



April 2, 2003

FinCEN
ATTN: ANPRM - Sections 352 and
326 - Vehicle Seller Regulations
PO Box 39
Vienna, VA 22183

We thank you for the recent opportunity to discuss the Patriot Act and the direct foreign sale of military aircraft. The discussions were open, frank, and appreciated. Since our meeting the Advanced Notice of Proposed Rule Making was issued. We offer the following comments for your consideration.

Section 352 of the Patriot Act concerns the establishment of an anti money-laundering program for financial institutions. Sellers of aircraft are defined as financial institutions and must either establish an anti money-laundering program or obtain an exception from that statutory requirement.

Our understanding is that any sale of aircraft that is paid by or through the US Federal Government will be exempt under the regulations. Based on this understanding our discussions focused on the direct foreign sale of a military aircraft where payment is not by or through the US Federal Government. Such sales are only to allied sovereign nations. They are controlled by the Arms Export Control Act (22 USC 2778) and involve items that are listed on the Munitions List. Under the Arms Export Control Act the President (delegated to the State Department) is authorized to control the import and export of defense articles and defense services and to designate such articles and services as items on the United States Munitions List. Military aircraft are listed as a Munitions List item. Items on the list cannot be exported without an export license issued by the State Department. Any export license application must disclose to the State Department the identity of the prospective purchaser. Decisions on issuing an export license must take into account whether the export would contribute to an arms race, aid in the development of weapons of mass destruction, support international terrorism, increase the possibility of outbreak or escalation of conflict, or prejudice the development of bilateral or multilateral arms control or non proliferation agreements or other arrangements. Such sales supported by appropriate export licenses are to our US allies and support our national security interests. The State Department ensures that exports of military aircraft do not support international terrorism. Through the State Department and in coordination with the DoD, the US Government totally controls who the customer will be and will only allow export to the nations

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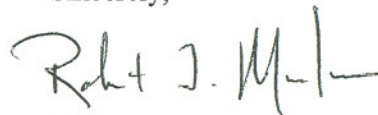
of their choosing. To the best of our knowledge and belief, the State Department has not and will not allow export of a military aircraft to a nation that would pay with laundered money.

The inclusion of vehicle sellers in the Patriot Act appears to have been targeted at those individuals and entities who purchase vehicles with cash in an attempt to launder funds, or who use laundered money to do so. This type of situation most likely would arise in connection with private luxury vehicle sales. In the case of allied foreign sovereigns acquiring military aircraft, this risk simply is not present – particularly given the export restrictions imposed by the State Department, as discussed above.

We understand that the promulgation of regulations will be on a risk basis. On one end of the continuum are high-risk sales that will require an extensive program and on the other end are very low risk sales such as to the US government that will be exempt from regulation. We believe that the risk of a money-laundering incident occurring on the sale and direct export of military aircraft to our allies is very low and that an exemption is appropriate. Application of the money laundering rules to companies engaged in direct foreign sales of military aircraft would result in the imposition of an extensive regulatory burden with no law enforcement advantages, given the identity of the customers who purchase such aircraft.

We further understand your position that anti money-laundering programs should be established to address the level of risk associated with the business and that low risk sales programs can be scaled accordingly and thereby avoid unnecessary burdens. Although this has a level of appeal and simplicity, it is, unfortunately, not practically available to the Defense Industry. We are one of the most regulated industries in the US and under constant scrutiny and review by almost all forums. Our compliance programs are necessarily robust and correspondingly expensive. In short, we believe that the risk is infinitesimally small and that the requirement to establish an anti money-laundering program is unnecessarily burdensome. Therefore, we respectfully request that direct foreign sales of military aircraft be exempt from the requirements of section 352 of the Patriot Act.

Sincerely,



Robert T. Marlow
Vice President
Government Division