

## Aviation Regulatory Update

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### **DOT MAKES MOVES TO RESTRICT MEXICAN AIRLINES DUE TO ALLEGED VIOLATION OF OPEN SKIES PRINCIPLES**

On July 19, 2025, the U.S. Department of Transportation (“DOT” or the “Department”) [announced](#) several actions aimed at combating and correcting Mexico’s alleged noncompliance with the 2015 U.S.-Mexico Air Transport Agreement and purported anti-competitive behavior. In a pair of Orders (i.e., Orders [2025-7-10](#) and [2025-7-11](#)), DOT asserted that Mexico has, among other things, failed to comply with the bilateral agreement since 2022 when it rescinded slots and then required U.S. all-cargo carriers to vacate Mexico City Benito Juárez International Airport (“MEX”). To ensure fair and pro-competitive aviation markets, the Department will (1) require the below listed Mexican airlines to file schedules with the Department for all scheduled U.S. operations, (2) require prior DOT approval, via a statement of authorization, before the below listed airlines can operate any large passenger or cargo aircraft charter flights to or from the United States, and (3) propose to withdraw the antitrust immunity (“ATI”) granted to the Aeromexico-Delta joint venture and take other corrective action to address competitive issues in the market (see below for more information).

The Orders requiring schedules filings and prior DOT approval before operating to or from the United States impact the following Mexican air carriers:

- Aeroméxico
- Aeroméxico Connect
- Viva (formerly Viva Aerobus)
- Aerus
- Volaris
- TAR México
- Estafeta Carga Aérea
- Mas Air
- Avianca Cargo México (formerly AeroUnion)
- Awesome Cargo

- Magnicharters (not included in Order 2025-7-11)
- TUM Aerocarga (formerly MCS Aerocarga) (not included in Order 2025-7-11)
- Aeronaves TSM (not included in Order 2025-7-11)

More specifically, **beginning August 18, 2025**, the affected Mexican carriers must file applications for statements of authorization at least 30 calendar days before operating any proposed charter flights to or from the U.S. using large aircraft. **By close of business on July 29, 2025**, the affected Mexican carriers must file with DOT (via email at [ScheduleFiling@dot.gov](mailto:ScheduleFiling@dot.gov)) any and all existing schedules for combination and all-cargo services, including code-share, common branding, and extra sections, between any points not in the U.S. and any point in the U.S. Any proposed schedule must also be filed with DOT **at least 30 days prior to inauguration of service**. Our readers may recall that the Department previously imposed similar requirements against foreign air carriers from home countries who restricted access to U.S. air carriers (e.g., China and Hong Kong).

### AEROMEXICO-DELTA ANTITRUST IMMUNITY FACES RENEWED SCRUTINY

To further attempt to remedy Mexico's alleged noncompliance with the 2015 U.S.-Mexico Air Transport Agreement, the Department issued a [Supplemental Order to Show Cause](#) (the "Order") on July 19, 2025, seeking to withdraw the antitrust immunity previously granted to the Aeromexico-Delta joint venture. The Department's original ATI grant was conditioned on, among other things, slot divestitures at MEX and ongoing compliance with the U.S.-Mexico Air Transport Agreement. According to DOT, the conditions required for the immunized JV no longer exist due to anti-competitive measures imposed by the Mexican government such as:

- Reducing capacity at MEX
- Confiscating U.S. carrier slots at MEX
- Banning all-cargo carriers at MEX (leading to Aeromexico's share of cargo tonnage at MEX increasing by 10 percent)
- Operating a non-transparent and discriminatory slot allocation program

The Order further noted that the Department provided every opportunity for the circumstances to change, including an 18-month delay such that the new Mexican administration could get up to speed on the matter, yet conditions have worsened, rather than improve. Unless a satisfactory resolution arises in short order such that Mexico fully complies with the U.S.-Mexico Air Transport Agreement, the Department advised that Aeromexico and Delta should use the upcoming "wind down period" to settle accounts and plan for the existing JV's termination without disrupting consumers. Should the Department finalize the Order's tentative findings, the parties could continue cross border operations serving U.S.-Mexico markets pursuant to arms-length, rather than immunized, agreements. Any subsequent final order would not become effective until **October 25, 2025**, at the earliest.

### OACP GRANTS EARLY ACCESS TO NEW COMPLAINT REPORTING SYSTEM

On July 21, 2025, the Department's Office of Aviation Consumer Protection ("OACP") granted airline representatives early access to the new Aviation Complaint, Enforcement, and Reporting System ("ACERS"). During the early access period, airline and ticket agent representatives can explore the Consumer and Industry Portals of ACERS, which will be used by consumers to file air travel service complaints and by industry to receive and respond to those complaints. Airline and ticket agent

representatives who pre-registered for early access should confirm that they can login to ACERS and familiarize themselves with the system before the official launch on **August 1, 2025**. The early access period ends on **Friday, July 25, 2025, at 5 PM EST** so we recommend accessing the Consumer Portal (temporarily available [here](#)) and the Industry Portal (temporarily available [here](#)) as soon as possible. Should you have any questions about ACERS and/or the early access period prior to the official launch, please contact us.

## **KEEP YOUR SHOES ON – DHS ENDS “SHOES-OFF” TRAVEL POLICY**

On July 8, 2025, the U.S. Department of Homeland Security (“DHS”) announced a [new policy](#) permitting passengers traveling through U.S. airports to keep their shoes on while passing through Transportation Security Administration (“TSA”) security checkpoints. The change took effect immediately, marking the first time in almost 20 years that passengers were not required to remove their shoes during security screenings. Citing enhanced technology at TSA checkpoints and Real ID enforcement nationwide, DHS remains confident that air travel is secure even without the “shoes-off” policy. DHS expects the new policy to reduce passenger wait times dramatically, leading to a more streamlined TSA security process for the millions of passengers who travel through U.S. airports each day. Industry observers note that the change could adversely impact participation in the TSA Precheck Program which permits passengers, after paying around \$80 for five years, to proceed through the screening process without taking off their shoes, belts, or light jackets. TSA PreCheck partners like CLEAR may also experience decreased participation since passengers can now keep their shoes on without paying a fee. DHS Secretary Noem plans to implement additional regulatory changes in the coming months to expedite airport screening, while keeping passenger safety top of mind.

## **CBP UPDATES GUIDANCE FOR APIS TRANSMISSIONS**

On July 7, 2025, U.S. Customs and Border Protection (“CBP”) issued [updated guidance](#) for Advance Passenger Information System (“APIS”) transmissions relating to the sex markers of travelers. The guidance comes in response to President Trump’s [Executive Order 14168](#) (the “EO”) which announced the official U.S. policy to only recognize two sexes: male and female. To comply, airlines must ensure the accuracy of traveler information when making APIS submissions, which includes information on the traveler’s sex markers. Previously, APIS transmissions accepted submissions of sex markers other than “M” or “F” but the updated guidance notes that carriers will begin receiving resubmission requests when values other than “M” or “F” are submitted in the sex field. After a 90-day compliance period starting on **July 14, 2025**, markers other than “M” or “F” will not be accepted and airlines will need to resubmit entries. If a passenger’s travel documents contain another sex marker character, the passenger or air carrier must select the appropriate character (i.e., “M” or “F”) to avoid a penalty. In practice, airlines are advised to compare a passenger’s travel documents with the documentation transmitted to CBP to ensure compliance with the EO as well as APIS regulatory language.

## CANADIAN REGULATORS CONSIDER EXEMPTIONS FOR IATA MEMBERS

The Canadian Transportation Agency (“CTA”) continues to consult on requested exemptions from filing and publication requirements for tolls set out in air carrier tariffs. By way of background, the International Air Transportation Association (“IATA”), on behalf of its member airlines that serve the Canadian market, requested a permanent exemption from Canadian regulations related to the filing of fares, rates, and tolls because IATA asserts that the current system impedes carriers’ ability to implement continuous and dynamic pricing to the detriment of the carriers and the traveling public. If granted, the exemption would significantly ease the administrative burden on carriers with respect to having to file updated passenger fares, including ancillaries, and allow them to make real time pricing adjustments to reflect market conditions (i.e., continuous pricing). IATA also requested an exemption from the requirements to file cargo tariffs and a “blanket exemption” from the application of Section 118 of the Air Transportation Regulations which requires charterers to file rates and tolls, even if those terms were negotiated confidentially by private parties.

IATA also proposed that carriers maintain historical records of PNRs, cargo rates, and terms and conditions associated with such tolls, for a period of 3 years to ensure that such information is available should CTA need to investigate and adjudicate passenger complaints related to pricing and ancillary fees. The purpose is to ensure that CTA will have access to accurate records about the prices that were charged at any given time because, assuming the exemptions are granted, carriers could adjust pricing in real time and would not be bound by the 26 different traditional fare classes per the current tariff system. We will closely follow these consultations and advise on potential changes to current legal requirements.

If interested, comments to IATA’s application must be submitted by **Thursday, July 24, 2025**. All submissions are public and will be posted on the CTA’s website (available [here](#)).

## FAA EXTENDS KABUL FLIGHT RESTRICTIONS FOR THREE YEARS

On July 1, 2025, the Federal Aviation Administration (“FAA”) [extended](#) the prohibition against certain flight operations in the Kabul Flight Information Region (“FIR”). This action extends the flight restrictions until July 25, 2028, due to unaddressed risks to the safety of U.S. civil aviation operations. Following the Taliban takeover, recent cross-border strikes by neighboring states pose risks to U.S. civil aviation operations even as the Taliban continues to encourage international airlines to return to Afghanistan. If U.S. Government departments, agencies, or instrumentalities need to engage U.S. civil aviation to support activities in the Kabul FIR, the FAA will consider approval requests on a case-by-case basis. A “Do Not Travel” [advisory](#) went into effect earlier this year and the U.S. Department of State strongly advises against travel to Afghanistan amid ongoing civil unrest and terrorist activities.

## HACKER GROUP “SCATTERED SPIDER” TARGETING AIRLINES

Airlines should be aware that a hacking group known as the “Scattered Spider” has been [targeting](#) airlines in recent months and conducting ransomware attacks. The group uses social engineering to impersonate employees who are locked out of their company email accounts and contacts the company’s IT help desk to obtain access. Hawaiian Airlines and WestJet recently fell victim to this scheme, and it is therefore recommended that airlines promptly implement strict ID verification protocols at IT help desks and upgrade outdated multi-factor authentication methods such as SMS and voice codes.

In the event of a data security incident, our Cybersecurity, Data Protection & Privacy team can coordinate your incident response plan and guide you through the process of conducting internal and third-party investigations to collect, preserve, and document evidence to determine the nature and source of the incident and whether it is a reportable breach under applicable law. We also advise and assist clients with notification obligations, how to deal with the reputational impact of the breach and reduce the risk of resulting government investigations and/or litigation. Please contact us should you seek further information on data protection best practices.

## **PRESIDENT TRUMP ISSUES NATIONAL SECURITY MEMO ON CUBA**

On June 30, 2025, President Trump released [National Security Presidential Memorandum-5](#) (“NSPM-5”) titled “Reissuance of and Amendments to National Security Presidential Memorandum 5 on Strengthening the Policy of the United States Toward Cuba.” NSPM-5 is a word for word reissuance (with two amendments) of the Presidential Memorandum “Strengthening the Policy of the United States Toward Cuba” issued in 2017 during President Trump’s first term which outlined his administration’s policies towards Cuba. The amendments to the prior Presidential Memorandum are as follows:

- NSPM-5 directs the Secretary of State to include on the “Restricted Entities List” those that “are under the control of, or act for or on behalf of, or for the benefit of, the Cuban military, intelligence, or security services”. The previous Presidential Memorandum only required those “under the control of, or act for or on behalf of the Cuban military” to be placed on the Restricted Entities List whereas NSPM-5 now expands the scope to include those that act “for the benefit of” the Cuban military.
- NSPM-5 now includes within the prohibition of financial transactions with entities on the Restricted Entities List to include “indirect” transactions (previously only prohibited “direct” transactions).

At this time, about a dozen hotels have been added to the Restricted Entities List, but no major changes have yet taken place as a result of NSPM-5. Taken together, NSPM-5 mostly reiterates current policies regarding sanctions and travel restrictions on Cuba but does appear to signal what could be a refocused effort by this administration to further tighten restrictions on travel to Cuba as well as the Cuban economy.

## **U.S. AIR CARRIERS AND LAWMAKERS SPAR OVER “BLUE SKY” PARTNERSHIP**

On July 3, 2025, JetBlue and United filed a Joint Response (the “Response”) to Spirit’s Complaint requesting that the Department extend the review period of JetBlue and United’s proposed “Blue Sky” partnership. Contrary to Spirit’s allegations, the two airlines jointly asserted that Blue Sky is an arms-length, pro-competitive collaboration involving an industry-standard interline agreement and frequent flyer reciprocity program. When compared to the approved West Coast International Alliance, the Response aptly noted that Blue Sky will require far less integration. JetBlue and United further argued that Blue Sky is clearly distinguishable from the failed Northeast Alliance (“NEA”) because the agreement was specifically constructed to avoid factors deemed violative of U.S. antitrust laws during the NEA litigation.

Unsurprisingly, Spirit filed a Motion and Reply (the “Motion”) on July 9, 2025, arguing that Blue Sky should not be “rubber stamped” because linked loyalty programs, website and travel package platform

integration, and cross-selling capabilities will further entrench the two airlines in the Northeast market, thereby reducing incentives to compete aggressively for customers. Further still, Spirit cited recent lawsuits filed by the U.S. Department of Justice where merely sharing data and algorithms between competitors can facilitate illegal price coordination. Lawmakers including U.S. Senator Blumenthal (D-CT) recently joined the party and [called](#) on JetBlue/United to disclose records about Blue Sky's future integration plans. Like Spirit, Senator Blumenthal worries that Blue Sky could unlawfully restrain competition among airlines, especially if United obtains coveted slot access at New York airports. This proceeding could shed light on how the Department under President Trump will handle competition issues among U.S. airlines after the former administration took a "heavy-handed" approach to enforcement.

## TREASURY DEPARTMENT SETTLES ENFORCEMENT ACTION WITH ONLINE BROKERAGE FIRM

On July 15, 2025, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") [settled](#) with Interactive Brokers LLC ("IB"), a global electronic broker-dealer that provides brokerage and investment services to customers in Iran, Cuba, Syria, and the Crimea region of Ukraine. IB agreed to pay \$11,832,136 to OFAC in a voluntary settlement, which follows a self-initiated compliance review beginning in 2018. OFAC reported nine violations over a period of eight years, one of which included transactions occurring when customers were in the above-mentioned sanctioned jurisdictions during the transactions. IB also authorized bank transfers to blocked Russian Federation banks and enabled trading in the securities of thirteen entities involved in military, intelligence, and security research and development programs under the People's Republic of China's Military-Civil Fusion strategy. The maximum applicable civil penalty for the violations is \$5,234,583,687, but because IB self-disclosed the violations, OFAC deemed those violations as non-egregious. Accordingly, the base civil monetary penalty equals one-half of the transaction value for each violation. The settlement amount of \$11,832,136 is significant (nearly 1/6 of the maximum penalty), and reflects OFAC's consideration of aggravating and mitigating factors, harm to customers and IB's internal audit, self-reporting, and development of a compliance program to prevent reoccurrence. Companies should familiarize themselves with [A Framework for OFAC Compliance Commitments](#) to understand sanctions evaluations. OFAC recommends both U.S. and foreign entities maintain an updated sanctions compliance program ("SCP") predicated on the five essential components of compliance: management commitment, risk assessment, internal controls, testing and auditing, and training. An updated and effective SCP can be an important mitigating factor when considering the severity of violations.

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