

## **DGCA issues new rules on aircraft registration and IDERA**

*Sandi Adila, S.H., LL.M. (sandiadila@mkklaw.net)*

*Oka Anantajaya, S.H., LL.M. (oka.anantajaya@mkklaw.net)*

The Directorate General of Civil Aviation (“**DGCA**”) of the Ministry of Transportation of the Republic of Indonesia recently issued Minister of Transportation Regulation No. PM 52 of 2018, regarding Civil Aviation Safety Regulation Part 47, regarding Aircraft Registration (“**New Aircraft Registration Regulation**”) which regulates the approval in the procurement of aircraft, the aircraft registration certificate, aircraft dealer and manufacturer registration certificate and the Irrevocable Deregistration and Export Request Authorization (commonly known as the **IDERA**).

The main focus of this update is in regard to the recordation and acknowledgment of the IDERA, whereby since 2016, the DCGA has an unwritten policy that IDERAs could only be registered by the DGCA if they were granted by a lessee/operator in favor of such lessee/operator’s direct lessor. This policy has caused problems in aviation transactions involving Indonesian airlines, as there have often been cases where the terms of the transaction contemplate that an IDERA is granted in favor of a lender or owner (who is not a direct lessor of the operator).

Under this New Aircraft Registration Regulation, it is stated that a debtor (which includes operator/lessee) may issue an IDERA in favor of a creditor as its authorized party. A creditor, under the New Aircraft Registration Regulation, is defined as:

- a) Chargee in a security agreement;
- b) Conditional Seller in a title reservation agreement; or
- c) Lessor in a lease agreement.

However, we should note that the New Aircraft Registration Regulation does not specifically provide whether “lessor” as an authorized party can only be a direct lessor or whether it can also be a head lessor or owner, especially in a transaction whereby the direct lessor is a subsidiary of the lessee. Hence, further clarification from the DGCA on this matter is needed.

---

## **Legal News**

---

Although uncertainty as to whether a non-direct lessor can be named as an authorized party under an IDERA remains, the New Aircraft Registration Regulation introduces a set of new rules governing the certified designee letter where the authorized party of an IDERA may appoint another party as a certified designee. Such appointment or designation is by way of an instrument termed in the said Regulation as a certified designee letter (the “**CDL**”). Prior to the New Aircraft Registration Regulation, it was not clear whether a CDL should be registered with, and more importantly recognized by, the DGCA. It is now clear that the CDL should be registered with the DGCA.

The New Aircraft Registration Regulation expressly states that a certified designee under the CDL shall possess a legal relationship with the authorized party under the IDERA, pursuant to a security agreement, title reservation agreement and/or lease agreement and also be entitled to submit a deregistration request (just as the authorized party of an IDERA) to deregister an aircraft at the DGCA.

We hope that the New Aircraft Registration Regulation will offer better legal certainty for all parties in aviation transactions in Indonesia.

### **DISCLAIMER**

*The articles in this newsletter are purely informational in nature and should in no way be construed as constituting legal advice.*

