

Aircraft Leasing – New UK Policy and Process for Wet Leasing-in from a [Community Operator](#)

1 Introduction

- 1.1 The purpose of this Information Notice is to inform all UK AOC Holders (both Aeroplanes and Helicopters) of the changes in UK policy and process concerning the approval of wet leasing-in (WLI) aircraft from a Community Operator. For the purposes of this Information Notice 'Community Operator' means only those operators from EASA Member States (EEA plus Switzerland).
- 1.2 This new UK policy does not refer to the wet lease-in under Regulation (EC) 1008/2008 of third country registered aircraft or from a Third Country Operator.
- 1.3 This UK policy and process is effective from 1 April 2015.

2 Background Information

- 2.1 A 'wet lease agreement' is where an air carrier (the Lessor) provides an aircraft, complete with crew, maintenance and insurance (ACMI) to another airline (the Lessee). The aircraft is operated under the AOC of the Lessor (the party from which the aircraft is leased).
- 2.2 The current CAA safety policy on the wet lease-in by UK AOC holders of aircraft registered elsewhere in the Community and operated by a Community Operator was agreed in 2008, to support current EU legislation. The process involved a review of applications on a case-by-case basis, with a request for a 48 hour advance notice of such applications.
- 2.3 Recent changes to European Regulations (EASA Air Operations Regulation) and the changing business models of UK operators, has led the CAA to develop a new UK policy and process to assist in the wet leasing-in of aircraft registered and operated from within the Community. This new policy reflects the CAA's new strategic approach, including Performance Based Oversight (PBO), and provides UK AOC holders with greater flexibility when wet leasing-in aircraft from within the Community.
- 2.4 The new process caters for the four principal scenarios foreseen by UK AOC holders: long term WLI and short term WLI – either planned or unplanned. At the heart of process is recognition that the UK AOC holder remains accountable for the safety of its operations when using WLI services and that it must therefore oversee WLI aircraft as part of its own Safety Management System (SMS) to assuring the safety of such operations.

3 Required Action by UK AOC Holders

- 3.1 UK AOC holders must ensure their Operations Manual, Part A, Section 13 (Leasing) entry reflects the leasing activities required for their operation.
- 3.2 If UK AOC holders wish to wet lease-in any aircraft at any time, they should first develop a company white list process; this should be in line with the CAA's wet leasing policy and process referred to in Appendices A, B and C, and ensure that it has been reviewed and accepted by the CAA.
- 3.3 UK AOC holders should submit their company white list process for acceptance by their assigned CAA Flight Operations Inspector (FOI).

- 3.4 Following CAA FOI acceptance of their white list process, the UK AOC holder should thereafter use this process to assess potential Lessors for inclusion onto the UK AOC holder's white list.
- 3.5 UK AOC holders should submit their applications/notifications to wet lease-in a Community registered and operated aircraft to the CAA's Leasing Co-ordinator using the Wet Leasing on-line form (Wet Lease In from EASA Member States Notification). A link to the WLI on-line form is available on the CAA's Aircraft Leasing webpage.

4 Emergency Wet Lease-in Process

- 4.1 When needing to wet lease-in an aircraft from a non-white list Lessor, where the UK AOC holder has a CAA accepted white list process (Emergency Process 1).
- (i) The emergency wet lease-in process starts with the AOC nominated representative submitting declarations to the CAA via the wet lease in on-line form (selecting emergency process 1). An automated e-mail that gives authority to fly will be sent by return. This approval will be limited in use (please see paragraph 4.1.(ii) below) and is to cover an event - for example: should an A330 have a technical fault (AOG), a UK AOC holder may need to wet lease-in two smaller aircraft (possibility from two different Community operators) to cover that event.
 - (ii) The approval is limited in use; the criteria of which are detailed in the conditions of the relevant paragraph of the CAA's General Approval of Leasing Agreements in Official Record Series 4. A link to this approval is available on the CAA's Aircraft Leasing webpage.
 - (iii) If the Lessee expects to use the Lessor again they may decide to add the Lessor to their company white list or create a company white list to include the Lessor for future use.
- 4.2 When needing to wet lease-in an aircraft from a non-white list Lessor, where the UK AOC holder does not have a CAA accepted white list process (Emergency Process 2).
- (i) The UK AOC holder can gain an automated approval (as per paragraph 4.1(i) above but the on-line form (emergency process 2) will require additional declarations. This process can only be used if the UK AOC holder has an accepted entry in their company's Operations Manual, (Part A, Section 13 (Leasing)).
 - (ii) The approval is limited to the conditions of the relevant paragraph of the CAA's General Approval of Leasing Agreements in Official Record Series 4, and is to cover one event. Please see paragraph 4.1(i) above for an example of what an 'event' is considered to be.

5 ANO Article 223 Permission

- 5.1 A Permit may be required under Article 223 of the UK Air Navigation Order 2009, if the UK AOC holder wet leases-in a non-UK but Community registered aircraft and uses it on routes between the UK and points outside the EU. This Permit can be obtained from the CAA's Foreign Carrier Permit Team – please use the following link for further information on how to apply for a Permit: [CAA's Permit Webpage](#).

6 Wet Leasing-in from another UK AOC Holder

- 6.1 In accordance with Article 13(2) of EC Reg 1008/2008 prior approval is required from the UK CAA under ARO.OPS.110(a)(4) and (b) and in compliance with ORO.AOC.110(a) and (b).
- 6.2 This approval is covered under the UK CAA's general approval of leasing agreements entitled "Leasing Agreements Entered into by a United Kingdom Air Carrier" published in the UK CAA's Official Record Series 4 (ORS4) document. A link to this document is available on the UK CAA's [Aircraft Leasing webpage](#).

7 Requirement to Notify Passengers of the Operating Air Carrier

- 7.1 UK AOC holders are reminded of the requirements in Article 11 of Commission Regulation (EC) No. 2111/2005, which requires the air carriage contractor (Lessee) to inform their passengers of the identity of the operating air carrier or carriers. See Article 11 for further information.

8 Queries

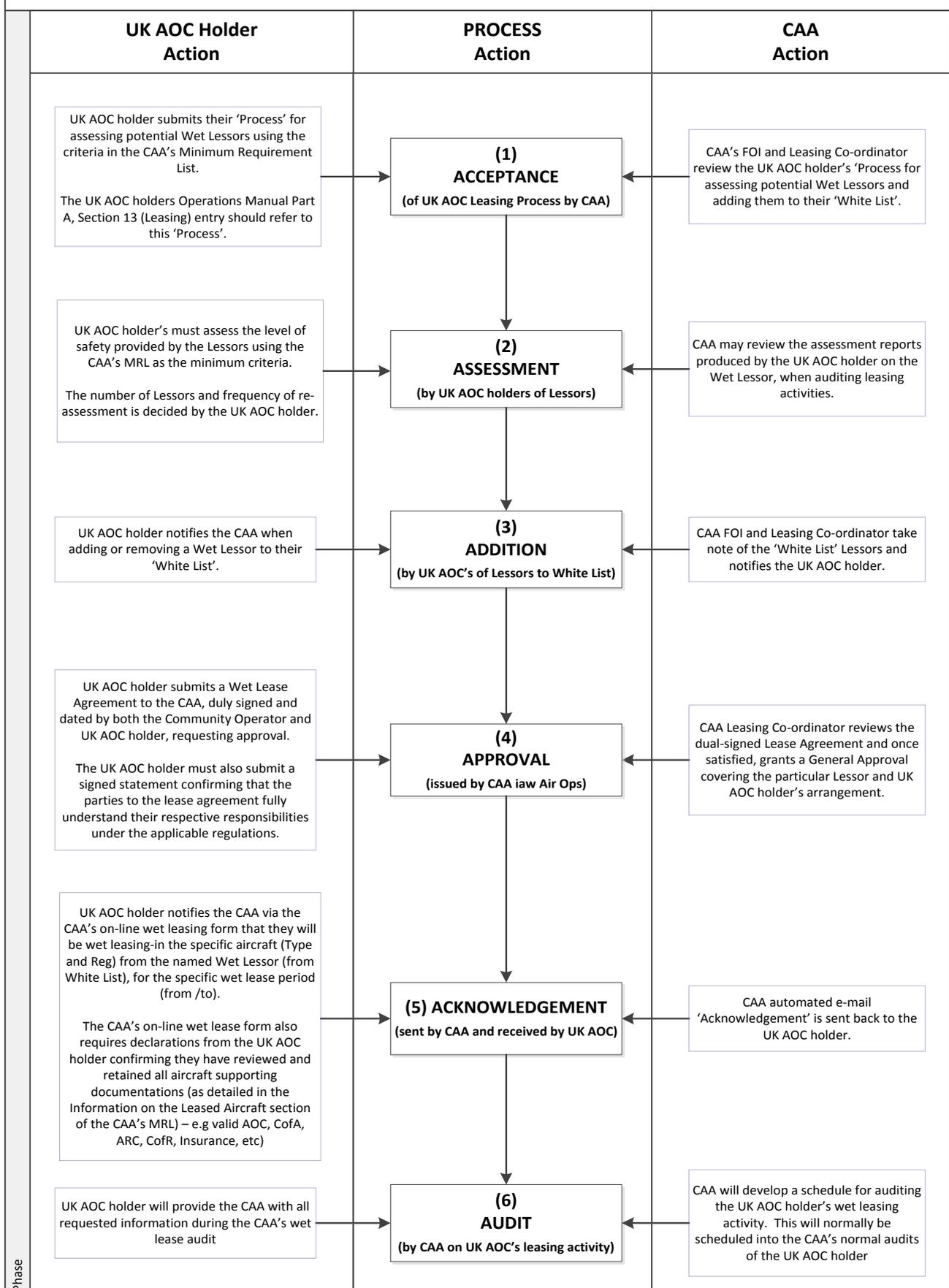
- 8.1 Any queries or requests for further guidance as a result of this communication or on Leasing should be addressed to the CAA Leasing Co-ordinator at Aircraft.Letting@caa.co.uk
- 8.2 For further information on lease approval requirements for all types of leases, please see the [CAA's Aircraft Leasing Webpage](#), and in particular, the [Overview of Lease Approval Requirements with effect from 28 October 2014](#).

9 Cancellation

- 9.1 This Information Notice will remain in force until further notice.

APPENDIX A – Overview of the new UK Policy and Process for Wet Leasing-in Aircraft from a Community Operator (Company White List Process)

Flowchart A: The Six 'A's White List Process when Wet Leasing-in from a Community Operator



Phase

The Six 'A's White List Process - Acceptance, Assessment, Addition, Approval, Acknowledgement and Audit – in more detail

1.1 The new UK policy is built around the premise of a six stage process. When considering using the facility of wet leasing-in an aircraft registered with the Community and/or operated by a Community Operator, UK AOC holders should first pre-assess potential Lessors and, if satisfactory to them, add the Lessor to their list of pre-assessed wet Lessors (or 'company white list'). This company white list is not approved by the CAA, but is owned and maintained by the particular UK AOC holder (Lessee), who will have decided upon the required level and frequency of monitoring and re-assessment. The UK AOC holder is required to notify the CAA when adding and removing Lessors from their company white list. Further details on each of the six 'A's process, is as follows:

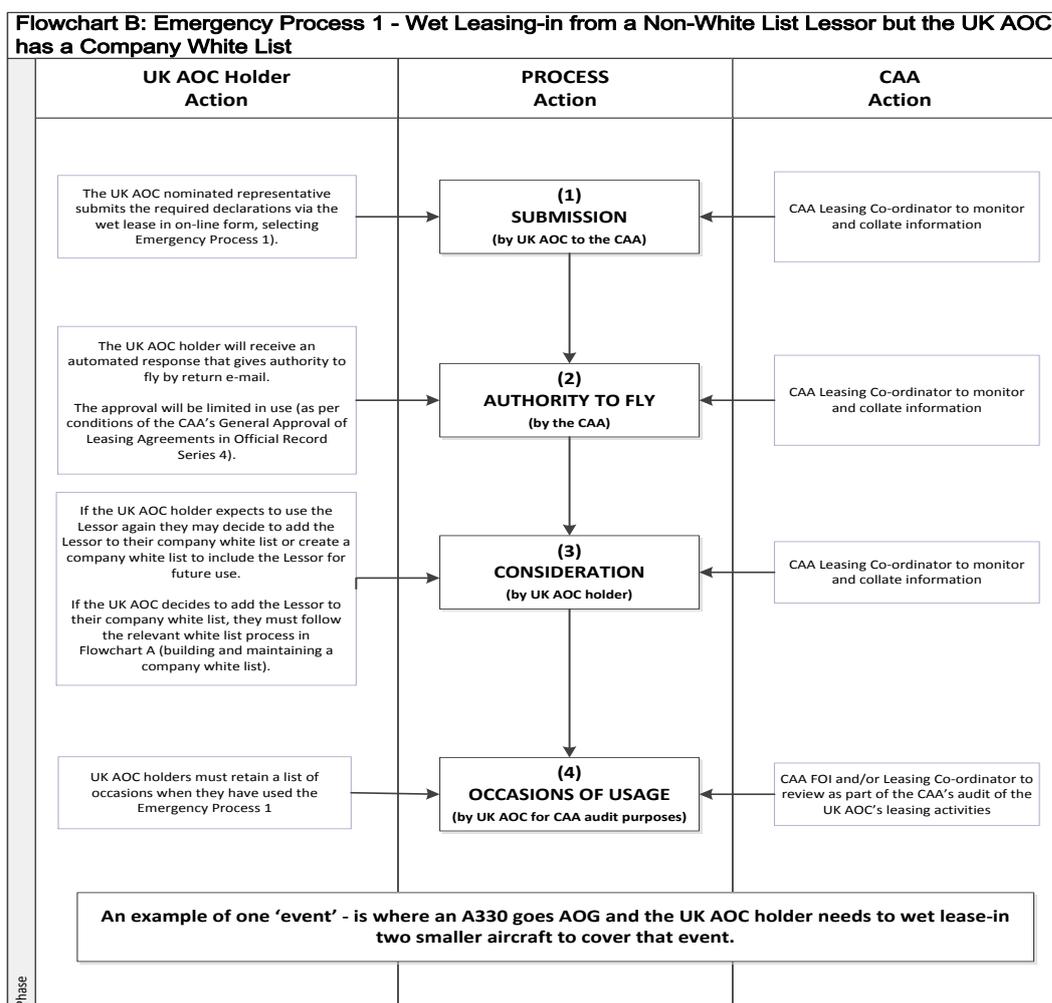
- a) **Acceptance** - the CAA Flight Operations Inspector (CAA FOI) will confirm their "Acceptance" of the UK AOC holder's process for assessing and adding a Lessor to their List of Pre-Assessed Wet Lessors (company white list). As a minimum, the UK AOC holder's process must include the criteria specified in the CAA's Minimum Requirements List (MRL). Please see Appendix B of this Information Notice which details the CAA's MRL criteria.
- b) **Assessment - The** UK AOC holder is required to process potential Wet Lessors through their previously accepted process (see a) above). Once they have decided upon which Wet Lessors to use, the UK AOC holder must carry out an assessment of those Lessors they wish to engage with; the outcome of which should be documented and available to the CAA upon request.
- c) **Addition** - Once the company white list process has been accepted by the CAA FOI and the UK AOC holder has assessed and satisfied themselves of the equivalent safety standards of Wet Lessors the UK AOC holder must notify the CAA (their FOI and the Leasing Co-ordinator via e-mail) when they add a Wet Lessor (Community Operator) to their company white list.
- d) **Approval** - UK AOC holders must have been granted an Approval by the CAA **prior** to wet leasing-in an aircraft from another EASA Member State (EEA plus Switzerland) operator. This will be issued in the form of a general approval between the particular Community Operator and the UK AOC holder and can only be obtained by having:
 - i. An active company white list which includes the particular Community Operator (Lessor) and which has been previously notified to the CAA;
 - ii. There is a Lease Agreement in place, duly signed and dated by the Community Operator (Lessor) and the UK AOC holder (Lessee), and it has been forwarded to the CAA (Leasing Co-ordinator). The Lease Agreement should detail at least the full legal name of the Community Operator (Lessor) and of the UK AOC holder (Lessee), along with details of the aircraft types, registrations and agreed lease period (validity). For example: a lease agreement could be signed for a two year period of time, so should detail the lease start date and end date. If the lease is extended beyond the expiry date, a Side Letter cross-referring to the original Lease Agreement, duly signed and dated by the Community Operator (Lessor) and UK AOC holder (Lessee), or a new Lease Agreement can be submitted to obtain a further "Approval" certificate.

- e) **Acknowledge** - The UK AOC holder must notify the CAA **prior** to wet leasing-in the particular aircraft (type and registration) at least 30 minutes **prior** to the flight. The UK AOC holder must use the CAA's on-line notification form and receive an automated e-mail "Acknowledgement" confirming the use of the General Approval for the specific lease agreement. **Please Note:** The "Acknowledgement" is validated by specific approval given relating to that lessor the conditions of the General Approval must be adhered to.
- f) **Audit** - The CAA will incorporate a review of the UK AOC holder's wet leasing activities into their usual auditing schedule.

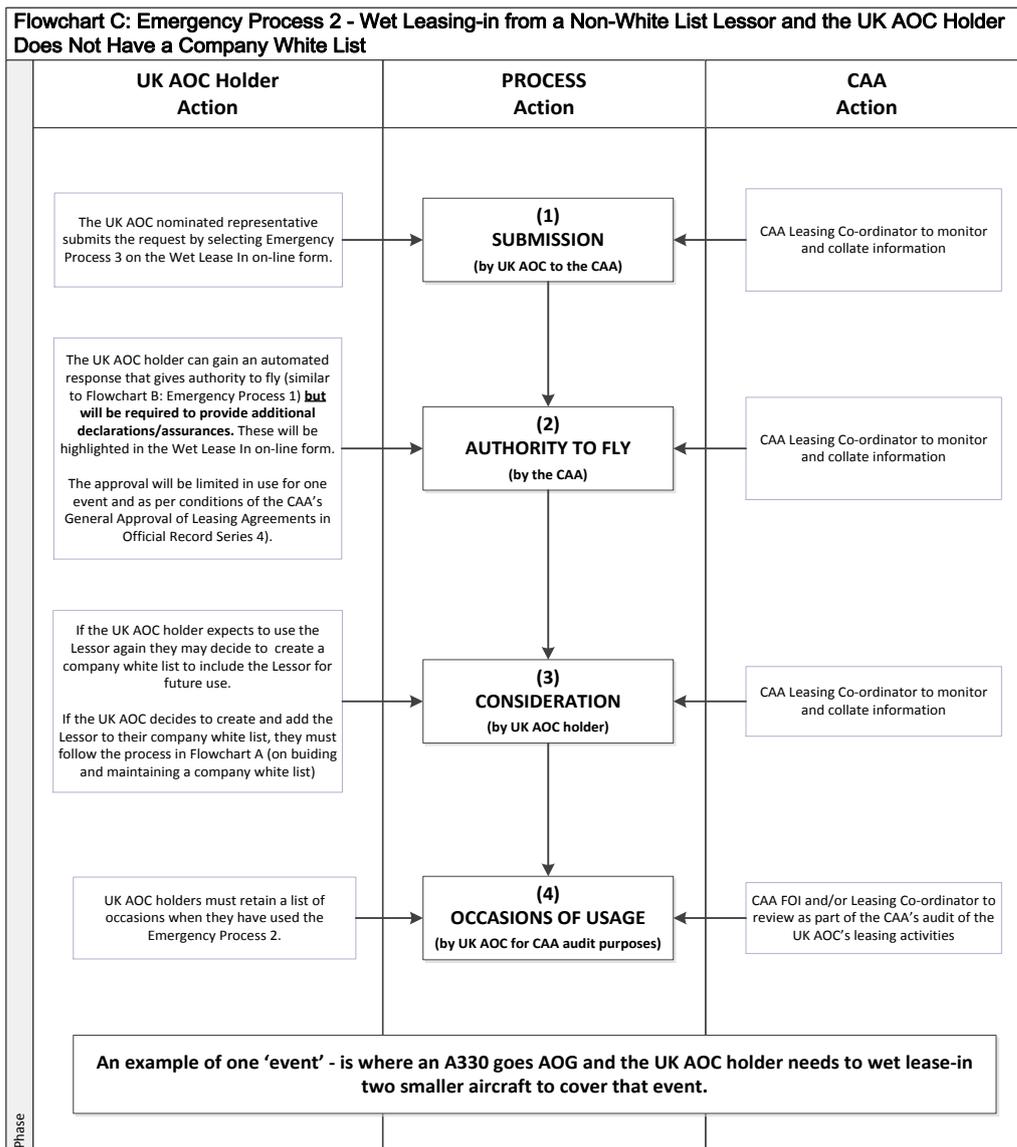
2. Emergency Wet Lease-in Process

Please also refer to paragraph 4 above in the main body of this Information Notice.

2.1 Flowchart B: Emergency Process 1



2.2 Flowchart C: Emergency Process 2



APPENDIX B - Minimum Requirements List to Achieve CAA Lease Approval When Wet Leasing-in a Community Registered Aircraft from Another Community Operator

The items listed below are not exhaustive and may not all be applicable for all types of Operator. The onus is on the Operator to demonstrate to the Authority compliance with the below to a level where the Operator themselves is satisfied. This will become part of the routine oversight by the CAA's Flight Operations Inspectors. The State of the Operator (for the Lessor) must be fully aware of the wet leasing-in arrangements. Any item listed below that the Operator deems to not be applicable must be justified to the Authority.

A list of minimum requirements to achieve CAA lease approval will be published on the CAAs Aircraft Leasing webpage to assist UK AOC holders.

- (a) In order to achieve a CAA accepted white list process, the UK AOC applicant should consider the following:
- The last two years Mandatory Occurrence Reporting (MOR) data and all MORs during the lease in period – demonstrate how these are reviewed and trend analysis undertaken
 - Minutes of the last two years Safety Action Group (SAG) meetings – demonstrate that a sample of sufficient size is assessed to enable trend analysis
 - Minutes of the last two years Safety Review Board (SRB) meetings – demonstrate how these are reviewed and trend analysis undertaken
 - Flight Data Monitoring (FDM) Output – demonstrate that trends have been assessed from previous 24 months operations and process for how FDM [anomalies] are notified to the Operator within a 72 hour window
 - Review the Operations Manual Content – sample to include Sections 1 (AOC Areas of Operation), 2 (Aerodrome Operations), 7 (FRMS Part A) and 9 (Dangerous Goods). Section 2 (Aerodrome Operations) will include briefings on operations into and out of Cat B and C aerodromes
 - Compliance system audit – review audit schedule and scope of audits
 - Fatigue Management system (FM) / Fatigue Risk Management Systems (FRMS) audit
 - Evidence of crew training records
 - Evidence that the UK Operator has reviewed information on the foreign operator's Safety Assessment of Foreign Aircraft (SAFA) reports/trends
 - Continuing Airworthiness (Regulation (EU) No 1321/2014) - demonstrate Part M (Continuing Airworthiness Requirements) and Part-145 (Maintenance Organisation Approvals) arrangements for the leased aircraft.

When using a Lessor for 30 days or more in any given 12 month period (cumulative days) the following should also be considered:

- Flight inspections – to be conducted prior to or within 30 days from the start of the lease agreement and then as part of the normal compliance audit schedule of the Lessor. The Operator will need to resolve any security aspects with the Lessor and their competent authority.
- Training observation audits – where appropriate, for example Cat C aerodromes or contaminated runways.

The information in Appendix B, paragraph (a) above should be retained by the UK AOC and made available to the CAA upon request.

b) INFORMATION ON THE LEASED AIRCRAFT

The UK AOC holder should have and retain valid documentation comprising the following, ahead of wet leasing-in aircraft:

- the aircraft type, registration and serial number
- the name and address of the registered owner
- name and address of the foreign operator (Lessor)
- the period of the lease (lease start date and end date)
- routes to be flown
- copy of the lease agreement or description of the lease provisions, except financial arrangements
- A signed statement by the lessee (UK Operator) that the parties to the lease agreement fully understand their respective responsibilities under the applicable regulations
- Air Operator Certificate (AOC) and the associated Operations Specification, Operations Approval / Operations Manual entries. (*The AOC information should detail the aircraft type(s) and registration(s) to be used by the UK Operator, the AOC areas and types of operation and equipment and dangerous goods approvals*)
- In addition, a copy of the Operating License issued by the State of Operator;
- Certificate of Registration (CofR) issued by the State of Registry for all the aircraft to be used
- Certificate of Airworthiness (CofA) issued by the State of Registry for all the aircraft to be used, along with a copy of the Airworthiness Review Certificates (ARC)
- Certificate of Insurance - liability for passenger and third party risks for aircraft to be used. The level of insurance must meet the minimum requirements of insurance for passenger and third party liability set out in Article 6 and 7 of EC Regulation No. 785/2004
- Dangerous Goods and Munitions of War – one of the following is provided:
 - (i) A declaration that if the dangerous goods are to be carried, approval to carry dangerous goods has been issued by the Lessor's State.
 - (ii) A declaration that if a dangerous goods exemption and / or a munitions of war approval or exemption is required, that approval or exemption has been issued by, or will be sought from, the UK CAA.
- A copy of any associated Article 223 Permits issued under the UK Air Navigation Order 2009 (if required).

c) CONSUMER LAW

- (i) The UK AOC holder (the lessee) should ensure that consumers have access to accurate and easy to understand information as to which carrier is actually operating the flight(s). This must be at the time they are making a booking, or as soon as the operator is known.
- (ii) This will allow the consumer to make an informed choice, to understand which Operator is contracted to perform the flight, and to help them access their statutory rights and any statutory compensation or damages when things go wrong.

- (iii) The lessee therefore needs to include a commitment to providing consumer with this information, and that both lessee and lessor are familiar with their responsibilities on identifying the operating carrier to the passenger under relevant consumer law, a summary of which appears below for guidance purposes.

A summary of relevant consumer law on carrier identity can be found in Appendix C (Relevant Law).

APPENDIX C – Relevant Law

1 Lease Approval Requirements when Wet Leasing-in a Community Registered Aircraft, Operated by a Community Operator

- 1.1 Article 13(2) of Regulation (EC) No. 1008/2008 (also referred to as the Third Package) was implemented on 1 November 2008 and requires the Lessee of a wet leased aircraft (in the UK, this is the UK AOC holder) to obtain prior approval from the CAA before the lease commences, in accordance with Community or national law on aviation safety. Within Europe, this refers to the Air Operations Regulation.
- 1.2 Regulation (EU) No. 965/2012 on Air Operations (EASA Air Operations Regulation) was implemented in the UK on 28 October 2014, and requires the Lessee of a wet leased aircraft to obtain prior approval from the CAA. The wet leasing-in approval requirements can be found in the following sections:

Annex II Part-ARO (Authority Requirements) - ARO.OPS.110 Lease agreements:

- ARO.OPS.110(a)(4) – dry lease-in of EU registered aircraft and **wet lease-in of an aircraft from an EU operator.**

Annex III Part-ORO (Organisation Requirements) – ORO.AOC.110 Leasing agreement:

- ORO.AOC.110(a) – dry or **wet lease-in**
- AMC1 ORO.110 (General)

ORO.AOC.110(a) of Regulation (EU) No 965/2012 (Air Operations Regulation) requires a Community air carrier to obtain prior approval from their competent authority **before** wet leasing-in an aircraft. ORO.AOC.110(b) also states that these aircraft can only be wet leased-in from an Operator that is not subject to an operating ban pursuant to Regulation (EC) No 2111/2005.

- 1.3 In addition, AMC1 ORO.AOC.110 (General) requires the Community air carrier (Lessee) to submit the various information and documentation to their competent authority, in order to obtain this prior Approval. Please take particular note of the requirement for the Lessee (the UK AOC Holder) to provide a **signed statement** confirming that the parties to the lease agreement fully understand their respective responsibilities under the applicable regulations.
- 1.4 ORO.AOC.110(f) requires Lessors to give **notification** to their competent authority (State of Operator) **prior** to wet leasing-out an aircraft.

2. Contracted Activities in the Air Operations Regulation (ORO.GEN.205 and AMC1 ORO.GEN.205)

- 2.1 The UK AOC holder has a responsibility for the oversight of all contracted activities, and all safety related activities, which includes all leasing agreements. AMC1 ORO. GEN.205(c) requires “...*contracted safety related activities relevant to the agreement should be included in the operators safety management and compliance monitoring programmes*”. This would require UK AOC holders to ensure these activities are embedded within their management system required by ORO.GEN.200.
- 2.2 This could be achieved by UK AOC holders having a list of pre-assessed Lessors, which they have assured meets all of the requirements of Regulation (EU) No 965/2012 (Air Operations Regulation). In addition to this requirement, when UK AOC holder leases-in an aircraft “... *a statement signed by the lessee that the parties to the lease agreement fully understand their respective responsibilities under the applicable regulations*” (AMC1 ORO.AOC.110).

3. Summary of Relevant Consumer Law on Carrier Identity

- 3.1 **EU Carrier Identity Regulation 2111/2005** – requires carriers and any other business selling, offering or displaying flights to disclose the identity of the carrier that will actually be operating the flight as soon as it is known. Taken together with the requirements of the Consumer Protection Regulations (see 3.5 below) this requires carriers and ticket sellers to name the carrier operating the flight from the first stage of a booking process, including online, telephone and face-to-face sales. The CAA considers the first stage of a booking process is the initial results displayed or offered following a request or search for flights.
- 3.2 **EU Denied Boarding Regulation 261/2004** – sets out rights for passengers in the event of denied boarding, delays and cancellations. The operator (lessor) is responsible for meeting these rights. Consumers may face difficulties in accessing these rights and any compensation payments they may be entitled to where the carrier they have booked with is unwilling to meet these obligations and/or where consumers are unaware of the identity of the carrier operating the flight or unable to contact this carrier.
- 3.3 **EU Persons of Reduced Mobility Regulation 1107/2006** – disabled passengers that require assistance when travelling through an airport or on an aircraft are entitled to receive it. Issues can arise where the passenger's requirements are not passed on to the operator, or where the operator has different policies relating to the carriage of disabled passengers and any equipment they require.
- 3.4 **EU Computer Reservation System Regulation 80/2009** – requiring that CRS displays reflect the carrier identity requirements in Regulation 2111/2005.
- 3.5 **UK Consumer Protection from Unfair Trading Regulations 2008** – general consumer protection law that prohibits businesses from treating their customers unfairly or misleading them through acts or omissions, or through failures of professional diligence or aggressive commercial practices which may cause consumers to take a transactional decision they would not otherwise have taken. It is likely that a failure to identify the carrier operating the flight is a misleading omission and action and where this causes or is likely to cause a consumer to take a different transactional decision it will be a breach of these Regulations.
- 3.6 **Montreal Convention 1999** – provides consumers with a right to damages in the event of delay, lost, delayed or damaged baggage, and rights to damages in the event of the death or injury to the passenger. The operating air carrier is responsible for meeting these rights. The Convention sets maximum levels of damages that are payable. Rights under the Convention are not applicable to domestic flights. As with DBR rights consumers may face difficulties in accessing damages where they are unaware of or unable to contact or bring a private right of action against the carrier operating the flight.