



## Department of the Treasury Financial Crimes Enforcement Network

**FIN-2012-G005**

**Issued: September 10, 2012**

**Subject: Definition of Motor Vehicles of Any Kind, Motor Vehicles, Vessels, Aircraft, and Farm Equipment as it Relates to Potential CTR Exemption for a Non-Listed Business**

Dear [ ]:

I am responding to your letter, dated October 21, 2010, for an administrative ruling defining motor vehicles, vessels, aircraft, and farm equipment as it relates to exempting the cash transactions of a customer from the requirement to file a currency transaction report (“CTR”). In your letter, you specifically request a ruling as to whether certain objects would fall within the above-listed categories. FinCEN issues administrative rulings to interpret the application of a Bank Secrecy Act (“BSA”) rule to a particular set of facts and circumstances. Because you essentially pose a question of general applicability—i.e., how certain terms used in the CTR exemption rules should be defined—we are providing you with general guidance instead of an administrative ruling.

The CTR exemption rules state that a business engaged primarily in certain ineligible activities may not be treated as a non-listed business and therefore, a bank must file a CTR on a reportable transaction conducted by that business. The ineligible business activities include the following: “serving as financial institutions or agents of financial institutions of any type; purchase or sale to customers of motor vehicles of any kind, vessels, aircraft, farm equipment or mobile homes; the practice of law, accountancy, or medicine; auctioning of goods; chartering or operation of ships, buses, or aircraft; gaming of any kind (other than licensed pari-mutuel betting at race tracks); investment advisory services or investment banking services; real estate brokerage; pawn brokerage; title insurance and real estate closing; trade union activities; and any other activities that may be specified by FinCEN.”<sup>1</sup> The terms “motor vehicles, vessels, aircraft, and farm equipment” are not specifically defined in the BSA (codified in relevant part at 31 U.S.C. § 5311-5314 and 5316-5332) or its implementing regulations.

FinCEN believes that in the absence of a specific BSA definition, it is helpful to turn to other Federal statutes and rules to see how other agencies have defined the terms motor vehicles, aircraft, vessels, and farm equipment. However, those definitions, while potentially instructive,

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<sup>1</sup> 31 CFR § 1020.315(e)(8).

are not binding on FinCEN when administering the BSA. We are providing them in this letter as an informal guide. Should FinCEN publish a specific BSA definition for any of these terms, the BSA definition will be the one that banks are required to follow.

There are several definitions of the term “vessel” in the United States Code.<sup>2</sup> For example, in the General Provisions to Title 1 of the U.S. Code, the term “vessel” is defined to “include every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.”<sup>3</sup> The definition does not require that a watercraft be used primarily for that purpose. We find it reasonable to apply this definition to the examples you list in your letter—jet skis, non-motorized boats, paddle boats, canoes, submarines, and rafts—making those entities “vessels” for purposes of the CTR exemption rules.<sup>4</sup>

The Federal Aviation Administration of the U.S. Department of Transportation defines the term “aircraft” as “a device that is used or intended to be used for flight in the air.”<sup>5</sup> Accordingly, FinCEN finds it reasonable to deem hang gliders, experimental planes, gliders, hot-air balloons, and blimps “aircraft” for purposes of the CTR exemption rules.

The Animal and Plant Health Inspection Service of the U.S. Department of Agriculture defines the term “farm equipment” as “equipment used in the production of livestock or crops, including, but not limited to, mowers, harvesters, loaders, slaughter machinery, agricultural tractors, farm engines, farm trailers, farm carts, and farm wagons, but excluding automobiles and trucks.”<sup>6</sup> We find it logical to apply this definition to the examples you provided—mowers,

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<sup>2</sup> See e.g., 18 U.S.C. § 2311 (defining “vessel” as “any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water”); 22 U.S.C. § 456(c) (defining “vessel” as “every description of watercraft and aircraft capable of being used as a means of transportation on, under, or over water”); and 49 U.S.C. § 13102(25) (defining “vessel” as “a watercraft or other artificial contrivance that is used, is capable of being used, or is intended to be used, as a means of transportation by water”).

<sup>3</sup> 1 U.S.C. § 3.

<sup>4</sup> It would also be reasonable to apply the definitions of vessel cited in footnote 2, *supra*, to the examples listed in your letter.

<sup>5</sup> 14 CFR § 1.1. See also, e.g., 18 U.S.C. § 31(a)(1) (defining the term “aircraft” to mean “a civil, military, or public contrivance invented, used, or designed to navigate, fly, or travel in the air”); and 49 U.S.C. § 40102(a)(6) (defining “aircraft” to mean any contrivance invented, used, or designed to navigate, or fly in, the air”).

<sup>6</sup> 9 CFR § 94.0. Additionally, there are several broad definitions of the term “farm equipment” found in the U.S. Code and the Code of Federal Regulations, see e.g., 40 C.F.R. § 1074.5 (defining “farm equipment” to mean “any internal combustion engine-powered machine primarily used in the commercial production and/or commercial harvesting of food, fiber, wood, or commercial organic products or for the processing of such products for further use on the farm”).

plows, balers, tractors, loaders, and grinders—and therefore the items are “farm equipment” for purposes of the CTR exemption rules.<sup>7</sup>

Consistent with the above expansive interpretations of “vessel” and “aircraft,” the U.S. Department of the Treasury previously has interpreted the term “motor vehicle” broadly to include such items as farm and construction equipment.<sup>8</sup> FinCEN finds it reasonable to interpret “motor vehicle” as it is commonly defined to mean a “self-propelled vehicle or machine.”<sup>9</sup> This definition includes a variety of low-speed vehicles and those that are electric-powered, although they may not be manufactured primarily for use on the public streets, roads, and highways. Accordingly, we find it logical to apply this definition, to the motorized conveyances you list in your letter—motorized wheelchairs, golf carts, low speed vehicles, ATVs, snow mobiles, go-carts, motorized skateboards, dune buggies, race cars, scooters, mopeds, trams, and Segways—making such items “motor vehicles” for purposes of the CTR exemption rules. In addition, the definition applies to the construction and forestry equipment examples you provided, including: back-hoes, forklifts, bull-dozers, skidders, swing machines, harvesters, and loaders.

Although the definitions provided above are broad and appear to include all of the objects raised in your question, FinCEN hopes these broad interpretations will not discourage the bank’s use of CTR exemptions. In addition to the guidance provided above, we want to remind you that the bank is required to maintain materials and other supporting information that allow it to substantiate that the decision to exempt a customer from currency transaction reporting was based upon a reasonable determination that the customer derives no more than 50 percent of its annual gross revenues from ineligible business activities. Such a reasonable determination should be based upon its understanding of the nature of the customer’s business, the purpose of the customer’s accounts, and the actual or anticipated activity in those accounts.<sup>10</sup>

The BSA requires, among other things, “...the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the United States where such records or reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.”<sup>11</sup> CTRs provide unique and reliable information essential to supporting law

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<sup>7</sup> Application of the definitions cited within footnote 6, *supra*, to the examples provided in your letter would also be reasonable.

<sup>8</sup> See, e.g., 52 FR 11436, 11438 (April 8, 1987) (amending the prior CTR exemption rules); *Currency and Foreign Transactions Reporting Act, Exemption Handbook* at 4.

<sup>9</sup> See Merriam-Webster Dictionary’s definitions of “motor vehicle” and “automotive.” There are several definitions of “motor vehicle” in the U.S. Code, see e.g., 18 U.S.C. § 2311 (defining “motor vehicle” to include “an automobile, automobile truck, automobile wagon, motorcycle, or any other self-propelled vehicle designed for running on land but not on rails”).

<sup>10</sup> *Bank Secrecy Act/Anti-Money Laundering Manual 2010*, Federal Financial Institutions Examination Council at 92-93.

<sup>11</sup> See 12 U.S. C. § 1951 (b).

enforcement investigations and detecting criminal activity. Certain business activities were designated ineligible for CTR exemption because of the higher degree of risk that these businesses could be used to facilitate money laundering. The financial information of ineligible businesses reported on CTRs, therefore, is a valuable resource to law enforcement. The financial information also provides regulatory, law enforcement, and intelligence agencies with data for identifying and tracking suspicious transactions, identifying patterns, trends, vulnerabilities and compliance-related deficiencies, and for focusing law enforcement resources.

In arriving at the conclusions in this letter, we have relied upon the accuracy and completeness of the representations made in your letter. Nothing precludes FinCEN from seeking further action should any of this information prove inaccurate or incomplete. This letter is intended to provide interpretive guidance based on the information you submitted to us and does not constitute a binding administrative ruling.<sup>12</sup> We reserve the right, after redacting your name, and your company's name and address, to publish this letter as guidance to financial institutions in accordance with our regulations. You have fourteen days from the date of this letter to identify any other information you believe should be redacted and the legal basis for redaction.

If you have questions about this ruling, please contact FinCEN's regulatory helpline at (800) 949-2732.

Sincerely,

//signed//

Jamal El-Hindi  
Associate Director  
Regulatory Policy and Programs Division

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<sup>12</sup> As our response is not in the form of an administrative ruling, the substance of this letter should not be considered determinative in any state or federal investigation, litigation, grand jury proceeding, or proceeding before any other governmental body.