



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

**Issued by the Department of Transportation  
on the 30th day of December, 2024**

**Swiss International Air Lines AG**

**Violations of 49 U.S.C. § 41301**

**Docket DOT-OST-2024-0001**

**Served December 30, 2024**

**CONSENT ORDER**

This consent order concerns unauthorized foreign air transportation by Swiss International Air Lines AG (Swiss) in violation of 49 U.S.C. § 41301. Swiss operated flights carrying United Airlines' (United) designator code (UA) in airspace in which a Federal Aviation Administration (FAA) flight prohibition for U.S. operators and airmen was in effect. This order directs Swiss to cease and desist from future similar violations of section 41301 and assesses the carrier a compromise civil penalty of \$200,000.

**Applicable Law**

Pursuant to 49 U.S.C. § 41301, a foreign air carrier may provide foreign air transportation only if the foreign air carrier holds a permit from the U.S. Department of Transportation (Department) authorizing the foreign air transportation or a valid exemption from that section. Any operation in violation of the terms, conditions, or limitations of a foreign air carrier permit is a violation of 49 U.S.C. § 41301.

In addition to this requirement, 14 CFR Part 212 requires U.S. and foreign air carriers that operate code-shared services to first obtain authorization from the Department in the form of a statement of authorization. Under 14 CFR 213.6, any violation by a foreign air carrier of the terms, conditions, or limitations applicable to the exercise of the privileges granted by its foreign air carrier permit shall constitute a failure to comply with the terms, conditions, and limitations of such permit.

As part of the terms, conditions, or limitations referenced above, the Department prohibits foreign air carriers from operating flights carrying the code of a U.S. air carrier in airspace in which the FAA prohibits U.S. operators and airmen from flying.<sup>1</sup> This prohibition is incorporated into Swiss' statement of authorization in which the Department granted Swiss the authority to display the UA code in conjunction with Swiss' foreign air transportation.<sup>2</sup> The condition, provided in paragraph (d) of the statement of authorization, states the following:

The code-sharing operations conducted under this authority must comply with 14 CFR Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. Notwithstanding any provisions in the contract between the carriers, our approval here is expressly conditioned upon the requirement[] that . . . the operating carrier shall not permit the code of its U.S. air carrier code-sharing partner to be carried on any flights that enter, depart, or transit the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

The FAA issues flight prohibitions for U.S. civil aviation regarding flight operations in airspace other countries manage with respect to safety of flight because of the risks posed by weapons capable of targeting, or otherwise negatively affecting, U.S. civil aviation, as well as other hazards to U.S. civil aviation associated with fighting, extremist or militant activity, or heightened tensions. The FAA issues these flight prohibitions as emergency orders of the FAA Administrator via Notices-to-Air Missions (NOTAMs) and Special Federal Aviation Regulations (SFARs), as appropriate. The condition incorporated in Swiss' statement of authorization, as described above, makes such flight prohibitions applicable to Swiss when its operations are carrying a U.S. air carrier's code.

### **Facts and Conclusions**

On October 16, 2020, the FAA amended and extended SFAR 77, 14 CFR 91.1605, Prohibition against Certain Flights in the Baghdad Flight Information Region (ORBB FIR), prohibiting all U.S. air carriers, all U.S. commercial operators, all persons exercising the privileges of airman certificates issued by the FAA (except when such persons are operating a U.S.-registered aircraft for a foreign air carrier), and all operators of civil aircraft registered in the United States (except when the operator of such aircraft is a foreign air carrier) from conducting flight operations in the ORBB FIR at altitudes below Flight Level (FL) 320.<sup>3</sup> In connection with the Department's rules

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<sup>1</sup> See Order 95-2-34 (Feb. 15, 1995) and Notice – Conflict Zone, DOT-OST-1998-20-0690 (Mar. 19, 2015); see also *Emirates Violations of 49 U.S.C. § 41301 and Order 2020-9-29*, Order 2024-6-9 (June 13, 2024).

<sup>2</sup> Swiss's request for the statement of authorization is docketed at <https://www.regulations.gov/document/DOT-OST-2005-22464-0003>.

<sup>3</sup> This SFAR is available online at <https://www.federalregister.gov/documents/2020/10/16/2020-23047/prohibition-against-certain-flights-in-the-baghdad-flight-information-region-fir-orbb>. On September 20, 2022, the FAA published a notice in the Federal Register extending the expiration date of this SFAR until October 26, 2024, without changing the boundaries of the flight prohibition for U.S. civil aviation. <https://www.federalregister.gov/documents/2022/09/20/2022-20318/extension-of-the-prohibition-against-certain-flights-in-the-baghdad-flight-information-region-fir>. On October 16, 2024, the FAA published a notice in the Federal Register further extending the expiration date of this SFAR until October 26, 2027, without changing the

and the condition imposed on Swiss' foreign air carrier permit and the statement of authorization for a codeshare arrangement with United, as described above, the prohibitions in SFAR 77 extend to Swiss' flights carrying the UA code.

An investigation by the Department's Office of Aviation Consumer Protection (OACP) revealed that, between February 2022 and March 2024, Swiss operated multiple flights carrying the UA code in the airspace described in SFAR 77. By operating flights carrying the UA code in airspace in which the FAA prohibited U.S. operators and airmen from flying, Swiss' operations violated the conditions of its statement of authorization. As a result, Swiss violated 49 U.S.C. § 41301.

### **Response**

In response, Swiss states that it is committed to providing air transportation as safely and efficiently as possible and that the safety of its passengers and crews is of the utmost priority as evidenced by its stellar safety record. In addition, Swiss states that it has a strong culture of compliance with the rules and regulations that govern the aviation industry and has protocols in place to assure that its pilots and crews are aware of all regulations that apply to flight operations.

Swiss asserts that numerous departments within the company collaborate to ensure both safety and compliance with regulations and that risks are monitored as they may relate to overflying areas of conflict or potential conflict and there is adherence to international standards. Swiss asserts that the ORBB FIR regulation in question was well known to Swiss and such information was readily available to its pilots and crews. Swiss states that it filed flight plans in compliance with such regulations for its flights into this area and all Swiss flights intended to comply with such flight plans.

Swiss notes that it is a well-known fact that operating flights in the subject area is complex due to the rather narrow corridors available and the constant air traffic congestion. Swiss asserts that the flights that were not able to comply with the regulation resulted solely from the local air traffic control not authorizing aircraft to ascend to FL320 although such clearance was duly requested.<sup>4</sup> Swiss avers that it is fully confident that flight safety was not compromised. Swiss states that it cooperated with the Department's investigation into this matter and has implemented further steps to enhance pilot awareness and compliance with the relevant regulation.

### **Decision**

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boundaries of the flight prohibition for U.S. civil aviation.  
<https://www.federalregister.gov/documents/2024/10/16/2024-23785/extension-of-the-prohibition-against-certain-flights-in-the-baghdad-flight-information-region-fir>.

<sup>4</sup> The Department is taking this enforcement action against Swiss due to the carrier continuing to operate over an area where the carrier knew, or should have known, that it could not operate flights above FL320 as planned and as required when carrying the UA code. This action is not being taken for the carrier's adherence to the instructions of air traffic control once in the air to operate flights below FL320.

OACP views seriously Swiss' violations of 49 U.S.C. § 41301. Accordingly, after carefully considering all the facts in this case, including those set forth above, OACP believes that enforcement action is warranted. To avoid litigation, and without admitting or denying the violations described above, Swiss consents to the issuance of this order to cease and desist from future violations of 49 U.S.C. § 41301, and to the assessment of \$200,000 in compromise of potential civil penalties otherwise due and payable pursuant to 49 U.S.C. § 46301. The compromise assessment is appropriate considering the nature and extent of the violations described herein and serves the public interest. It establishes a strong deterrent against future similar unlawful practices by Swiss and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

**ACCORDINGLY,**

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that Swiss International Air Lines AG violated 49 U.S.C. § 41301, as described above, by violating the condition of its statement of authorization prohibiting Swiss International Air Lines AG from operating flights carrying the designator code of a U.S. carrier into airspace in which the FAA prohibits U.S. operators and airmen from flying, thereby engaging in foreign air transportation without the appropriate economic authority;
3. We order Swiss International Air Lines AG and its successors and assigns to cease and desist from further violations of 49 U.S.C. § 41301;
4. We assess Swiss International Air Lines AG \$200,000 in compromise of civil penalties that might otherwise be assessed for the violations described above. Of this total amount, \$100,000 shall be due and payable within 30 days of the issuance date of this order. The remaining \$100,000 shall become due and payable if, within one year of the issuance date of this order, Swiss International Air Lines AG violates this order's cease and desist or payment provisions, in which case the entire unpaid amount shall become due and payable immediately and Swiss International Air Lines AG may be subject to additional enforcement action for failure to comply with this order; and
5. We order Swiss International Air Lines AG to pay the penalty assessed in Ordering Paragraph 4, above, through Pay.gov, to the account of the U.S. Treasury. Payment shall be made in accordance with the instructions contained in the Attachment to this order. Failure to pay the penalty as ordered shall subject Swiss International Air Lines AG to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

**BY:**

**RYAN PATANAPHAN**  
**Co-Team Lead, Unauthorized Operations and**  
**Public Charters**  
**Office of Aviation Consumer Protection**

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