

The Great GATS(by)



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GATS

- Global Aircraft Trading System (GATS)TM
 - Created by the Aviation Working Group (AWG)
 - AWG is comprised of major aviation manufacturers, leasing companies and financial institutions
 - Embraer, Airbus, GE, Boeing, Bombardier, Pratt, etc
- Remember Cape Town?

GATS

- **Main purposes of GATS:**
 - Facilitate the trading and financing of aircraft equipment by reducing the burdens on lessees, lessors and financiers;
 - Promote aircraft equipment trading and financing in an efficient, secure and predictable manner; and
 - Protect the rights of all parties involved, including and especially the lessee's rights under the lease.
- **Expands/facilitates the use of trusts in aircraft transactions**

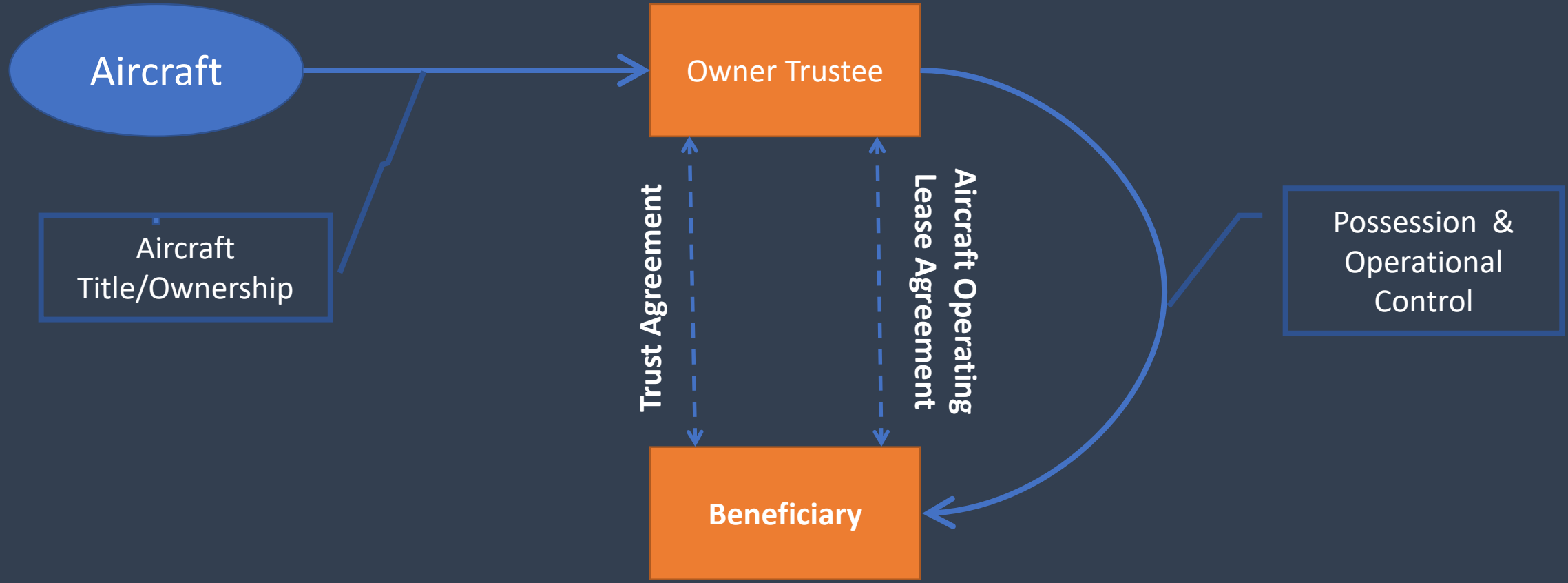
GATS

- What is a trust?
 - A trust is an equitable obligation that creates a fiduciary relationship in which the owner trustee agrees to hold title to aircraft for the beneficiary.
- Common law, statutory law and business law trusts
- How is a trust treated for tax purposes?

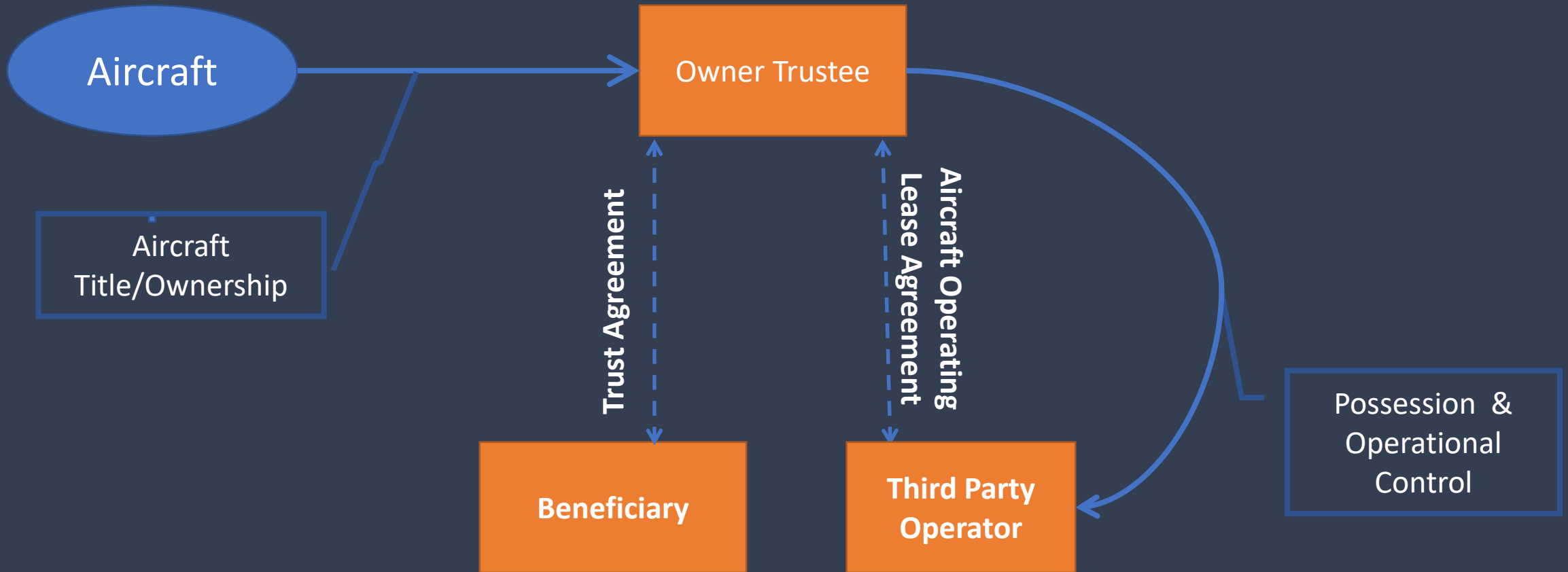
GATS

- The owner trustee is the bare legal owner of the aircraft in trust for the beneficiary.
- Often used to qualify an entity for citizenship purposes and places title with a third party trustee
- The beneficiary of a GATS trust ultimately owns and controls the assets of the trust estate
- Trustee transfers possession, operational control , maintenance, regulatory responsibility to the beneficiary or third party operator
 - Some regulatory responsibility may stay with the Trustee

GATS Beneficiary Operator



GATS Third Party Operator



GATS

- Permits the use of common law trusts, statutory trusts and business trusts
 - Trusts formed in **Ireland, Singapore** or the **United States**
 - **Facilitates using trust outside the US**
- **Voluntary** system open to all industry players.
- **Fully electronic** system
 - E-signatures
 - E-delivery of documents
 - Use of a secure E-ledger to record transactions.

GATS

- E-Ledger

- Secure, live and searchable **electronic ledger displaying details of ownership and security interests** in GATS
- The E-Ledger **does not determine legal priority**, but provides transparency (and may impact national law priority through notice)
- Documents closed through an electronic escrow facility

- United States GATS Transitional Forms:

- GATS Trust Instrument (US-UT) [Transition]
- GATS Trust Instrument Master Terms (US) [Transition] (Appendix to Trust Instrument)
- GATS Trust Transfer Instrument (US-UT) [Transition]
- GATS Security Instrument (US-NY) [Transition]
- GATS Security Instrument

GATS

- GATS/Trust benefits where aircraft are subject to leases:
 - transfer of the beneficial interest/creation of a security interest in a GATS trust does not change or increase lessee obligations.
 - Lessee can add **advance requirements** to the GATS platform that must be met before there can be a transfer and Lessee has to consent
 - Transfer of beneficial interest, rather than title, does not require re-registration with the FAA that might ground the aircraft

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- Documents are **non-negotiable, uniform and pre-approved** by the FAA
 - Really?
- All documents legally affecting a relationship under the trust must still be filed with the FAA
 - Trust Agreement, Amendments, Assignments
 - Aircraft Operating Lease Agreement
 - But not a lease to a third party
 - Beneficial Interest Security Agreements?
- Launch March, 2020

GATS

- Pros for buying/selling beneficial interest under a Trust
 - The owner of legal title does not change, so
 - registration remains the same so aircraft is not grounded for international flights
 - may not trigger a sales/use tax review
 - May reduce changes to certain maintenance/hangar/insurance contracts
 - No need to duplicate sale registrations on IR
- Cons for buying/selling beneficial interest under a Trust
 - Buyer may become subject to prior obligations/liabilities
 - Sale may not fall under Cape Town, so
 - no choice of law/jurisdiction rights under the Treaty as it applies to the sale
 - Buyer not enjoy the priorities of a registered sale under the Treaty
 - Courts understand a sale of the metal

GATS

- Business aircraft v. commercial aircraft
 - Commercial Aircraft
 - Commercial lessee primary entity responsible for operation/maintenance/payment
 - Aircraft often sold subject to lease with lessee quiet possession rights
 - Substantial parties standing behind warranty of title
 - Substantial law firms
 - Normal to have back to birth bills of sale for aircraft/engines/propellers
 - Business Aircraft
 - Beneficiary/UBO/parent company primary entity responsible for operation/maintenance/payment
 - Aircraft not sold subject to lease
 - Unknown wherewithal behind warranty of title
 - Not all parties properly represented – Treaty benefits may be more beneficial
- Implication of FAA changes and modernization to GATS
 - How will GATS mesh with the FAA?
 - How will GATS change the closing process?

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