First-time aircraft buyers, and those aircraft owners who have not bought or sold an aircraft since 2006, may be surprised by the necessity to register the sale on the International Registry (IR). However, registration on the IR is an essential best practice for the protection of one’s ownership interest in an aircraft that qualifies for such registration. Buyers and sellers should both plan ahead and make certain that IR accounts are set up well in advance of closing in order to ensure that the IR registration does not delay closing.

The IR is the International Registry of Mobile Assets, located in Dublin, Ireland. The IR was established pursuant to a Convention on International Interests in Mobile Equipment, adopted on November 16, 2001 at a diplomatic conference held in Cape Town, South Africa. The Convention is sometimes referred to as the Cape Town Treaty. By its terms, the Convention was to take effect at the point when it had been adopted by eight nations, which occurred in March 2006. The U.S. Senate ratified the Cape Town Treaty in 2003, making the United States one of the inaugural parties. The Convention has now been signed by 59 states and economic units (i.e. the European Union is an economic unit), while a separate Aircraft Protocol, applicable only to aircraft fuselages and engines, has been adopted by 53 states and economic units, including the United States.

The two main types of registration on the IR are contract of sales and international interests. A contract of sale registers the sale of an aircraft or a fractional interest in an aircraft or its engine. The contract of sale on the IR and the filing of the bill of sale and registration application with the Federal Aviation Administration (FAA) allow the buyer to properly perfect title. The international interest validates an entity’s financial interest in a qualified asset. Registering an international interest is mandatory when the aircraft, its engines, or fractional interests in an aircraft or engines are financed with an institutional lender.

Use of the IR is necessary to perfect title if either buyer OR seller is domiciled in one of the states or economic units that have ratified the treaty and the Aircraft Protocol. Additionally, only certain aircraft, helicopters and engines qualify to be registered on the IR. A qualifying asset is a fixed-wing aircraft with at least eight seats (including crew), a helicopter with at least five seats (including crew), turbine engines that produce at least 1,750 pounds of thrust, and turboshaft or piston engines of at least 550 horsepower. The Cape Town Treaty excludes the registration of an interest in space assets by alleviating lenders’ concerns about differing nations’ and territories’ laws and regulations. The treaty is intended to create uniformity between IR-ratified countries for liens, default provisions and insolvency.

In the United States, when the Cape Town Treaty was ratified, the FAA registry system was not replaced by the IR. Instead, the treaty made the FAA registry an exclusive entry point. After filing the registration application (FAA Form 8050-1) and bill of sale (FAA Form 8050-2) with the FAA registry, the FAA provides the IR with a “code” upon request using FAA Form 8050-135. That code is then entered into the IR system. In essence, this created a dual registry system, one governed by international law and one by domestic law, but both required in order to properly perfect ownership in an aircraft.

In order to register on the IR, the buyer, seller and lender, if applicable, must all possess an active user license. Typically, an IR account can be established by appointing an administrator, completing and submitting a user license application on the IR’s website, and by submitting the required backup documentation. Generally, IR approval takes between 2-5 days, but longer delays occasionally occur. The cost to obtain a user license is $200. In addition, the registration fees are $100 per aircraft and $50 per engine. Once a user license is granted, it remains active for one year. User license renewal fees are $200 per year. Most aircraft purchase and sale agreements require the transacting users to appoint a professional user entity to handle the registrations necessary with the IR. Professional user entities are typically escrow agents or FAA special counsel. All parties appoint the same professional user entity, and that entity handles all of the necessary registrations with the IR related to the sale of the aircraft and its engines. Prior to the professional user entity perfecting any filings on the IR, the administrator will receive a professional user entity request which requires the administrator’s consent.

Many, if not all lenders, require that the IR account remain active for the duration of the loan or lease term. The person designated as the administrator for the IR account will receive an email renewal notification regarding the user license expiration. IR Priority Searches can be conducted on qualified assets. These searches provide details of the registrations made against the aircraft and the order of their priority. It is important that FAA and IR Searches be completed both prior to the conclusion of an aircraft sale transaction and immediately thereafter in order to provide parties to the transaction with a complete view of all outstanding liens and interests.

Not registering a transaction on the IR can be catastrophic to the owner, lender, lessor or lessee for one reason: the first party to have registered a searchable interest on the International Registry has first priority.