Provisions on Foreign Investment in the Civil Aviation Industry of the PRC

Dan Young Business Consultancy — www.danyoungcpa.com

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

Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Establishment Conditions and Procedures 2

Chapter III — Operation and Administration 2

Chapter IV — Supervision and Administration 3

Chapter V — Legal Liability 3

Chapter VI — Supplementary Provisions 3

Effective: August 1, 2002

Table of Contents

- Chapter I — General Provisions
- Chapter II — Establishment Conditions and Procedures
- Chapter III — Operation and Administration
- Chapter IV — Supervision and Administration
- Chapter V — Legal Liability
- Chapter VI — Supplementary Provisions

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 laws and administrative regulations on foreign investment, the provisions of the State Council on the administration of foreign investment guidelines, and other relevant laws and administrative regulations for the purposes of further expanding the opening up of the civil aviation industry, regulating foreign investment in the civil aviation industry, and promoting the healthy development of the civil aviation industry.

Article 2 — Foreign investors who invest in civil aviation enterprises and projects within the territory of the PRC shall comply with these Provisions. These Provisions shall apply to foreign investment in the following areas of the civil aviation industry:

(1) Public air transport enterprises;

(2) General aviation enterprises;

Source: https://www.danyoungcpa.com/provisions-foreign-investment-civil-aviation-prc-2002-english-translation/

(3) Airports and airport-related projects;

(4) Air traffic control system construction projects;

(5) Aircraft maintenance, air material supply, ground services, aviation fuel, and other civil aviation support service projects; and

(6) Other civil aviation projects approved by the State.

Article 3 — Foreign investment in the civil aviation industry shall follow the State's industrial policies and development plans, and shall be conducive to promoting technological progress, enhancing operational management standards, and safeguarding aviation safety.

Article 4 — The civil aviation administrative authority under the State Council shall be responsible for the administration of foreign investment in the civil aviation industry nationwide in accordance with the law. The relevant competent authorities shall, within their respective functions, be responsible for the relevant administration work.

Chapter II — Establishment Conditions and Procedures

Article 5 — The proportion of capital contribution by a foreign investor and its affiliates in a public air transport enterprise shall not exceed 25%. The relative majority of the voting rights in the public air transport enterprise shall be held by the Chinese investor.

Article 6 — The proportion of capital contribution by a foreign investor in a general aviation enterprise engaging in agricultural, forestry, and fishery operations shall be decided by the Chinese and foreign investors through negotiation; the proportion of capital contribution by a foreign investor in a general aviation enterprise engaging in other general aviation business shall not exceed 49%.

Article 7 — Foreign investors may invest in the construction and operation of civil airports, and shall be encouraged to invest in the construction and operation of civil airports in the central and western regions. The proportion of capital contribution by foreign investors in civil airports shall not exceed 49%, and the relative controlling interest shall be held by the Chinese investor.

Article 8 — For the establishment of a foreign-invested civil aviation enterprise, the investors shall submit an application to the civil aviation administrative authority and shall provide the following documents:

(1) The application form for the establishment of the enterprise;

(2) The feasibility study report and the project proposal;

(3) The joint venture contract and articles of association;

(4) The legal person certificates and creditworthiness certificates of the investors;

(5) The certificates of the foreign investors' civil aviation business qualifications; and

(6) Other documents required by the civil aviation administrative authority.

Article 9 — After review and approval by the civil aviation administrative authority, the investors shall apply to the competent foreign trade and economic cooperation authority for review and approval, and then go through the industrial and commercial registration formalities in accordance with the law.

Chapter III — Operation and Administration

Article 10 — Foreign-invested civil aviation enterprises shall, in accordance with the law, obtain the civil aviation operation permits, air operator certificates, and other relevant permits, and may engage in civil aviation business activities only after obtaining such permits and certificates.

Source: https://www.danyoungcpa.com/provisions-foreign-investment-civil-aviation-prc-2002-english-translation/

Article 11 — Foreign-invested civil aviation enterprises shall comply with the provisions of the laws, administrative regulations, and rules on civil aviation safety, flight safety, airworthiness management, and aviation security, and shall establish sound safety management systems.

Article 12 — Foreign-invested civil aviation enterprises shall, in accordance with the relevant State provisions, ensure the safety of aircraft operations, safeguard the lawful rights and interests of passengers and cargo owners, and improve service quality.

Article 13 — Foreign-invested civil aviation enterprises shall, in accordance with the law, protect the lawful rights and interests of employees, and shall purchase social insurance for employees in accordance with the relevant State provisions.

Article 14 — The routes operated by foreign-invested public air transport enterprises shall be determined in accordance with the relevant State provisions, and the operation shall be carried out upon approval by the civil aviation administrative authority.

Chapter IV — Supervision and Administration

Article 15 — The civil aviation administrative authority shall, in accordance with the law, supervise and administer the business activities of foreign-invested civil aviation enterprises, and shall conduct regular inspections of the enterprise's safety management, service quality, operation compliance, and other aspects.

Article 16 — Foreign-invested civil aviation enterprises shall submit operation reports, financial reports, safety reports, and other relevant information to the civil aviation administrative authority in accordance with the relevant State provisions.

Article 17 — Any significant change in the equity structure, business scope, or operation scale of a foreign-invested civil aviation enterprise shall be subject to the approval of the original examination and approval authorities.

Chapter V — Legal Liability

Article 18 — Where an enterprise engages in civil aviation business activities without obtaining a civil aviation operation permit or air operator certificate in violation of these Provisions, the civil aviation administrative authority shall order it to cease the illegal activities and impose a fine in accordance with the law.

Article 19 — Where a foreign-invested civil aviation enterprise violates the provisions of the laws, administrative regulations, and rules on civil aviation, the civil aviation administrative authority and other relevant authorities shall impose penalties in accordance with the law; where the circumstances are serious, the civil aviation administrative authority shall revoke the relevant permits and certificates, and notify the examination and approval authority to revoke the certificate of approval for the foreign-invested enterprise.

Article 20 — Where the examination and approval authority and the civil aviation administrative authority and their staff members neglect their duties, abuse their powers, or engage in favoritism and irregularities in the administration of foreign-invested civil aviation enterprises, they shall be subject to administrative sanctions in accordance with the law; where the case constitutes a crime, criminal liability shall be pursued in accordance with the law.

Chapter VI — Supplementary Provisions

Article 21 — Investors from the Hong Kong Special Administrative Region, the Macao Special Administrative Region, and the Taiwan region of China who invest in the civil aviation industry within the Mainland shall be handled with reference to these Provisions. The State shall implement more favorable policies for opening up to investors from Hong Kong and Macao under the Closer Economic Partnership Arrangement (CEPA).

Source: https://www.danyoungcpa.com/provisions-foreign-investment-civil-aviation-prc-2002-english-translation/

Article 22 — These Provisions shall be effective as of August 1, 2002. Where the relevant provisions previously promulgated by the civil aviation administrative authority and the foreign trade and economic cooperation authority are inconsistent with these Provisions, these Provisions shall prevail.

Disclaimer: This English translation is provided for informational and reference purposes only. While every effort has been made to ensure accuracy and completeness, this translation is not an official or legally binding version. In the event of any discrepancy between this English translation and the original Chinese text, the official Chinese version shall prevail. Dan Young Business Consultancy makes no representations or warranties regarding the accuracy, reliability, or completeness of this translation and shall not be liable for any loss or damage arising from reliance on the same. For legal matters, please consult qualified legal professionals with reference to the official Chinese text and consult relevant authorities for the most current regulatory guidance.