U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

NOTICE
N 8000.323

Effective Date:
5/19/06

Cancellation Date:
5/19/07

SUBJ: VOLUNTARY DISCLOSURE REPORTING PROGRAM PARTICIPATION BY FRACTIONAL OWNERSHIP PROGRAMS

1. PURPOSE. This notice provides information to inspectors for extending the Voluntary Disclosure Reporting Program (VDRP) to participating program managers of fractional ownership programs on a test basis for 1 year — from the effective date of this notice to its cancellation date.

2. DISTRIBUTION. This notice is distributed to the division level in the Flight Standards Service in Washington Headquarters; to the branch level in the regional Flight Standards divisions; to the Flight Standards District Offices; and to the Regulatory Standards Division at the Mike Monroney Aeronautical Center. This notice is also distributed electronically to the division level in Flight Standards Service in Washington headquarters and to all regional Flight Standards division and district offices through the Flight Standards Information Management System. This information is also available on the Federal Aviation Administration's (FAA) Web site at: http://www.faa.gov/library/manuals/examiners_inspectors/8000/.

3. BACKGROUND.

a. In September 2003, the FAA published regulations for operations of aircraft in fractional ownership programs. This rule included adoption of Title 14 of the Code of Federal Regulations (14 CFR) part 91, subpart K, as well as the revision of other applicable sections of 14 CFR parts 21, 61, 91, 119, 125, 135, and 142. This rule defines fractional ownership programs and their participants, allocates responsibility and authority for safety of flight operations for purposes of compliance with the regulations, and ensures that fractional ownership program aircraft operations will maintain a high level of safety.

b. In response to comments received during the rulemaking process, the FAA stated that it would consider a test program extending VDRP to fractional ownership programs.

c. Part 91, section 91.1001, defines a fractional ownership program manager as the individual who provides fractional ownership program management services to fractional owners. The program manager provides management services in accordance with management specifications (MSpecs) issued by the Administrator in accordance with the provisions of part 91, subpart K.

d. Section 91.1009 provides that the fractional owner of a program aircraft is in operational control, subject to provisions of the owner's contract with the program manager.

(1) The fractional owner is also in operational control:

(a) Any time the owner directs a program aircraft to carry persons or property designated by the owner;

(b) When the aircraft is carrying those persons or property; or

(c) When the program aircraft is used for administrative purposes such as demonstration, positioning, maintenance, and crew training.

(2) If the aircraft is also operated under parts 121 or 135, the air carrier has operational control.

e. Section 91.1011 provides that each owner in operational control of a program flight is ultimately responsible for safe operations and for complying with all applicable requirements, including those related to airworthiness and operations in connection with the flight. However, each owner may delegate some or all of the performance of the tasks associated with carrying out this responsibility to the program manager and may rely on the program manager for aviation expertise and program management services. When the owner makes such a delegation to the program manager, the owner and the program manager are jointly and individually responsible for compliance.

f. FAA issued Advisory Circular (AC) 00-58, Voluntary Disclosure Reporting Program, current edition, to provide certificate holders with guidelines on how to disclose apparent regulatory violations, discovered through an internal evaluation, to the FAA, along with a comprehensive fix for the problem. AC 00-58 is a resource for fractional owners and program managers to use in this test program.

4. DISCUSSION.

a. The purpose of the VDRP is to encourage operators to identify apparent violations, evaluate the systemic issues, and develop and implement corrective actions to ensure the same, or similar, violations do not recur. To fulfill the purpose of VDRP, the certificate holder must have the authority and the aviation expertise necessary to accomplish all of the suggested actions outlined in AC 00-58, including the knowledge and authority to develop and implement a comprehensive fix which will prevent recurrence of the apparent violation.

b. Fractional ownership program managers are not "operators" nor are they "certificate holders." Their aircraft are, at times, under the operational control of owners who are not required to have aviation expertise.

c. Further, section 91.1001 allows an owner, who may hold only a one-sixteenth ownership of a single aircraft in a program encompassing an unlimited number of aircraft, to determine which tasks will be delegated to the program manager.

d. Within the fractional ownership program, only the program manager has the aviation knowledge necessary to apply the principles and achieve the goals of the VDRP. Yet, the program manager's responsibility and scope of authority is limited to specific areas as designated in part 91, subparts F and K, and the MSpecs. Thus, inspectors must limit extension of the VDRP, as described in AC 00-58, to those apparent violations that fall within the responsibilities and authorities of the program manager, as outlined within part 91, subparts F and K, and the MSpecs.

e. Those apparent violations which do not fall within the areas of responsibility and authority of the program manager are not subject to the protections provided under the provisions of this notice or the conditions outlined in AC 00-58. Inspectors handle such violations in accordance with the current edition of FAA Order 2150.3, Compliance and Enforcement Program, and other applicable guidance.

f. AC 00-58 provides that specific conditions must be met for an apparent violation to be covered under the program. Those conditions include (see AC 00-58 for additional detail):

(1) Notification to the FAA of the apparent violation immediately after detecting it and before the agency has learned of the violation by any other means.

(2) The apparent violation was inadvertent.

(3) The apparent violation does not indicate a lack, or reasonable question, of qualification of the certificate holder.

(4) The certificate holder took immediate action, satisfactory to the FAA, upon discovery to terminate the conduct that resulted in the apparent violation.

(5) The certificate holder (or qualified entity) prepares a written report that includes an analysis of the violation, details the initial actions taken to terminate the apparent violation, and identifies those responsible for taking those actions.

(6) The certificate holder must prepare a detailed report containing proposed corrective steps, indicate responsibilities for implementing those steps, and propose a time schedule for completing the proposed fix.

(7) The certificate holder must identify the company official responsible for monitoring the implementation and completion of the comprehensive fix.

g. AC 00-58 provides that the FAA principal inspector (PI) will make an initial determination to accept the disclosure, a subsequent determination of the acceptability of the proposed comprehensive fix, and makes a final determination of the acceptability of the implementation.

5. PROVISIONS AND LIMITATIONS RELATING TO APPLICATION OF AC 00-58 TO FRACTIONAL OWNERSHIP PROGRAMS.

a. Fractional ownership programs wishing to participate in this test program must be issued MSpecs that authorize the program manager to offer voluntary disclosure reports in accordance with the provisions of this notice and as described in AC 00-58.

b. Voluntary disclosures of apparent violations by a fractional ownership program may only be submitted by the program manager or authorized representative.

c. Voluntary disclosures of apparent violations occurring within a fractional ownership program are limited to apparent violations pertaining directly to the duties and responsibilities of the program manager, as defined in part 91, subpart K, or by MSpecs.

> **NOTE: If the program manager does not have the responsibility and authority to investigate, terminate, and analyze the apparent violation, as well as the authority and knowledge to develop and implement a comprehensive fix, including the ability to conduct ongoing self-audits, the requirements and goals of the VDRP cannot be fulfilled.**

d. For the purposes of voluntary disclosures offered by a fractional ownership program manager, this notice authorizes inspectors to include apparent violations of part 91 of those duties and responsibilities assigned to the program manager, as noted in paragraph 5c.

e. The program manager, or an authorized representative, will submit voluntary disclosures of apparent violations by fractional ownership programs, as designated in the MSpecs, to the FAA office issuing the MSpecs to that program manager.

f. This notice authorizes PIs assigned to the fractional ownership program to fulfill all responsibilities as defined in AC 00-58. PIs assigned to fractional ownership programs should refer to AC 00-58, FAA Order 2150.3, and FAA Order 8400.10, Air Transportation Operations Inspector's Handbook, for guidance on handling all voluntary disclosure reports submitted under this program.

g. PIs should be aware that fractional program aircraft may also be operated by an air carrier under parts 121 or 135. The air carrier and fractional ownership program may use common personnel as well as common maintenance and operational procedures. As a matter of practice, PIs should evaluate the need to apply any fixes offered under this notice to the associated air carrier operations and, if violations appear to have occurred under those parts, for the certificate holder to submit appropriate voluntary disclosure reports in accordance with the provisions of AC 00-58.

h. When a program manager offers a voluntary disclosure report on an apparent violation for which both the owner and the program manager would normally be accountable (e.g., regulatory language such as "no program manager or owner may…"), the content of the voluntary

disclosure will not be used to initiate or support enforcement action against the owner, provided the voluntary disclosure meets all five of the conditions in AC 00-58, paragraphs 6(a)(1) through (5). However, the FAA may use independently obtained evidence (i.e., evidence obtained by the FAA that is not based upon, nor predicated upon, the submission or content of a voluntary disclosure) for enforcement action against an owner.

6. ACTION. PIs assigned to fractional ownership programs will advise their program managers of the provisions of this notice and, upon request of the program manager to participate in the test VDRP, revise MSpec MA007(d) to authorize participation in this test program. The program manager must designate those personnel authorized to act on behalf of the company in the submission of voluntary disclosure reports under this program. (See Appendix 1, Sample Authorization for Participation in Voluntary Disclosure Program MA007(d).)

7. PROGRAM TRACKING AND REPORTING SUBSYSTEM (PTRS). When revising MSpecs to authorize participation in the voluntary disclosure program, POIs should report the action using PTRS code 1381; PMIs use code 3381; and PAIs use code 5381.

8. DISPOSITION. This test program concludes at the expiration date of this notice. Then, the Air Transportation Division, AFS-200, will determine how effective the program was before making any revision and/or incorporating these provisions into AC 00-58 and applicable FAA orders. Direct any questions pertaining to this notice to the Voluntary Safety Programs Branch, AFS-230, at (202) 267-8166.

ORIGINAL SIGNED BY
CAROL GILES (for)

James J. Ballough
Director, Flight Standards Service

APPENDIX 1. SAMPLE AUTHORIZATION FOR PARTICIPATION IN VOLUNTARY DISCLOSURE PROGRAM MA007(D)

MA007. Designated Persons **HQ Control xx/xx/xx**
HQ Revision xxx

a. The following person is designated as the agent for service in accordance with 14 CFR section 91.1015(a)(6):

Table 1 – Designated Agent for Service

Name	Title	Mailing Address
TABL01	TABL02	TABL03

b. The following personnel are designated to officially apply for and receive management specifications for the Program Manager as indicated below.

Table 2 – Management Specifications

Name	Title	Parts Authorized
TABL04	TABL05	TABL06

c. The following personnel are designated by the program manager as points of contact and required positions for those authorized a continuous airworthiness maintenance program (CAMP) regarding specific areas of expertise.

Table 3 – Designated CAMP Point of Contact

Name	Title/Point of Contact	Equivalent Company Title
TABL07	TABL08	TABL09

d. The program manager has requested, and been granted, the opportunity to participate in a temporary test program allowing the Program Manager indicated below to participate in the Voluntary Disclosure Reporting Program. The following personnel are authorized to submit Voluntary Disclosure Reports on behalf of the Program Manager:

Table 4 – Designated Voluntary Disclosure Reporting Program Personnel

Name	Title	Contact Phone Number
TABL10	TABL11	TABL12

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