Aviation Regulatory Update

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CDC REQUIRES EBOLA-RELATED ATTESTATION FROM ALL AIR TRAVELERS ARRIVING IN THE U.S.

On **October 22, 2026**, the Centers for Disease Control and Prevention ("CDC") issued a Notice and Order (the "Order") requiring every airline or other aircraft traveler arriving in the United States from a foreign country to attest that they have not been in the Democratic Republic of the Congo ("DRC") in the past **21 days**. The Order responds to an outbreak of Bundibugyo virus disease, an illness in the Ebola family, and takes effect at **11:59 p.m. EST on November 3, 2026.**

The Order applies regardless of nationality, including to passengers, crew, and cargo crew connecting through a U.S. airport to another country and to flights departing from preclearance airports. It does not apply to overflights that do not land in the United States. Connecting through an airport in the DRC counts as "being in the DRC," even if the traveler never leaves the aircraft. A parent or other authorized individual may complete the attestation for a passenger under 18 or a passenger unable to act on their own behalf.

The Order operates as a "controlled free pratique," meaning that a carrier must confirm that every traveler on board has completed an attestation as a condition of disembarking passengers at a U.S. port of entry. In practice, carriers must:

- Ensure each traveler completes the paper or digital attestation before boarding a flight to the United States;
- Deny boarding to any traveler who does not provide a completed attestation; and
- **Retain each attestation for at least 42 days** after the traveler's flight arrives in the United States, subject to U.S. government inspection.

To be clear, the airline or aircraft operator is solely responsible for compliance with the Order. All previous CDC orders concerning Ebola also remain in effect, including the suspension of entry for certain non-U.S. persons recently in the DRC, Uganda or South Sudan, extended through November 10, 2026. Foreign air carriers should update check-in systems at all U.S. gateways, train station and gate staff, and put a record-retention process in place before **November 3**.

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DOT FINES AIR FRANCE AND KLM FOR CARRYING DELTA'S CODE IN PROHIBITED IRAQI AIRSPACE

On **October 23, 2026**, the U.S. Department of Transportation ("DOT") issued consent orders against Air France and KLM for operating flights carrying Delta's designator code ("DL") through the Baghdad Flight Information Region below Flight Level 320 ("FL320"), where the Federal Aviation Administration ("FAA") prohibits U.S. operators from flying under Special Federal Aviation Regulation No. 77 ("SFAR 77"), 14 C.F.R. 91.1605. DOT found that both carriers violated 49 U.S.C. 41301 and ordered each to cease and desist. The penalties are:

- **Air France** (*Order 2026-10-9*): more than thirty (30) flights between April 2022 and November 2025, and a $105,000 compromise civil penalty, of which $40,000 is suspended for one (1) year; and
- **KLM** (*Order 2026-10-10*): more than one hundred (100) flights between January 2022 and May 2025, and a $320,000 compromise civil penalty, of which $120,000 is suspended for one (1) year.

Foreign air carriers are not themselves bound by SFAR 77. The obligation comes through a standard condition in their codeshare statements of authorization under 14 C.F.R. Part 212, which bars carrying a U.S. partner's code on any flight that enters, departs or transits airspace for which FAA has issued a flight prohibition.

Both carriers stated that they planned the flights above FL320, but that local air traffic control ("ATC") instructed their crews to descend, or refused to let them climb, because of conflicting traffic. Both argued that the flights fell under SFAR 77's exemption for emergency situations. DOT disagreed. It emphasized that it was not penalizing crews for following ATC instructions. Instead, the violation was each carrier's failure, over a three-year period, to take preventive measures such as rerouting or removing the DL code once it "knew or should have known" that ATC would continue directing flights below FL320.

Said differently, a carrier cannot rely on its flight plans alone. Once ATC repeatedly assigns altitudes in prohibited airspace on a route, DOT will treat later deviations as foreseeable. Foreign air carriers with U.S. codeshare partners should monitor altitudes actually flown against FAA flight prohibitions and, where ATC routinely assigns prohibited altitudes, reroute or remove the U.S. partner's code.

FAA URGES CAUTION IN SAUDI AIRSPACE AFTER ATTACKS ON RIYADH AIRPORT

On **October 11, 2026**, FAA issued a Notice to Airmen ("NOTAM") advising U.S. air carriers and operators of U.S.-registered aircraft to exercise caution when flying to, from or over Saudi Arabia, citing ongoing military activity and navigation system interference. The NOTAM remains in effect through **December 10, 2026**.

The NOTAM is a caution notice, not a prohibition. If FAA escalates to a flight prohibition, foreign carriers that carry a U.S. partner's code on flights through the affected airspace face enforcement risk. DOT has repeatedly penalized foreign air carriers for this conduct under 49 U.S.C. 41301. For example:

- Emirates, *Order 2020-9-29* ($400,000), for flights carrying JetBlue's code over parts of Iranian airspace in July 2019;
- Emirates, *Order 2024-6-9* ($1.8 million), for 122 flights carrying JetBlue's code below 32,000 feet in Iraqi airspace in 2021 and 2022;
- Ethiopian Airlines, *Order 2024-11-1* ($425,000), for flights carrying United's code in FAA-prohibited airspace between 2020 and 2022; and
- Etihad, *Order 2024-12-4* ($400,000), for flights carrying JetBlue's code in FAA-prohibited airspace in 2022 and 2023.

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Carriers should confirm that their codeshare systems can strip U.S. partner codes from affected flights quickly if FAA's posture changes.

CBP ADDS SAUDI ARABIA AS A GLOBAL ENTRY PARTNER COUNTRY

On **October 27, 2026**, U.S. Customs and Border Protection ("CBP") established a new Global Entry partnership with the Kingdom of Saudi Arabia. Under the arrangement, eligible Saudi citizens may apply to enroll in Global Entry, CBP's trusted traveler program that provides expedited entry into the United States for pre-approved, low-risk travelers. Approved members may also use the Transportation Security Administration's ("TSA") PreCheck program on eligible U.S. domestic flights. Saudi Arabia's addition brings the total number of Global Entry partner countries to twenty-three (23). The twenty-two (22) existing partners are Argentina, Australia, Bahrain, Brazil, Colombia, Costa Rica, Croatia, the Dominican Republic, El Salvador, Germany, India, Japan, Jordan, Mexico, the Netherlands, Panama, the Republic of Korea, Singapore, Switzerland, Taiwan, the United Arab Emirates and the United Kingdom.

To be clear, Global Entry membership does not replace required travel documents or authorization to travel to the United States. Saudi members must still hold a valid U.S. visa. A Global Entry card or Known Traveler Number ("KTN") is not proof of boarding eligibility or admissibility, and CBP retains sole authority to determine admissibility to the United States. Carriers should continue to verify passports, visas, Electronic System for Travel Authorization approvals and all other applicable entry documentation under existing procedures and should remind check-in and gate staff that a KTN is not a substitute for any of them.

U.S. BANKRUPTCY COURT GRANTS KEY RELIEF IN AIRBALTIC'S CHAPTER 11 CASE

On **September 14, 2026**, Latvia's national carrier, airBaltic, filed for Chapter 11 protection in the U.S. Bankruptcy Court for the Southern District of New York, supported by a €350 million debtor-in-possession financing facility. In October, the court entered final orders allowing airBaltic to maintain critical aviation contracts and insurance, honor its loyalty program, tickets and refunds, pay certain foreign suppliers, and continue paying employees. airBaltic plans to shrink its active fleet from fifty-four (54) to thirty-six (36) Airbus A220-300s and expects to complete its restructuring by June 2027.

Following Azul, airBaltic is the latest foreign carrier to restructure in a U.S. court. However, Chapter 11 orders are not automatically enforceable in Latvia, so lessors, financiers and suppliers should assess where their contractual and enforcement rights can be exercised.

OFAC SETTLES WITH FREIGHT FORWARDER FOR $175,015 AND BANK OF AMERICA FOR $11.66 MILLION OVER SANCTIONS SCREENING GAP

On **October 9, 2026**, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") announced a $175,015 settlement with Pegasus Worldwide Logistics ("Pegasus"), a California freight forwarder, for facilitating the importation of a machine from a Chinese supplier on the Specially Designated Nationals and Blocked Persons List ("SDN List"). The supplier had changed its name but kept its listed email address and phone number, and Pegasus screened only the new name. Pegasus also failed to investigate when CBP detained the shipment under OFAC authority and gave an inaccurate response to an OFAC subpoena.

On **October 13, 2026**, OFAC announced an $11,662,930 settlement with Bank of America, N.A. for 475 apparent violations of multiple sanctions programs. Several of the failures were technical, including a vendor's error that left the bank's sanctions watchlist un-updated for more than a month. OFAC stressed that each

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organization "remains responsible for its own compliance regardless of whether it relies upon third-party providers."

For air carriers, forwarders and other cargo intermediaries, the lessons are: screen every identifier, not just the party's name; treat a CBP detention that cites OFAC as a red flag; test and audit screening tools, including those supplied by vendors; and respond to OFAC subpoenas accurately and completely.

PASSENGERS TEST DOT'S FORMAL COMPLAINT PROCESS ON DISABILITY AND FARE-ERROR CLAIMS

On **October 9, 2026**, Etihad Airways ("Etihad") answered a third-party formal complaint filed against it at DOT by Aaron Abadi, one of several complaints this fall in which individual passengers used DOT's formal complaint process under 14 C.F.R. 302.404 to press for enforcement action. Unlike an informal complaint, a formal complaint is publicly docketed and requires the carrier to answer within fifteen (15) days.

Abadi v. Etihad (Docket DOT-OST-2026-3202). Mr. Abadi, who has a knee impairment, requested wheelchair assistance and a window seat with extra legroom for travel from Washington Dulles to Abu Dhabi. He alleges that Etihad's agents violated the Air Carrier Access Act and 14 C.F.R. Part 382 by:

- Tying free seat selection to the passenger's wheelchair code;
- Treating disability preboarding under 14 C.F.R. 382.93 as part of Etihad's paid "Priority Access" product;
- Failing to connect him to a Complaint Resolution Official ("CRO") under 14 C.F.R. 382.151; and
- Requiring a medical review before considering his request.

In its answer, Etihad admitted that its agents made the statements described and that Mr. Abadi was not provided a CRO. It denied that he was entitled to a bulkhead or extra-legroom seat, because his leg was not fused or immobilized as required under 14 C.F.R. 382.81(d), and argued that its policy and United Arab Emirates ("UAE") civil aviation rules bar passengers with mobility impairments from exit rows. It asked DOT to dismiss the complaint without investigation.

Abadi v. United (Docket DOT-OST-2026-3730). This complaint alleges that United failed to provide wheelchair assistance on arrival at San Francisco, and later left Mr. Abadi in a Phoenix wheelchair staging area for nearly an hour, costing him the opportunity to preboard, while a call to United's accessibility desk produced no effective CRO intervention.

Scholz v. American. On **October 9, 2026**, two German passengers filed a formal complaint against American under 49 U.S.C. 41712. American canceled their AAdvantage award booking for a Berlin–Zanzibar itinerary on Finnair and Qatar Airways thirteen (13) days after confirming it, citing a website error. The complainants argue that American's Contract of Carriage and international tariff allow it to void an erroneous fare only within 72 hours of learning of the error. Notably, no segment of the itinerary touched the United States or was operated by American, so the complaint also tests the reach of DOT's jurisdiction.

For foreign air carriers, Part 382 applies to every flight that begins or ends at a U.S. airport, including the communications of overseas call centers and social-media agents that handle those bookings. Carriers should confirm that agent scripts do not link seating to wheelchair codes or sell disability preboarding, that a CRO is available in real time through every channel, and that fare-error cancellations follow the timelines in their own contracts of carriage and tariffs.

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FAA PROPOSES $351,000 PENALTY AGAINST ARKANSAS CHARTER OPERATOR

On **October 19, 2026**, FAA proposed a $351,000 civil penalty against Creamer Pilot Services of Fayetteville, Arkansas, which operates as Jett Aircraft. FAA alleges that the company knowingly, carelessly and recklessly conducted thirty-seven (37) unauthorized passenger-carrying flights:

- Thirty-one (31) flights between October 2021 and July 2022 on three (3) aircraft that were not listed on its operations specifications ("OpSpecs"); and
- Six (6) flights between April and November 2022 on two (2) listed aircraft that operated outside the 48 contiguous United States without authorization.
- The case is a reminder that FAA treats OpSpecs as binding limits on an operator's authority. Charter operators should confirm that every aircraft they fly is listed and that each operation falls within their authorized areas of operation.

DHS INSPECTOR GENERAL FINDS WEAKNESSES IN TSA'S PROTECTION OF PASSENGER IDENTITY DATA

In **October 2026**, the U.S. Department of Homeland Security ("DHS") Office of Inspector General ("OIG") released an unclassified summary of an audit of TSA's identity verification technology, reporting that a TSA vendor accessed and extracted sensitive passenger information, including driver's license and passport images, during system troubleshooting and upgrades without TSA's knowledge. TSA did not track the extractions, could not confirm that the data had been deleted and did not notify affected passengers. OIG did not report a confirmed breach. Carriers that operate biometric boarding or identity verification through third-party vendors should confirm that their contracts restrict vendor access to passenger data, require logging of any extraction, and mandate verified deletion.

CBP PROPOSES OVERHAUL OF LOW-VALUE SHIPMENT ENTRY PROCESS

On **October 8, 2026**, CBP published a notice of proposed rulemaking (the "Proposed Rule") to modify the filing requirements for informal entries of goods valued at $2,500 or less. The key proposed changes are:

- Requiring informal entries (entry type 11) to be filed electronically upon or prior to the date of importation, rather than within fifteen (15) days of arrival;
- Establishing a new electronic informal mail entry type (entry type 13);
- Requiring a basic importation and entry bond for all type 11 and type 13 entries;
- Requiring consignees that are not owners or purchasers of the goods, such as freight forwarders and carriers, to appoint a licensed customs broker to act as importer of record; and
- Requiring carriers to report the Universal Postal Union S-10 tracking number for each mail shipment on the inward manifest, including air cargo manifests under 19 C.F.R. 122.48a.

For foreign air carriers transporting mail or express shipments to the United States, the manifest requirement is the most direct operational impact, and carriers should assess whether their systems and postal partners can capture and transmit shipment-level tracking data. Comments are due by **December 7, 2026.**

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CBP EXPANDS ACCESS TO IEEPA TARIFF REFUNDS AS COURT CERTIFIES IMPORTER CLASS

On **October 20, 2026**, CBP expanded access to the final phase of its online refund program for duties collected under the International Emergency Economic Powers Act ("IEEPA") tariffs that the Supreme Court struck down earlier this year. The final phase covers finally liquidated entries, but only for importers that sued in the U.S. Court of International Trade ("CIT"), and CBP has now extended access to CIT plaintiffs that applied between July 31 and August 13. Separately, on October 8, the CIT certified a nationwide class in *Freestyle World, Inc. v. United States* of importers that paid IEEPA duties between February 1, 2025, and February 19, 2026. The class does not yet have a refund mechanism.

Air carriers, lessors, maintenance providers, manufacturers and drone companies that acted as importer of record on aircraft parts, equipment or components during that period should assess their refund position. Only the importer of record may receive a refund, so lessees and buyers that bore the cost of those duties should review their contracts with the importer. Importers that have not sued should consider whether filing their own CIT action is the fastest route to recovery.

DOT DELAYS NEW AIRLINE DELAY AND CANCELLATION REPORTING CATEGORIES UNTIL 2027

On **October 15, 2026**, DOT published a final rule (91 Fed. Reg. 65456) delaying until **February 1, 2027** the effective date of its September 3, 2026, final rule, "Cause of Airline Delay and Cancellation Categories Under Section 511(b) of the FAA Reauthorization Act of 2024," at the request of Airlines for America. The underlying rule amends 14 C.F.R. 234.4 to create a new "Section 511(b)" category for ten (10) events that may not be reported under the "Air Carrier" category, including non-deferrable unscheduled maintenance, the removal of unruly passengers, certain cybersecurity attacks, and airport closures caused by volcanic ash, wind or wind shear. The reporting obligations apply to U.S. carriers that file on-time performance reports under 14 C.F.R. Part 234, so foreign air carriers are not directly affected. Carriers should use the additional time to align their internal delay coding with the new category.

ECKERT SEAMANS ATTORNEYS AT LAW

This Aviation Regulatory Update is intended to keep readers current on developments in the law. It is not intended to be legal advice. If you have any questions or require additional information, please contact Evelyn D. Sahr at 202.659.6622 or esahr@eckertseamans.com; Drew M. Derco at 202.659.6665 or dderco@eckertseamans.com; Xander B. Silva at 412.566.6069 or xsilva@eckertseamans.com; or any other attorney at Eckert Seamans with whom you have been working.

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