FIJI AERONAUTICAL INFORMATION CIRCULAR

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COST RECOVERY OF AIRCRAFT INCIDENT AND ACCIDENT INVESTIGATION

1. Introduction

1.1 Article 26 of the Convention on International Civil Aviation (Chicago Convention) requires that States carry out investigation of civil aviation occurrences within and over its territory particularly serious and fatal incidents and accidents. Additionally, the State of Register has the responsibility or at least should participate as an observer in investigations of occurrences where fatality or injury occur in another State involving aircraft in its aircraft registry.

1.2 States Civil Aviation Authorities and Administrations are established to regulate safety and security of aviation and to maintain compliance to national and civil aviation safety standards and the overall national safety performance at an acceptable level. However, it is acknowledged that hazards in aviation do exist resulting in unsafe occurrences and a drop in safety performance when there is a lapse in hazard identification, risk assessment and risk mitigation.

1.3 Investigation of such occurrence is essential to identify the root and latent causes of the occurrence to eliminate or mitigate the safety risks. The ultimate goal of aviation investigation is to prevent the repeat of occurrences whether they are incidents, serious incidents or accidents..

2. Establishment of State Authorities

2.1 The ICAO universal safety oversight audit programme critical element four (CE 4) of the State civil aviation safety oversight system requires the establishment of a Civil Aviation Authority (CAA) and/or other relevant authorities or government agencies. These State institutions are to be supported by the appropriate and adequate technical and non-technical staff and provided with adequate and sustainable financial resources. The State authority or authorities must have stated safety regulatory functions, objectives and safety policies

2.2 In Fiji, the Minister for Civil Aviation is responsible for the investigating of Accidents supported by the Ministry and/or Department of Civil Aviation. The Civil Aviation Authority is responsible for investigating all occurrences other than an accident.

2.3 Airports Fiji Limited is the Airport Authority responsible for Ramp and Ground movement safety (airside and landside). Airports Fiji Ltd is also the Fiji Air Navigation Services Provider responsible for fulfilling the State's international air navigation obligations

2.4 The Fiji MET services is the Authority responsible for ensuring that Fiji meets WMO obligations. The CAAF regulates the aviation MET services and certificates the aviation component of the Fiji MET services to ICAO Annex 3 Standards.

3. Investigation Budget

3.1 The ICAO requirements for investigation are contained in the ICAO Annex 13 Standards and Recommended Practices (SARPS) including the need for States to provision adequate investigation budgets. Moreover, the Universal Safety Oversight Audit Programme (USOAP) Continuous Monitoring Approach (CMA) Accident Investigation Protocol Question 6.105 requires that States establish and implement a process to ensure that the Accident investigation Authority have sufficient financial resources to investigate accidents and serious incidents.

3.2 Both the Fiji government Ministry responsible for civil aviation accidents (Fiji Accident Investigation Authority) and the Civil Aviation Authority of Fiji responsible for Investigation of incidents and serious incidents have provisions in their budgets for investigations of occurrences respectively.

3.3 It is acknowledged that an actual and realistic budget could not be pre-determined given the unpredictability and complexities surrounding each occurrence which is uniquely different. The financing of investigations becomes more challenging when the occurrence is fatal and the number of experts involved. As a result, the costs of investigation accumulate beyond that which the State or the CAAF could budget and absorb on its own

3.4 In view of paragraph 3.3 above, the Civil Aviation (Occurrence Reporting and Investigation) Regulation Part 7 section 38 requires that "…costs and appropriate overheads will be recoverable from those involved in any accident at a rate set by Government and advised from time to time by the Authority in an Aeronautical Information Circular (AIC."

4. Cost Recovery a Safety Promotion Incentive

4.1 Fiji is highly dependent on Tourism and air transport is a key sector that underpins its success. Through the implementation of safety management system (SMS) as a key basis for certification, aviation businesses could now capture business opportunities which would be difficult to facilitate under the compliance approach alone.

4.2 The new SMS risk/performance approach now offers operators/service providers the benefit of submitting alternative methods of compliance (AMOC) based on a safety case. Such AMOC could be accepted by the

Authority when it is demonstrated that it provides the same or better safety outcomes than that achieved through the normal method of compliance.

4.3 Consequently, new business opportunities could be captured by aviation stakeholders in real time which could not have been possible under a compliance only approach. In some cases regulatory enablers such as Exemptions are issued by the Authority and risk sharing or risk transfer is viable when mitigations are effective to maintain residual safety risks at an acceptable or tolerable levels.

4.4 As an incentive to discourage accidents and serious incidents, Government shall require full cost recovery of accidents regardless of "whether blame or not is attributable." This would be a means of encouraging operators, service providers to maintain and sustain their safety performance indicators agreed with the Authority.

4.5 Similarly, full cost recovery of investigation cost will also apply for all other occurrences (incidents and serious incidents). The Authority believes such arrangement would incentivise operators, service providers and aviation stakeholders to sustain their safety performance targets in their SMS manuals accepted by the Authority.

4.6 The Authority may waive the recovery of investigation costs from an operator/service provider should their safety performance targets are met and/or when the cost of the Authority's investigation is nominal. In this case, the operator/service provider will be notified accordingly during the investigations.

5. Exemption

5.1 Exemptions from the full cost recovery provision or agreeing to a cost sharing or other alternative cost recovery formula could be considered as follows:

5.1.1 For costs associated with Accident investigation - An application to the Minister responsible for Civil Aviation stating clearly the reasons for Exemption from the provisions of Section 38 of the Civil Aviation (Occurrence Reporting and Investigation) Regulation.

5.1.2 For costs of investigation of occurrences other than accidents – An application to the Authority stating the reasons for Exemption from paragraph 4.5 of this AIC.