Provisions on Foreign-Invested Civil Aviation Enterprises

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Chapter I — General Provisions

Article 1 — These Provisions are formulated in accordance with the Civil Aviation Law of the People's Republic of China, the Law of the People's Republic of China on Foreign-Invested Enterprises, the Law of the People's Republic of China on Chinese-Foreign Equity Joint Ventures, the Law of the People's Republic of China on Chinese-Foreign Contractual Joint Ventures, and other relevant laws and regulations for the purpose of further expanding the opening up of the civil aviation industry, and regulating the establishment and administration of foreign-invested civil aviation enterprises.

Article 2 — These Provisions shall apply to the establishment of foreign-invested civil aviation enterprises within the territory of China. Foreign-invested civil aviation enterprises include public air transport enterprises, general aviation enterprises, airports, and other civil aviation-related enterprises. Foreign investors establishing foreign-invested civil aviation enterprises within China shall comply with these Provisions and the Catalogue of Industries for Guiding Foreign Investment.

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Article 3 — Foreign-invested civil aviation enterprises shall be established as Sino-foreign equity joint ventures, Sino-foreign contractual joint ventures, or wholly foreign-owned enterprises. Chinese investors in Sino-foreign equity joint ventures and contractual joint ventures shall hold a controlling share or be in a dominant position. A foreign investor shall not establish a wholly-owned public air transport enterprise or general aviation enterprise.

Article 4 — The civil aviation administrative department under the State Council and the foreign trade and economic cooperation administrative department under the State Council shall, within the scope of their respective duties, be responsible for the examination, approval, supervision, and administration of foreign-invested civil aviation enterprises.

Chapter II — Conditions for Establishment

Article 5 — To establish a foreign-invested public air transport enterprise, the following conditions shall be met: (1) the registered capital shall comply with relevant State provisions; (2) the foreign investor shall be a legally established enterprise legal person with good business reputation and relevant industry experience; (3) the foreign investor's capital contribution ratio shall comply with provisions (not exceeding the ceiling prescribed by the State); (4) the enterprise shall meet the conditions prescribed by the Civil Aviation Law for the establishment of a public air transport enterprise; and (5) other conditions prescribed by laws and regulations.

Article 6 — To establish a foreign-invested general aviation enterprise, the conditions prescribed by laws and regulations for general aviation enterprises shall be met, along with other conditions prescribed by these Provisions.

Article 7 — To establish a foreign-invested airport, the conditions prescribed by laws and regulations shall be met. Foreign investors may participate in the construction and operation of airports through joint ventures or cooperation. Foreign investors may be encouraged to invest in the construction and operation of civil aviation airports in the central and western regions.

Article 8 — To establish a foreign-invested civil aviation-related enterprise (including aircraft maintenance, aviation catering, ground services, aviation fuel supply, and other aviation-related services), the conditions prescribed by laws, regulations, and industry provisions shall be met.

Chapter III — Approval and Registration

Article 9 — To establish a foreign-invested civil aviation enterprise, the investors shall submit application documents to the civil aviation administrative department under the State Council. The application documents shall include a project proposal, feasibility study report, contract, articles of association, and relevant supporting documents.

Article 10 — The civil aviation administrative department under the State Council shall examine the application and issue a letter of opinion. For enterprises involving foreign investment access administration, the foreign trade and economic cooperation administrative department shall complete the examination and issue the approval certificate.

Article 11 — After obtaining the approval certificate, the foreign-invested civil aviation enterprise shall go through enterprise registration formalities with the administrative department for industry and commerce and obtain a business license.

Article 12 — A foreign-invested civil aviation enterprise shall, after its establishment, apply for a public air transport enterprise operation license or general aviation operation license from the civil aviation administrative department in accordance with relevant provisions, and may only engage in relevant civil aviation business activities after obtaining such license.

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Chapter IV — Operation and Administration

Article 13 — Foreign-invested civil aviation enterprises shall comply with Chinese laws, regulations, and rules, abide by the supervision and administration of the civil aviation administrative department, and accept the supervision and inspection of other relevant administrative departments in accordance with the law.

Article 14 — Foreign-invested civil aviation enterprises shall operate in accordance with the approved business scope and routes. They shall not change the approved business scope, routes, or flight schedules without authorization.

Article 15 — Foreign-invested civil aviation enterprises shall ensure aviation safety, strictly comply with technical standards and management provisions concerning aircraft airworthiness, flight operation, airport operation, and air traffic control.

Article 16 — Foreign-invested civil aviation enterprises shall pay taxes in accordance with the law, comply with relevant State provisions on foreign exchange control, and prepare financial accounting reports in accordance with Chinese accounting standards.

Article 17 — Foreign-invested civil aviation enterprises shall submit their annual operating reports, financial reports, and safety reports to the civil aviation administrative department in a timely manner.

Chapter V — Legal Liability

Article 18 — Where a foreign-invested civil aviation enterprise violates the provisions of these Provisions without authorization, including changing its business scope or equity structure without approval, the civil aviation administrative department shall order rectification and may impose penalties in accordance with the Civil Aviation Law and relevant provisions.

Article 19 — Where a foreign-invested civil aviation enterprise violates aviation safety regulations, the civil aviation administrative department shall impose penalties in accordance with the law. Where the circumstances are serious, the operation license may be suspended or revoked.

Article 20 — Where the personnel of examination and approval authorities or supervisory authorities abuse their powers, neglect their duties, or engage in favoritism, they shall be subject to administrative sanctions in accordance with the law. Where a crime is constituted, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 21 — Civil aviation enterprises established with investment from investors in the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region shall be governed by these Provisions with reference thereto.

Article 22 — The civil aviation administrative department under the State Council and the foreign trade and economic cooperation administrative department under the State Council shall be responsible for the interpretation of these Provisions.

Article 23 — These Provisions shall come into force on August 1, 2002.

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