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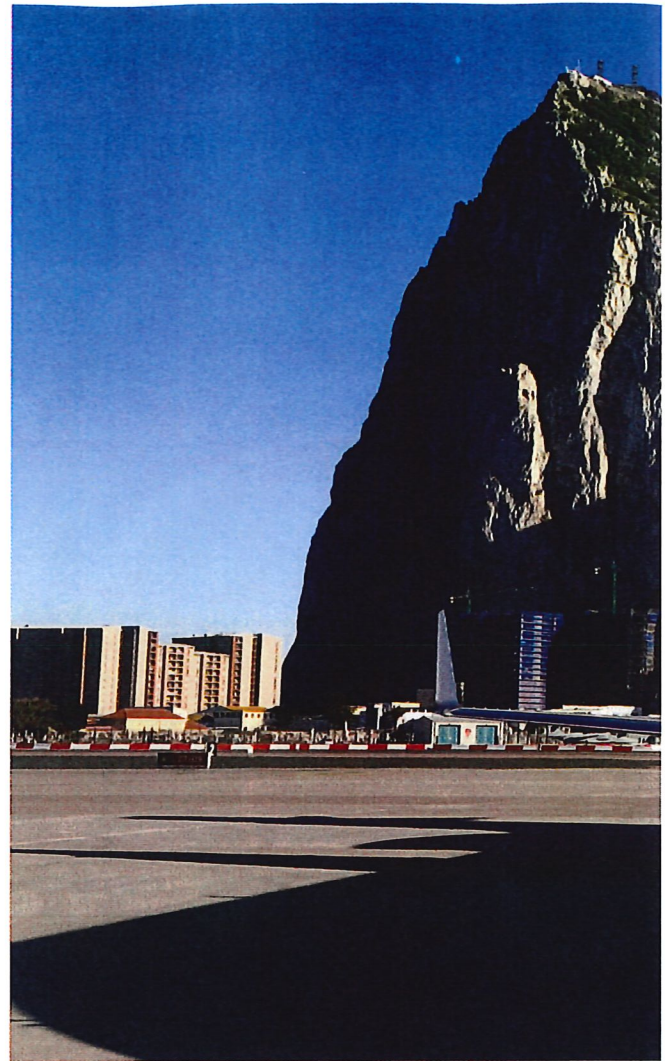
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# How GATS can Simplify Aircraft Trading



The new Global Aircraft Trading System (GATS) aims to increase trading through efficiency. Jessica Pownell of Cooling & Herbers P.C. highlights how GATS works and offers an outline of the Standard Documents.

**O**n April 1, 2020, the Aviation Working Group (AWG) launched the Global Aircraft Trading System (GATS) in response to the ever increasing number of aircraft leases and trusts implemented in the US and in other countries, as well as a general uptick and anticipated future growth in aircraft trading.

GATS is a fully electronic, voluntary system intended to simplify the aircraft trading process. The GATS platform will be administered by the AWG (a not-for-profit group of major aviation manufacturers, leasing companies, and financial institutions) and Fexco (an Ireland-based financial services and information technology company).

GATS will provide a platform for certain aircraft transactions and a searchable electronic database of certain aircraft ownership and security interest records. That is, each aircraft in GATS will be owned

by an owner trust created via the online system.

Provided the aircraft remains in such trust, a sale of the aircraft can then be completed by a simple electronic transfer of the beneficiary interest in the trust to the new buyer; the other existing transaction documents (such as an applicable aircraft lease) would remain in place as-is.

GATS will be open to everyone in the industry, though users must meet a few minimal requirements.

- All users will need to create an online user account.
- 'Digital certificate users' will need to pay the applicable fee.
- One must become a digital certificate user in order to sign documents electronically and to authenticate other actions on the GATS database.





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Several trust companies already serving the aviation community are pre-cleared to act as owner trustees for the GATS system, including four trust companies in the US, one in Ireland, and one in Singapore. So, initially, each GATS trust will be formed in the US, Ireland or Singapore, though the GATS platform will be accessible worldwide, and the AWG may expand the list in the future to include additional locations.

US and Irish trusts are already used for aircraft in several other countries, and many are hopeful that the fact the Cape Town Convention (another AWG project) requires signatory countries to recognize trusts will cause such countries to also recognize GATS.

Pre-cleared trustees may use the GATS Transitional Documents (discussed below) and will be formally cleared on the GATS platform once the trust companies have executed the applicable engagement agreements with GATS.

GATS trustees will then be able to clear onto the GATS platform other trust participants, such as leasing companies, who can then migrate existing aircraft trusts onto GATS as well as creating and assigning security interests.

### The GATS Standard Documents

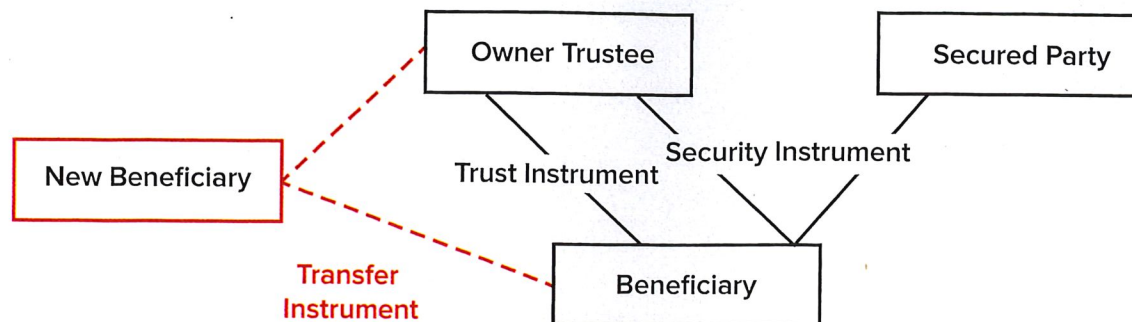
For US trusts, GATS will utilize the following uniform documents (the use of which many hope will create efficiencies in document drafting and negotiation):

- Trust Instrument between the beneficiary and the trustee, with the GATS Trust Instrument Master Terms and FAA Related Terms attached;
- GATS Security Instrument between the beneficiary, the secured party, and the trustee, with the GATS Security Instrument Master Terms attached; and
- GATS Transfer Instrument between the existing beneficiary, as the person transferring all of its right, title and interest in and to the trust; the new beneficiary, as the person buying or otherwise having transferred to it the beneficial interest; and the trustee.

While much of the current discussion of GATS centers around airlines, the structure of the Trust and Security Instruments – and the effect of the







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Transfer Instrument (if and when a sale or other transfer of the aircraft occurs) – for a typical business aircraft is shown in the diagram above.

Over the past few months, the current draft forms of these three documents have been submitted to FAA Aeronautical Center Counsel (ACC) for review, comment and approval (those drafts are called the 'Transitional Documents', and similar documents are available for the Ireland and Singapore trusts).

On January 22, 2020, ACC counsel issued a Legal Interpretation stating that the Transitional Documents (which incorporate changes based on earlier comments from ACC counsel) comply with the FAA's 2013 Policy Clarification regarding owner trusts and, along with the applicable Affidavit of Citizenship, are valid and sufficient for registering an aircraft on the FAA Registry in the name of the trust, regardless of whether or not the beneficiary is a US citizen.

These documents work in the same way as current US trust agreements and permit an aircraft to be registered on the FAA Registry in the name of the owner trustee.

The owner trustee then holds title to the aircraft for the benefit of the beneficiary.

As noted, ACC counsel have confirmed that the Trust Instrument can be used for a US citizen or a non-US citizen beneficiary. However, as with current aircraft trust registrations, in order to register an aircraft on the FAA Registry under a GATS trust, either the beneficiary or the owner trustee (as applicable) will need to submit to the FAA Registry an Affidavit of Citizenship in accordance with 14 C.F.R. Section 47.7.

The GATS documents also include many of the same terms contained in current US trust agreements, including the requirement that the trustee may be removed only for cause, and only when US citizens hold at least 75% of the aggregate power to remove the trustee.

Further, the beneficiary (and the secured party) have no right or power to direct, influence, or control the owner trustee in the owner trustee's performance of its duties under the Trust Instrument, including matters involving the ownership and operation of the aircraft.

The Aviation Working Group intends to request an additional ACC Opinion confirming the ACC's acceptance of the final GATS documents, once such documents are available (these final GATS documents may, indeed, already be available and submitted to ACC counsel as of the date of this article's publication).

#### GATS and Future Growth

GATS is intended to address inefficiencies that have arisen over the years as aircraft leasing and trust ownership structures have become more common and the demands on the parties involved have increased.

Many are also hopeful that GATS will support the expected future growth of aircraft trading, as increased aircraft trading allows lessors and other aircraft owners to refresh their inventory as a growth strategy, and generally provides more opportunities for profitability and for new parties to enter into aviation.

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