

TURBULENT TIMES: OFAC WARNS AVIATION INDUSTRY ON DECEPTIVE PRACTICES

In its July 23, 2019, "Iran-Related Civil Aviation Industry Advisory," the US Department of Treasury Office of Foreign Assets Control ("OFAC") delivered a warning as to the "deceptive practices by Iran with respect to the Civil Aviation Industry."¹

With ever increasing sanctions on Iran restricting access to aircraft, spare parts, and aircraft-related maintenance and services, the use of creative and deceptive methods by those who seek to meet a demand will only increase. OFAC's guidance is helpful in that it provides practical examples which can be used to educate front-line business teams and compliance. They also should be used to inform procedures aimed at detecting efforts to circumvent controls around prohibited Iran-related business. The flipside, however, is that OFAC will consider everyone in the industry (brokers, dealers, sellers, manufacturers, distributors, suppliers, lessors) to be on notice of these practices. Accordingly, OFAC will likely not be lenient where a company claims they have been duped by one of these deceptive practices and inadvertently engaged in OFAC-prohibited transactions.

Companies that have not already heeded OFAC's guidance in "A Framework for OFAC Compliance Commitments," issued in May² and begun examining and enhancing their compliance programs, would be wise to start now. Companies also should review OFAC's July 23rd guidance and consider how to adopt procedures to detect the types of deceptive practices OFAC has enumerated. Further, as new deceptive practices are devised the industry will need to remain vigilant. For example,

- Do you have an ordering system that flags suspicious ordering behavior including shipments to or through third countries or payments via intermediaries?

¹ https://www.treasury.gov/resource-center/sanctions/Programs/Documents/20190723_iran_advisory_aviation.pdf.

² https://www.treasury.gov/resource-center/sanctions/Documents/framework_ofac_cc.pdf

- Does your business staff know to request copies of OFAC licenses when a party claims to have an OFAC license and how to verify the veracity of the license?
- Do you have a way to detect and investigate the use of front companies?

Increased internal and external pressure on the aviation industry in Iran coupled with the current hardline US sanctions enforcement stance create a challenging environment for the aviation industry. OFAC is continuing to send a strong message and warning to companies through guidance of this type and its Framework for OFAC Compliance Commitments, setting expectations that companies will be proactive in developing, enhancing, and testing their compliance frameworks and adapting compliance programs in response to new threats.

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