



## Ireland - A location for aircraft leasing.

Key figures in aviation and aircraft leasing gathered last week for the 20<sup>th</sup> Global Airfinance conference, a meeting held annually in Dublin connecting global market participants with C-suite executives from airlines, leasing companies, financial institutions and investment houses to facilitate aircraft deals and build business relationships.

### Background

Lessors and the airline industry have enjoyed the guts of eight years of growth which is almost unprecedented in a cyclical industry where the next shock wave is never really on the radar, it just arrives. In the past 17 years, the 9/11 terror attacks, the global financial meltdown and high oil prices from 2011 to 2014 have all played havoc with the airline sector. The argument goes that the airlines which survived are now more resilient and better equipped to survive if things go sour.

The latest figures from the [International Air Transport Association](#) (IATA), published in December 2017, have forecast net profit for the industry of \$38.4 billion for the coming year. Passenger numbers are expected to increase to 4.3 billion in 2018, with passenger traffic expected to rise 6 per cent, down slightly on the 7.5 per cent high of 2017 but still comfortably ahead of the average of 5.5 per cent over the past 10 years or so. In addition, passenger revenues are expected to grow by more than 9 per cent to \$581 billion in 2018, driven by continued global economic growth and benign interest rates and other positive market conditions.

Lessors have been keen to play their part in feeding demand (about forty percent of the world's commercial jet fleet is leased) and aircraft orders at the two main jet makers - Boeing and Airbus - are at record levels. The stable returns that aircraft leasing offers (and, historically, sales and leasebacks), have been a magnet for debt trying to find a home, especially in a low-interest environment, and with investors willing to stump up equity to get involved.

### Ireland's Role

Since the birth of Guinness Peat Aviation (GPA) out of Shannon in 1975, Irish leasing expertise has developed enormously and Ireland now boasts a portfolio of the world's biggest aircraft financiers, lessors and operators. According to the latest estimates, about 10,000 aircraft out of a global fleet of 25,000 are leased, and 6,500 of them are located in Ireland.

The industry has grown to the extent that 9 of the world's 10 largest aircraft leasing companies are located in Ireland, with over 30 similar companies in operation throughout the country; Dublin in particular is widely recognised as a world leader in the aviation finance industry, industry leaders located here include GECAS, SMBC, Aer Cap, ILFC, AWAS, Avolon, ICBC, CIT, Orix and Lease Corporation International.

There are 700 direct jobs and 1,400 indirect jobs in aviation leasing in Ireland all servicing the 3,500+ commercial aircraft which are managed from Dublin which have a combined value of more than €85 billion; put another way, one in every five of the world's passenger planes is managed from Ireland, that equates to about half of the world's leased aircraft fleet.



This article considers some of these key factors which have contributed to the meteoric rise of Ireland on the world leasing stage and outlines the current key benefits which Ireland can offer to those seeking out an appropriate jurisdiction in which to structure their aircraft leasing transaction.

## **Fiscal Environment**

Ireland has found favour as an on-shore low tax jurisdiction; this is particularly the case among those structuring aircraft leasing transactions as it offers a number of substantial advantages to the aircraft leasing industry, among which are:

- a low rate of corporation tax of 12.5% for trading profits;
- extensive exemptions from dividend withholding tax on the extraction of profits;
- no withholding tax on lease rental payments;
- no withholding tax on interest payments paid to an EU Member State or a double tax agreement jurisdiction;
- no stamp duty on relevant documents;
- an ever increasing network of double tax agreements; and
- our Section 110 regime which can be incorporated into the financial structure of many aircraft transactions.

Further to this, in an attempt to prevent the use of certain strategies that can be used to circumvent the existing definition of “Permanent Establishment” provided for in tax treaties, the OECD BEPS (base erosion and profit shifting) project has brought in new rules governing where multinational companies pay tax. Broadly speaking, the tax is paid where the company has substance. This is positive for Ireland as an international leasing company will seek to establish substance in a country so as to ensure tax efficiencies and Ireland is a good place to locate both decision-making and aircraft assets. This could serve to further expand the presence of aircraft lessors in Ireland.

## **Legal Environment**

### ***Courts***

Ireland is a common law jurisdiction, like the United Kingdom, and thus is a familiar legal regime internationally and within the aviation industry as many transaction documents are governed by English or New York law. Irish leasing companies frequently enter into transactions governed under the laws of these jurisdictions’ and these are likely to be accepted and recognised within Ireland and by the Irish courts under the relevant regulations, for example enforcement of judgments between the EU member states is regulated by the Brussels I Regulation.

### ***Capetown Convention***

Ireland is a founding signatory of the Cape Town Convention and the headquarters of the International Registry of Mobile Assets (the “**International Registry**”) is based in Dublin, Ireland.

The Cape Town Convention is regarded as a significant development in international asset-based finance and is designed to overcome the problem of obtaining secure and readily enforceable rights in aircraft and other movable equipment. The International Registry provides a priority system of registration to users registering a variety of interests.



### *Secured Financing*

Ireland has in place a security filing regime whereby notice of security granted by Irish companies is filed with the Companies Registration Office ensuring that the official record of the company reflects the fact that the relevant assets are encumbered for the benefit of the security holder and third parties seeking to deal with the company are on notice of this.

### **Regulatory Environment**

#### *Irish Aviation Authority*

The Irish Aviation Authority (“IAA”) provides air navigation services in Irish controlled airspace, regulates safety standards within the Irish civil aviation industry as well as maintaining the register of civil aircraft registered in Ireland.

The IAA has a reputation as a world-class registration authority and only allows aircraft on the Irish register where those aircraft and the lessee airlines have complied with its stringent standards. Their requirement for proper maintenance of aircraft ensures that the aircraft retain a good marketable value, which is a key factor aircraft lessors consider in choosing where to register their aircraft.

As a result of the IAA’s insistence on an Irish technical service provider, a body of skilled and experienced technical service providers exists in Ireland.

The IAA’s transparent and open approach with their clients, means that the financier/lessor can avoid a lengthy and problematic process in a default situation by being able to deregister the aircraft and ground it whilst the financial/legal issues are resolved.

#### *International Safety Standards*

The IAA operates to the highest international safety standards set by;

- International Civil Aviation Organisation (ICAO);
- European Joint Aviation Authorities (JAA);
- EUROCONTROL;
- the European Civil Aviation Conference (ECAC),
- the European Aviation Safety Agency (EASA) and
- the European Union (EU).

### **Political & Economic Environment**

Whilst Ireland was severely impacted by the global economic downturn with the result that many of the banks were nationalised and it was the recipient of an EU bailout, the austerity measures put in place by the International Monetary Fund and implemented by the Irish government have resulted in the stabilising of the economic situation.

Ireland is an English speaking member of the EU and also a member of the OECD.

For foreign financiers, a stable financial and economic situation is a key factor in choosing a jurisdiction in which to structure their transactions.

### **Next Steps**



Ireland holds many opportunities for those operating within the aircraft sector, the asset finance team here at Flynn O'Driscoll has considerable experience in assisting airlines, lessors, financiers and international law firms to establish the necessary structures to take advantage of these opportunities and would be delighted to discuss any of the issues raised herein in further detail with you.

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### **Key Contacts**

For further information please contact the undersigned or any other member of our team.

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