

ENFORCEMENT INFORMATION FOR NOVEMBER 7, 2019

Information concerning the civil penalties process can be found in the Office of Foreign Assets Control (OFAC) regulations governing each sanctions program; the Reporting, Procedures, and Penalties Regulations, 31 C.F.R. part 501; and the Economic Sanctions Enforcement Guidelines, 31 C.F.R. part 501, app. A. These references, as well as recent final civil penalties and enforcement information, can be found on OFAC's website at www.treasury.gov/ofac/enforcement.

ENTITIES - 31 C.F.R. 501.805(d)(1)(i)

Apollo Aviation Group, LLC (“Apollo,” now d/b/a Carlyle Aviation Partners Ltd.¹) Settles Potential Civil Liability for Apparent Violations of the Sudanese Sanctions Regulations, 31 C.F.R. part 538:² Apollo, a U.S. company organized and headquartered in Florida, has agreed to pay \$210,600 to settle its potential civil liability for 12 apparent violations of the Sudanese Sanctions Regulations, 31 C.F.R. part 538 (SSR). Specifically, Apollo appears to have violated §§ 538.201 and 538.205 when it leased three aircraft engines to an entity incorporated in the United Arab Emirates (“Company 1”), which then subleased the engines to a Ukrainian airline (“Company 2”), which then installed the engines on an aircraft wet leased³ to Sudan Airways (“Sudan Air”). At the time of the transactions, Sudan Air was identified on OFAC's List of Specially Designated Nationals and Blocked Persons (the “SDN List”) as meeting the definition of “Government of Sudan.”⁴

At the time of the apparent violations, § 538.201 of the SSR prohibited U.S. persons from dealing in any property or interests in property of the Government of Sudan, and § 538.205 of the SSR prohibited the exportation or reexportation, directly or indirectly, of goods, technology, or services, from the United States or by U.S. persons to Sudan.

The lease agreements Apollo entered into with Company 1 contained a provision prohibiting the lessee from maintaining, operating, flying, or transferring the engines to any countries subject to United States or United Nations sanctions. Notwithstanding the inclusion of this clause, Apollo did not ensure the aircraft engines were utilized in a manner that complied with OFAC's regulations. For example, at the time, Apollo did not obtain U.S. law export compliance certificates from lessees and sublessees. Additionally, Apollo did not periodically monitor or

¹ On October 15, 2018, Apollo announced that it had entered into an agreement to be acquired by The Carlyle Group. The acquisition transaction closed on December 19, 2018, and Apollo now operates as Carlyle Aviation Partners Ltd. The Carlyle Group and its affiliated funds were not directly or indirectly involved in the apparent violations.

² Effective January 17, 2017, all transactions prohibited under the SSR are authorized pursuant to the general license located at 31 C.F.R. § 538.540. The general license does not affect past, present, or future OFAC enforcement investigations or actions related to any apparent violations of the SSR relating to activities that occurred prior to the effective date of the general license.

³ A “wet lease” is an aviation leasing arrangement whereby the lessor operates the aircraft on behalf of the lessee, with the lessor typically providing the crew, maintenance, and insurance, as well as the aircraft itself.

⁴ Sudan Air was removed from the SDN List on October 12, 2017.

otherwise verify its lessee's and sublessee's adherence to the lease provision requiring compliance with U.S. sanctions laws during the life of the lease. As a result, Apollo learned where its engines had actually flown only after the engines were returned to Apollo at the end of the lease.

During the time in which the apparent violations occurred, Apollo was a multi-strategy aviation investment manager with extensive technical knowledge, in-depth industry expertise, and long-standing presence in the mid-life commercial aviation sector. Apollo's aircraft investing included acquiring, refurbishing, marketing, and leasing commercial jet aircraft, engines and related assets, and disassembly and resale of aircraft and components. By the end of 2015, Apollo reported to have nearly \$2.5 billion of aviation assets under management. At that time, Apollo had offices in the United States, Ireland, and Singapore.

Starting on July 30, 2013, Apollo leased two aircraft engines ("Engine 1" and "Engine 2") to Company 1. Company 1 subleased Engine 1 and Engine 2 to Company 2. At all relevant times, Company 1 and 2 were owned and managed by an affiliated group of individuals. Company 2 then installed Engine 1 and Engine 2 on an aircraft that it wet leased to Sudan Air. Sudan Air used the two engines for approximately four months from on or about November 2014 to on or about February 2015. In March 2015, the lease involving Engine 1 and Engine 2 ended, and the engines were returned to Apollo.

Starting in late May 2015, prior to Apollo's discovery that Engine 1 and Engine 2 had been installed on an aircraft that Company 2 wet leased to Sudan Air, Apollo delivered another engine ("Engine 3") to Company 1. Company 1 subleased Engine 3 to Company 2, which installed Engine 3 on an aircraft that it wet leased to Sudan Air. Sudan Air used Engine 3 on flights to, from, or within Sudan for approximately four months, from on or about May 2015 to on or about September 2015, when it was removed at the request of Apollo.

Engine records — including specific information regarding their use and destinations — were returned to Apollo when the lease for Engine 1 and Engine 2 expired in March 2015. In August 2015, a post-lease review of those engine records led to the discovery that Engine 1 and Engine 2 had been installed on an aircraft that Company 2 had leased to Sudan Air and used in Sudan. Upon further inquiry, Apollo discovered that Engine 3 was on an aircraft that had been wet leased to Sudan Air for use in Sudan. Apollo then demanded that Company 2 remove Engine 3 from the aircraft Company 2 had wet leased to Sudan Air and confirmed its removal.

The statutory maximum civil monetary penalty applicable in this matter is \$3,000,000. OFAC determined, however, that Apollo voluntarily self-disclosed the apparent violations, and that the apparent violations constitute a non-egregious case. Accordingly, under OFAC's Economic Sanctions Enforcement Guidelines ("Enforcement Guidelines"), 31 C.F.R. part 501, app. A, the base civil monetary penalty amount applicable in this matter is \$360,000.

The settlement amount of \$210,600 also reflects OFAC's consideration of the General Factors under the Enforcement Guidelines. Specifically, OFAC determined the following to be aggravating factors:

1. The unauthorized use of Apollo's aircraft engines in Sudan by an entity on the SDN List resulted in harm to U.S. sanctions program objectives;
2. Apollo is a large and sophisticated entity; and
3. Although Company 1 appears to have violated the terms of its engine lease prohibiting any use in sanctioned countries, Apollo failed to monitor or otherwise verify the actual whereabouts of these aircraft engines during the life of its leases.

OFAC determined the following to be mitigating factors:

1. No Apollo personnel had actual knowledge of the conduct leading to the apparent violations;
2. Apollo has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the earliest date of the transactions giving rise to the apparent violations;
3. Apollo implemented a number of remedial measures in response to the apparent violations, including investment in additional compliance personnel and systems; and
4. Apollo provided information to OFAC in a clear, concise, and well-organized manner.

In addition to agreeing to implement specific OFAC compliance commitments, Apollo has confirmed to OFAC that it has terminated the apparently violative conduct and has taken the following steps to minimize the risk of recurrence of similar conduct in the future:

- Apollo improved its Know-Your-Customer screening procedures in keeping with global best practices;
- Apollo enhanced employee training on U.S. export law, including by making employees aware of the screening process used by the company; and
- Apollo began obtaining U.S. law export compliance certificates from lessees and sublessees.

This enforcement action highlights the importance of companies operating in high-risk industries to implement effective, thorough and on-going, risk-based compliance measures, especially when engaging in transactions concerning the aviation industry. For example, on July 23, 2019, OFAC issued an advisory to the civil aviation industry to warn of deceptive practices employed by Iran with respect to aviation matters. While that advisory is focused on Iran, participants in the civil aviation industry should be aware that other jurisdictions subject to OFAC sanctions may engage in similar deceptive practices. This action also highlights the importance of companies operating internationally to implement Know You Customer screening procedures and implement compliance measures that extend beyond the point-of-sale and function throughout the entire business or lease period.

As noted in [OFAC's Framework for Compliance Commitments](#), issued in May 2019, U.S. companies can mitigate sanctions risk by conducting risk assessments and exercising caution when doing business with entities that are affiliated with, or known to transact with, OFAC-sanctioned persons or jurisdictions, or that otherwise pose high risks due to their joint ventures, affiliates, subsidiaries, customers, suppliers, geographic location, or the products and services they offer.

For more information regarding OFAC regulations, please go to: www.treasury.gov/ofac.