supplier list or 'white list' with EU operators. An audit is optional.

### 3.3.2. Prior approval third country operator

The Greek operator has to apply to place preselected third country operators on a 'white list', which is maintained by the Greek operator (GM1 ORO.AOC.110(c)).

The application must include a signed 'audit compliance statement', with final assessment and review of the corrective actions and closed findings, demonstrating that the Greek operator is satisfied that the operator from the third country complies with equivalent safety standards. The conditions for an audit program are outlined later in this IB (Chapter 5).

The 'audit compliance statement' will contain a full description of flight time limitations, operational procedures and safety assessment as referred to in AMC1 ORO.AOC.110(c).

### 3.3.3. Assessment Framework HCAA

HCAA will approve the framework agreement if the 'audit compliance statement' of the Greek operator demonstrates that the third country operator has an equivalent safety standard (AMC1 ORO.AOC.110(c)). After approval the operator may be added to the 'white list' for short-term wet lease-in (AMC2 ARO.OPS.110),

### 3.3.4. Notification 'short-term wet lease-in

Approval for 'Short-term wet lease-in' is only effective after notification of HCAA by the Greek operator (via email to this address: [d2c@hcaa.gr](mailto:d2c@hcaa.gr) as well as to relevant inspectors' electronic addresses). The notification shall contain at least the name and AOC number of the lessor, aircraft type, registration and the dates specified in AMC1 ORO.AOC.110. The underlying documents don't need to be sent, but should be available for verification.

Notification of wet lease-in of third countries operators must also include a statement with the EU operator from which a replacement aircraft was requested, with the reasons why it is not possible or reasonable to lease-in an aircraft registered in the EU.

### 3.3.5. Audit pooling and validity 'white list'

The Greek operator has to carry out an audit according to the approved Lease Audit Program to demonstrate that a third country operator meets equivalent safety standards.

The regulation has no provisions for the use of 'third-party providers' to perform audits for wet lease-in. Third party audits are only possible within the code-share audit program (AMC2 ORO.AOC.115(b)).

'Audit pooling' is possible between Greek operators, under conditions that their Lease Audit Programs corresponds and the full audit reports are available.

In such a case one operator endorses the audit report of the other operator by issuance of an 'audit compliance statement'.

Also if a Greek operator is part of an economic group with other EU operators, using standardized procedures, Audit pooling may be used provided that the above conditions are met, and an EU operator itself has carried out the audit.

The period of validity of inclusion on the white list is determined by the results of the audit report and is always valid for a maximum period of 24 months.

## 3.4. Wet lease-out

### 3.4.1. Wet lease-out; No prior authorization is required.

A wet lease-out agreement whereby a Greek operator provides an aircraft that is registered in Greece does not need approval by HCAA if is subject to the following conditions:

A. The wet lease-out agreement is entered into by an operator with a valid operating license or similar document issued by a state that has signed the 'Convention on International Civil Aviation' (ICAO), and;

B. The Greek operator provides the aircraft with complete crew, and;

C. The Greek operator will be the operator of the aircraft and retains all roles and responsibilities prescribed ORO.GEN.110, and;

D. The Greek operator performs a risk assessment in compliance with ORO.GEN.130(a) to ensure that the planned flights are within the AOC and Operations Specifications, and that the Management System is capable for these flights in accordance with ORO.GEN.200 (see ORO.GEN.130 GM1 (a)(4)(5)(8)(9)).

### 3.4.2. Wet lease-out; deviations for which prior authorization is required

If the aircraft is not leased out with complete crew, or if it is not immediately clear from the risk analysis that wet lease-out will not affect the AOC Operations Specifications or parts of the management system (ORO.GEN.200(a)(1) and (a)(2)), prior approval must be obtained of the HCAA for these differences.

Approval of HCAA is also necessary in the case of wet lease-out of a non Greek registered aircraft. This in respect to 'sub-lease' agreements between the competent authorities.

### 3.4.3. Wet lease-out; only notification to HCAA

In view of the supervisory role of the HCAA it is necessary that the HCAA is informed by the Greek operators: The Greek operator reports each wet lease-out within 72 hours to HCAA (by email to this address: [d2c@hcaa.gr](mailto:d2c@hcaa.gr) as well as to relevant Inspectors' electronic addresses)

The message contains at least aircraft type, registration or serial number, name and address of the lessee and the duration of the lease. A copy of the lease agreement with the terms and conditions, without financial details, must be submitted to HCAA on request (AMC1 ORO.AOC.110f).

If the lessee is included on the list of operators with safety deficiencies according to Regulation (EC) No. 2111/2005, this must be stated explicitly in the message. This because of notification to Eurocontrol with regard to 'EC Safety List Alerts'.

### 3.4.4. Wet lease-out; social legislation remains in force

With respect to consideration (9) of Regulation (EC) No. 1008/2008, community and national social legislation shall apply for employees of a Greek operator operating air services from an operational base outside Greece. The social legislation is set out in the cross-border employment Directive (No. 96/71/EC of the European Parliament and of the Council of the European Union of 16 December 1996) and is beyond the scope of this IB.

## 4. CODE SHARING

### 4.1. Code share -within the EU.

#### 4.1.1. No restrictions on air services within the EU.

When operating intra-Community air services (air services within the EU), it is permitted for Greek operators to combine air services and to participate in 'code-share' arrangements.

#### 4.1.2. Passenger is informed of the identity of the operating operator.

As a measure for the protection of air passengers in the case of code sharing it has been made compulsory for air carriage contractors to inform passengers of the identity of the operating operator pursuant to Article 11 of Regulation (EC) No. 2111/2005.

## **4.2. Code-share -outside EU.**

### **4.2.1. General authorization**

A code-share agreement, whereby a Greek operator places its identification code on a flight operated by a third country operator, must be accepted by HCAA (ARO.OPS.105) in the context that HCAA must be satisfied of the level of safety achieved by the third country operator. HCAA does this by:

- a) checking that documented information provided by the applicant in accordance with ORO.AOC.115 is complete and shows compliance with the applicable ICAO standards; and
- b) ensuring that the operator has established a code-share audit programme for monitoring continuous compliance of the third country operator with the applicable ICAO standards.

In this context, the HCAA liaise with the competent authority of the state of the third-country operator in order to exchange all necessary information concerning safety, if deemed necessary.

The relevant authority is contacted (if necessary) just after the Operator provides the necessary information concerning a particular agreement and informed that HCAA/D2/C is the Section responsible for the oversight of this particular task. During this first communication any concerns or questions shall be resolved.

The channels of communication between the two authorities shall remain open for all the period the code-share agreements remain in force.

### **4.2.2. Assessment Framework HCAA**

The Greek operator shall describe the procedures to ensure that the third country operator operates on the basis of equivalent safety standards.

This equivalence in safety must be demonstrated by the Greek operator by an “audit compliance statement” (“declaration”), according to an audit based on the approved audit program. The audit program includes both the initial audit and continuous monitoring.

Audit pooling is possible between EU operators if the full audit report is available. In that case one operator endorses the audit report of the other operator by the issuance of an ‘audit compliance statement’.

If audits are made by third parties, such as the IATA Operational Safety Audit (IOSA) program, the Greek operator shall ensure that the contracted activities continue to meet the applicable requirements (ORO.GEN.205(a)).

#### 4.2.3. Notification to HCAA is sufficient

In view of the supervisory role of the HCAA it is necessary that the HCAA is informed by the Greek operators (e-mail address: [d2c@hcaa.gr](mailto:d2c@hcaa.gr) as well as Inspectors' addresses).

The signed 'audit compliance statement' has to be attached, which demonstrates that the third country operator meets the applicable standards and is included in the monitoring program of the Greek operator.

#### 4.2.4. Obligation of the operator after “acceptance”

The Greek operator ensures and verifies that during the term of the code-share agreement the third country operator meets the applicable standards of ORO.AOC.115.

#### 4.2.5 Passengers are informed of the identity of the operating operator

As a measure for the protection of passengers in the case of code sharing it has been made compulsory for air carriage contractors to inform passengers of the identity of the operating operator pursuant to Article 11 of Regulation (EC) No. 2111/2005.

A Greek operator shall not sell or issue tickets for a flight operated by a third country operator if this operator has an operating ban pursuant to Regulation (EU) No 2111/2005 or when the applicable operator continues non-compliance to ICAO standards.

### **5. AUDIT PROGRAMME**

#### **5.1. Supervision of a third country operator.**

For monitoring a third country operator, the Greek operator may establish an audit program. The audit focuses on operational, management and control systems of that operator.

#### **5.2. Audit Program.**

The Greek operator sends to the HCAA the audit program as part of its documentation (OM). The content of the program must meet AMC1 ORO.AOC.115(a)(1), AMC1 ORO.AOC.115(b), AMC2 ORO.AOC.115(b) and the HCAA must be satisfied that by using it the operator can be sure that the third country operator meets the ICAO safety standards. This “satisfaction” is given either by the initial “acceptance” by the approved by the HCAA procedure of notifying changes by the operator.

The program includes both the initial audit and continuous monitoring. The validity of an audit is determined by the results of the audit report with a maximum of 24 months.



### **5.3. Code-share audit program**

Within the code-share audit program third party audits are allowed, such as the IATA Operational Safety Audit (IOSA) Programme. The Greek operator remains responsible and demonstrates that the third party complies with AMC2 ORO.AOC.115(b).

### **5.4. Wet lease-in audit program**

The Greek operator may use the audit program for wet lease-in, to ensure that the standards applied comply with ICAO standards and the requirements of ORO.AOC.110(c). The legislation does not provide for the use of ‘third-party providers’ to perform audits for wet lease-in. A wet lease-in audit is carried out by the operator on-site.

The scope of the wet lease-in audit shall be documented and must include (in the context of equivalent standards) at least the areas as prescribed in AMC1 ORO.AOC.110(c):

- PART-CAT (Annex IV of AIR-OPS);
- PART-SPA (Annex V of AIR-OPS), if applicable;
- PART-M Subpart B, Subpart C, and Subpart G, except for MA707, MA710;
- PART-145;
- PART-ORO.GEN.110 Responsibilities (of AIR-OPS);
- Subpart GEN Section 2 “Management” (of AIR-OPS);
- PART-ORO.MLR “Manuals” of AIR-OPS (except ORO.MLR.105 “MEL”);
- PART-ORO.FC of AIR-OPS “Flight crew”;
- PART-ORO.CC of AIR-OPS “Cabin crew” (except ORO.CC.200 and ORO.CC.210 (a));
- PART-ORO.TC of AIR-OPS “Technical crew”;
- PART-ORO.FTL of AIR-OPS “Flight Time Limitation” ;
- PART-ORO.SEC of AIR-OPS “Security”.

### **5.5. Level of supervision by the Authority.**

In the audit scope the level of authority supervision may also be observed.

ICAO publishes results of regular safety audits on its member states (the “Universal Safety Oversight Audit Programme”/“Continuous Monitoring Approach-CMA”: see <http://www.icao.int/safety/>).

Furthermore, the FAA International Aviation Safety Assessments Program may be used. Concerning category 2 National Authorities extra attention should be paid to the Supervisory Authority (see: [www.faa.gov/about/initiatives/iasa/](http://www.faa.gov/about/initiatives/iasa/)).

## 5.6. Documentation.

The following items should be available at least 5 years:

- Audit Plan
- Audit Report
- Summary of findings and corrective actions
- Assessment of third party scope of registration (e.g. IOSA)
- Assessment of audit findings and decision by the operator on equivalent safety standards.

*Ο Προϊστάμενος  
Διεύθυνσης Πτητικών Προτύπων  
καα*

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