

Client Alert

A report
for clients
and friends
of the firm November 2005

U.S. Bureau Of Customs and Border Protection Implements Advanced Passenger Information System For Required Pre-Flight Electronic Transmission Of Personal Data

As of October 4, 2005, the Department of Homeland Security, Bureau of Customs and Border Protection (CBP) is requiring all travelers arriving in, departing from, or flying over the U.S. to supply additional personal information before their trip. This new law obliges air carriers to obtain personal passenger information and transmit it electronically to the CBP within 15 minutes of departure. Similarly, sea carriers are required to transmit traveler information at least one day before arrival. Failure to accurately provide this information may result in denial of clearance upon departure or refusal upon entry.

This new procedure, entitled the Advanced Passenger Information System (APIS), enables the CBP to perform pre-arrival queries on passengers and crewmembers utilizing the combined law enforcement databases of 22 federal agencies. According to the CBP, the primary impetus for the APIS rule is to secure the United States citizenry and economy, international travelers, and the international air and sea carrier industries from terrorist attack and from violations of various other laws, including other customs and immigration regulations. In accomplishing this goal, the APIS attempts to effectively assess the risk of travelers while avoiding substantial delay in their processing.

Although the CBP has not provided much information regarding how the data will be collected, they have provided guidance as to the content requested. The information required will uniformly include travel itinerary data, aircraft flight data or vessel voyage data, and personal information—including name, gender, date of birth, citizenship, travel document data, and status onboard vessel (passenger, crew, non-crew other) (see attached form). In addition, the CBP may also require information such as: country of residence, destination address for U.S. arrivals, alien registration number, visa number, visa issuance country, date of visa issuance, and date of visa expiration.

All travelers must provide accurate and valid information that is consistent between the APIS pre-departure manifest and the I-94 application for entry. Failure to do so may result in denial of clearance upon departure or refusal upon entry. All travelers are advised to provide their full name as it appears on the machine-readable zone of the travel document. For purposes of "passport country of issuance," travelers are advised to state the country that issued the passport, as opposed to the post where the document was issued.

Lawful Permanent Residents (LPRs) to whom an alien registration card has been issued must present their alien number *prior to departure*. This is because the CBP lacks the capability to otherwise electronically obtain the information. By contrast, non-immigrant visa holders must present their visa number upon *arrival* as the CBP states that it will be able to obtain this information from another source.

Only non-immigrant passengers destined for the U.S.—this excludes U.S. citizens, LPRs, crew members, and in-transit passengers—will be required to provide U.S. destination address information. This information, like the visa number, will be taken upon arrival rather than prior to departure. Non-immigrant visa-holders and tourists are advised to specify their destination street, city, state, and zip code address as

Required information for all passengers entering the United States

Department of Homeland Security
Federal Register/Vol. 70; No. 66; April 7 2005; Rules and Regulations

Dear Passenger:

The Department of Homeland Security has enacted a law that requires all airlines to record and transmit personal information of its passengers on flights entering the United States. In order to meet this requirement, we request that you completely fill out the form below and submit it to the ground personell before departure. Please note that this information is absolutely mandatory in order to be granted entry by the U.S. authorities. Your information will be kept confidential and not used for commercial purposes.

Thank you for your understanding.

Please complete the form using capital letters!

Last name																								
Name																								
Country of residence															Flightnumber									
Address USA*																								
Number										Street														
City																								
State															Zip Code									

* U.S. citizens, U.S. lawful permanent residents and passengers stopping in U.S. airports to fly into other countries are exempt from address capture.

accurately as possible. Where travelers are destined to a hotel and do not know the exact address, CBP will accept the hotel name, city for first night of stay, state, and zip code. Where the first night of stay is not known, CBP will accept the general itinerary city, state and zip code. If transiting to a cruise ship, CBP requires that travelers indicate such and include the name of the cruise line and vessel.

According to the CBP, all of the information sought under the new procedures could have been obtained under prior statutory authority. The majority of the data sought appears on the traveler's airline ticket and on travel documents such as passports, which can be obtained in the normal exercise of border control authority. Moreover, the CBP reiterates that it has the authority to require presentation of the additional information by travelers upon their arrival at the border.

The Bureau of Customs and Border Protection will continue to post information regarding the phased implementation schedule and requirements for the APIS manifests to www.cbp.gov.

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