



# FOCA GM/INFO

Guidance **M**aterial / **I**nformation

## Non-commercial operations with other-than-complex motor-powered aircraft – **M**arginal **A**ctivity



Source: imago GmbH, 13127 Berlin

Scope	Marginal activity for introductory flights in Switzerland
Applies to	NCO operators
Valid from	06 June 2019
Purpose	Guidance / Information

Process No	-
Document Reference	COO.2207.111.4.4164181
Registration No	033.1-00001/00051/00003
Prepared by	SBFF
Released by	SB Policy / 30 October 2018
Distribution	Internal / External

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## Log of Revision (LoR)

Date	Issue	Revision	Highlight of Revision
01.12.2018	1	0	First Issue
01.02.2019	1	1	Ch. 2.3 Additional Criteria: «Pilot Qualification» amended
06.06.2019	1	2	Ch. 1.2 Clarifications for «introductory flights» for <ol style="list-style-type: none"> <li>1. scope as of article 6 4a(c) – meaning «sightseeing flights/round flights» with PAX on board; and</li> <li>2. «trial lesson» with flight instructor performed by a flight school</li> </ol>

## List of Effective Chapters

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ToC	ISS 1 / REV 2 / 06.06.2019
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## List of Abbreviations

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The following abbreviations are within this GM/INFO:

<b>Abbreviation</b>	<b>Definition</b>	<b>Abbreviation</b>	<b>Definition</b>
ATPL	Airline Transport Pilot Licence	NCO	Non-commercial operations with other than complex-motor-powered aircraft
Ch.	Chapter	PPL	Private Pilot Licence
CPL	Commercial Pilot Licence	REV	Revision
DETEC	Federal Department of the Environment, Transport, Energy and Communications	SOP	Standard Operating Procedure
EASA	European Aviation Safety Agency	CHF	Swiss Francs
FOCA	Federal Office of Civil Aviation	SR	Systematische Rechtssammlung
GM/INFO	Guidance Material / Information	VVR	Verordnung des UVEK über die Verkehrsregeln für Luftfahrzeuge
ISS	Issue	VFR	Visual Flight Rules
MPSC	Maximum Passenger Seating Configuration		

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## 0 Introduction

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All Guidance Material / Information (GM/INFO) are intended to assist the organisation/operator in administrative matters. The administrative requirements and processes will facilitate liaising with the Federal Office of Civil Aviation (FOCA). It is to be considered a tool for the organisation/operator in order to ease processes of obtaining required and defined approvals and authorisations issued by the Federal Office of Civil Aviation (FOCA). Using the GM/INFO will be conducive to establishing compliance with FOCA requirements and will lead through the respective certification or variation process in regard to administrative tasks.

### 0.1 Legal References

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Commission Regulation (EU) No 965/2012:

- Cover Regulation Article 6 paragraph 4a(c)
- ARO.OPS.300 and AMC1 ARO.OPS.300
- NCO.GEN.103

Swiss Air Law SR 748.127.7 (VVR)

### 0.2 Purpose of this GM/INFO

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This GM/INFO provides basic support for operators/organisations who perform *introductory flights* in accordance with EASA Part-NCO (NCO.GEN.103) and specifies the criteria for «Marginal Activity» in Switzerland. The term *introductory flights* herein refers to the sense of «sightseeing flights/round flights» with PAX on board as provided by Commission Regulation (EU) No 965/2012 on Air Operations, article 6 4a(c) and shall not be mixed up with the (same) term *introductory flights* in the sense of a «trial lesson» with a flight instructor performed by a flight school (for such flights you would refer to [FOCA GM/INFO - CL OM/TM](#), Chapter 3.1.21 !).

### 0.3 Scope

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This GM/INFO covers operations carried out with aircraft defined as other-than complex motor-powered aircraft, according to EASA Part-NCO. The content of this document is limited to flights classified as «Introductory Flights» (namely for VFR A to A - «sightseeing»). Paradropping, sailplane towing and aerobatic flights are not addressed herein. (FOCA has defined criterias for paradropping. These are published on the web [www.bazl.admin.ch/nco](http://www.bazl.admin.ch/nco), chapter “marginal activity”).

## 0.4 Terms and Conditions

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When used throughout the GM/INFO the following terms shall have the meaning as defined below:

Term	Meaning	Reference
<i>shall, must, will</i>	These terms express an obligation, a positive command.	EC English Style Guide: Ch. 7.19
<i>may</i>	This term expresses a positive permission.	EC English Style Guide: Ch. 7.21
<i>shall not, will not</i>	These terms express an obligation, a negative command.	EC English Style Guide: Ch. 7.20
<i>may not, must not</i>	These terms express a prohibition.	EC English Style Guide: Ch. 7.20
<i>need not</i>	This term expresses a negative permission.	EC English Style Guide: Ch. 7.22
<i>should</i>	This term expresses an obligation when an acceptable means of compliance should be applied .	EASA Acceptable Means of Compliance publications FOCA policies and requirements
<i>could</i>	This term expresses a possibility.	<a href="http://oxforddictionaries.com/definition/english/could">http://oxforddictionaries.com/definition/english/could</a>
<i>ideally</i>	This term expresses a best possible means of compliance and/or best experienced industry practice.	FOCA recommendation

**Note:** To highlight information or an editorial note a specific note box is used.

- The use of the male gender should be understood to include male and female persons.

## 1 Reference to Commission Regulation (EU) No 965/2012

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According to Commission Regulation (EU) No 965/2012 following articles are relevant with regard to marginal activity in Switzerland.

### 1.1 Cover Regulation

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Article 6 «Derogations» paragraph 4a(c) states that « *introductory flights [...] performed by a training organisation having its principal place of business in a Member State, and approved in accordance with Regulation (EU) No 1178/2011, or by an organisation created with the aim of promoting aerial sport or leisure aviation, on the condition that the aircraft is operated by the organisation on the basis of ownership or dry lease, that the flight does not generate profits distributed outside of the organisation, and that whenever non-members of the organisation are involved, such flights represent only a marginal activity of the organisation.* »

Refer to Chapter 2 of this GM/INFO to see how the paragraph is interpreted and what the concerned organisations are.

### 1.2 ARO.OPS.300 Introductory Flights

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ARO.OPS.300 provides that the competent authority (FOCA) may define further conditions for introductory flights. This applies to flights within Switzerland and in accordance with EASA Part-NCO.

### 1.3 NCO.GEN.103 Introductory Flights

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According to NCO.GEN.103 introductory flights shall:

- start and end at the same aerodrome or operating site, except for balloons and sailplanes;
- be operated under VFR by day;
- be overseen by a nominated person responsible for their safety; and
- comply with any other conditions stipulated by the competent authority.

Additional conditions stipulated by the FOCA are defined in chapter 2.3.



## 2 Interpretation and Definitions

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This chapter describes how the relevant legal basis is interpreted. In addition, the necessary terms are defined.

### 2.1 Definitions of relevant Terms

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An **organisation created with the aim of promoting aerial sport or leisure aviation**, as mentioned in chapter 1.1, is defined as a non-profit organisation with the sole purpose of gathering persons who share the same interest in general aviation to fly for pleasure (sightseeing, aerobatics, or sailplane towing) or to conduct parachute jumping. The organisation should have aircraft available.

**Introductory flight** means any flight against remuneration or other valuable consideration consisting of an air tour of short duration, offered by an approved training organisation or an organisation created with the aim of promoting aerial sport or leisure aviation, for the purpose of attracting new trainees or new members.

The term **marginal activity** is defined in the following chapter. EASA gives a general description while FOCA's definition is more specific.

### 2.2 What does «Marginal Activity» mean?

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EASA describes marginal activity as a term that should be understood as representing a very minor part of the overall activity of an organisation, mainly for the purpose of promoting itself or attracting new members. If such promotional flights are carried out as part of a regular business or with the sole intention of generating profit, they are not subject to marginal activity.

FOCA defines Marginal Activity as follows: « **Less than 20% of the flight hours flown per calendar year for all aircraft operated by the organisation** »

### 2.3 Additional Criteria

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Article NCO.GEN.103 provides additional criteria for operators who perform introductory flights as marginal activity. The FOCA defines the criteria to be met as follows.

- **Start and end at the same aerodrome / operating site («A to A»)**  
Take-off and landing shall take place within the FIR Switzerland and with the exception of gliders and balloons at the same location. Stopovers are not permitted.
- **Only VFR by day**  
Introductory flights as marginal activity shall be operated under visual flight rules (VFR) by day.
- **Oversight by nominated person**  
The organisation shall designate a person responsible for their safety
- **Flights only within Switzerland**  
Flights shall be operated within the geographical borders of Switzerland and Liechtenstein.
- **Sightseeing Flights**
  - only with other-than-complex motor-powered aircraft, and
  - with a maximum passenger seating configuration (MPSC) of five passengers
- **Pilot Qualification**  
Pilots must either have a CPL/ATPL or a PPL. The following requirements must be met by PPL holders:
  - total flight experience of at least 100 hours under VFR, and
  - a minimum of 20 flight hours within the last calendar year on the type or class being used for the activity (introductory flights); or a training and a check flight on the type or class

being used for the activity (introductory flights) with a flight instructor of that organisation who is listed for introductory flights

- **Theoretical and practical instruction and annual check flight**

The pilot shall provide proof of theoretical (based on GM/INFO and company introduction, SOP's, abnormalities, etc.) and practical instruction by the designated person. In addition, an annual check flight with the designated person shall take place.

- **No flights in the sense of crediting for a license or rating**

- **Prospective activity declaration and annual reporting of the flights carried out**

The organisation shall announce the prospective activity in the year in which they intend to operate introductory flights. At the end of the year the annual activity shall be reported to the FOCA. All relevant forms can be found in chapter 5.3.

### **3 Operator Responsibilities**

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The operator is responsible that all the requirements in the following chapters are met.

#### **3.1 Compliance with Criteria**

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The operator shall ensure, that all criteria mentioned in Chapter 2 are met. This includes FOCA's definition of 'Marginal Activity' and the content of article 6.4a(c) of the Commission Regulation (EU) No 965/2012 (GM2 Article 6.4a(c) Derogations) as stated in Chapter 2.1 of this GM/INFO.

#### **3.2 Reporting**

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For each year, the operator shall fill in a new «Marginal Activity Form». The operator indicates how many flight hours have been completed in total and as marginal activity according to the Regulation (EU) No 965/2012. In addition, it is to be reported how many flight hours the operator intends to complete in the following year and how many of these can be classified as marginal activity. The information is examined by the FOCA and checked during inspections (see chapter 4).

The form is available in German, French and Italian. The corresponding links to the forms can be found in chapter 5.3.

#### **3.3 Operator's Expenses**

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Since marginal activity is also associated with expenses on the part of the FOCA, the operator must reckon with costs. The FOCA is tempted to keep these costs as low as possible. For further information, see chapter 0.

## 4 FOCA's Monitoring Practices

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The criteria for monitoring stated in this GM/INFO relate to AMC1 ARO.OPS.300 of the Commission Regulation (EU) No 965/2012. According to ARO.GEN.300 (a)(3) the FOCA shall verify continued compliance of the NCO operators.

### 4.1 Oversight of Operations

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The FOCA carries out on-site inspections. These include the following items:

- Checking the information on the «Marginal Activity Form»;
- Verification of compliance with the criteria mentioned in chapter 2; and
- Verification of compliance with the applicable articles of EASA Part-NCO.

### 4.2 Frequency of Oversight

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The «Marginal Activity Form» shall be submitted once per calendar year. FOCA may demand records, if necessary. The on-site inspection takes place once every four calendar years.

## 5 Further Information

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This chapter contains additional information for NCO operators such as FOCA's point of contact, existing publications, links and operator's fees.

### 5.1 Point of Contact

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The point of contact at the FOCA for NCO operators is «Section Training Organisations and Light Aircraft Operations»:

- **Bundesamt für Zivilluftfahrt BAZL**  
Sektion Flugschulen und Leichtaviatik  
sbfl@bazl.admin.ch
- **Office fédérale de l'aviation civile OFAC**  
Section Ecoles d'aviation et aviation légère  
sbfl@bazl.admin.ch
- **Ufficio federale dell'aviazione civile UFAC**  
Sezione Scuole di volo  
sbfl@bazl.admin.ch

### 5.2 Reference to existing Publications

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Refer also to FOCA's website regarding EASA Part-NCO: [www.bazl.admin.ch/nco](http://www.bazl.admin.ch/nco)

It is expected that by the end of 2018 the DETEC will amend the «Regulation on the implementation of the provisions on flight operations in accordance with Regulation (EU) No 965/2012<sup>1</sup>». This creates the legal basis for Marginal Activity

### 5.3 Forms

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The following form is to be used by the operator to report the flight hours as described in chapter 3.2:

-  [Marginal Activity – Meldeformular](#)
-  [Marginal Activity – formulaire de rapport](#)
-  [Marginal Activity – Modulo di notifica](#)

The filled in form shall be sent to the point of contact mentioned above (see chapter 5.1).

<sup>1</sup> [DE](#): Verordnung des UVEK über die Umsetzung der Vorschriften über den Flugbetrieb nach der Verordnung (EU) Nr. 965/2012

[FR](#): Ordonnance du DETEC relative à la mise en oeuvre des prescriptions relatives aux opérations aériennes conformément au règlement (UE) n° 965/2012

[IT](#): Ordinanza del DATEC sull'attuazione dei requisiti concernenti le operazioni di volo secondo il regolamento (UE) n. 965/2012

## 5.4 Fees

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Article 45 of the Fees Regulation of the FOCA<sup>2</sup> (SR 748.112.11) states that a fee of CHF 100 to 40'000 is charged on a time basis for a licence, confirmation or operational audit for non-commercial operations with other-than-complex motor-powered aircraft as well as for their modification, restriction or withdrawal.

### Example:

Position	Timeframe	Amount in CHF	Frequency
<i>Checking of the marginal activity form</i>	<i>&lt; 1 hours</i>	<i>100</i>	<i>1 Year</i>
<i>On-site inspections</i>	<i>2 hours</i>	<i>360</i>	<i>4 Years</i>
<b>TOTAL</b>	<b>&lt; 3 hours</b>	<b>760*</b>	<b>4 Years</b>

\*Actual amounts may differ from the above

<sup>2</sup> Verordnung über die Gebühren des Bundesamtes für Zivilluftfahrt (*GebV-BAZL*) / Ordonnance sur les émoluments de l'Office fédéral de l'aviation civile (*OEmol-OFAC*) / Ordinanza sugli emolumenti dell'Ufficio federale dell'aviazione civile (*OEm-UFAC*)