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Via E-Mail: regcomments@fincen.treas.gov

April 9, 2003

U.S. Department of the Treasury
Financial Crimes Enforcement Network (FinCen)

ATTN: ANPRM – Sections 352 and 326 – Vehicle Seller Regulations

Ladies and Gentlemen:

The Boeing Company (Boeing) sells aircraft and under the Bank Secrecy Act is a business engaged in “vehicle sales” and by definition is a “financial institution”. Accordingly, Boeing on behalf of its division, Boeing Commercial Airplanes (BCA), is responding to the Financial Crimes Enforcement Network’s request for comments on Sections 352 and 326 of the USA Patriot Act of 2001.

Boeing on behalf of BCA appreciates being given the opportunity to comment on this Advance Notice of Proposed Rulemaking regarding possible anti-money laundering compliance programs being mandated for all businesses engaged in vehicle sales. Boeing is committed to making sure that purchasers of its aircraft are doing so for legitimate purposes and that such purchases comply with all laws and regulations. However, for the reasons noted below, Boeing believes that the nature of its business is such that it would not be attractive to those persons wishing to launder money quickly and anonymously through the financial system.

BACKGROUND

Boeing is the world's leading aerospace company and is the largest manufacturer of satellites, commercial jetliners and military aircraft. In terms of sales, Boeing is the largest U.S. exporter. Total company revenues for 2002 were \$54.1 billion. Boeing has been the world leader in commercial jetliners for more than 40 years. With the McDonnell Douglas merger in 1997, Boeing's leadership in commercial jets was joined with that of Douglas Aircraft, giving the combined company 70 years of leadership in commercial aviation. BCA currently employs more than 65,000 people. In addition, Boeing commercial jetliners incorporate the products and services of more than 1,900 suppliers from around the world.

For the purposes of this response, Boeing is addressing the sale of new and used large aircraft, large aircraft sold for personal and corporate use and large aircraft sold to aircraft leasing companies. The sale of military aircraft to foreign governments is not being addressed.

Today, the main commercial products consist of the 717, 737, 747, 757, 767, and 777 families of airplanes, and the Boeing Business Jet. Boeing's commercial aircraft carry 106 passengers on the 717, its smallest aircraft, to 524 on the 747, its largest aircraft. Prices for these aircraft range from \$35.5 million for a 717 to more than \$200 million for a 747 based on 2002 catalog prices. New product development efforts are focused on the Boeing 7E7, a super-efficient airplane that is expected to be in service in 2008. The company has more than 14,000 commercial jetliners in service worldwide, which is roughly 75 percent of the world fleet.

1. What is the potential money laundering risk posed by vehicle sellers? Do money laundering risks vary by (1) vehicle type (e.g. boat, airplane, automobile); (2) market (wholesale vs. retail); or (3) business line (international sales, sales to governments)?

As discussed below, there is minimal risk of money laundering in the sale by the manufacturer of new or used large aircraft for commercial or private use.

Many airlines seek proposals for the sale of aircraft from Boeing and its foreign competitor, and it is not clear whether such competitor is subject to the USA Patriot Act of 2001. The campaign to win the sale is highly competitive. During the campaign Boeing personnel – such as sales, marketing, engineering, and contracts – make numerous trips to the customer's place of business and are very familiar with the customer and its business. Furthermore, Boeing personnel continually visit the customer just to keep up-to-date on the customer's business even if there is no current sales campaign. As a result of such visits and the constant research that goes along with marketing aircraft, Boeing knows its customers and their business operations.

Boeing is familiar with its customers' financial status and their sources of income from airline operations. Boeing has a limited number of customers, and this makes it incumbent on Boeing to know its customers. In the last five years, Boeing sold aircraft to approximately 200 customers. Most of Boeing's customers are either publicly traded companies or government-owned. There is much publicly available information on the financial status of its customers. It is critical for Boeing to know the financial condition of its customers because it is building an aircraft that costs millions of dollars over an extended period of time. Boeing must be confident that the customer has the financial ability to make the advance payments and the final payment at delivery.

Boeing does not build an aircraft unless it has entered into an individually negotiated contract for the sale of the aircraft. The customer must make an advance payment at the time of signing the contract and make scheduled advance payments during the manufacturing process. The final payment is due at delivery. All of these payments are by wire transfer from recognized financial institutions rather than paid in cash. It may be two years or more from the time of signing the contract and delivery of the aircraft. This long lead time would have a chilling effect on any money laundering activity, which depends upon the ability to move funds quickly among various investment vehicles.

Aircraft are not fungible products. Each aircraft is manufactured to a customer's specifications pursuant to the contract. The customer wants commonality in its fleet for reasons of maintenance, spare parts, crew qualifications, and training, etc. (There are no "off the shelf" sales other than in the unusual event when a contracted buyer experiences financial distress and cannot accept delivery of the aircraft.) Thus, there is no ready market for an aircraft manufactured to another customer's specifications, which would be a deterrent to any potential money launderer wanting to purchase an aircraft and then make a quick sale.

Aircraft are required to be formally registered under the worldwide International Civil Aviation Organization regime established by treaty and implemented by each signatory nation. Registration information includes the name and address of the aircraft owner, and is maintained in files of the country of registry that are available for public examination. In addition, a registration number must be painted on the outside of the aircraft, where it can be readily seen. An aircraft cannot be registered in another country unless the aircraft has been de-registered in the country where it was previously registered. Because of this global registration requirement, an aircraft and its ownership can be readily traced and would seem to be a particularly unsuitable type of asset to use for laundering money.

Commercial aircraft are subject to export controls under the Export Administration Regulations, and the export of aircraft from the United States is prohibited to a limited number of countries under such export regulations and other federal regulations. Boeing must sign a Shipper's Export Declaration for each aircraft that is exported from the United States, and this Declaration is provided to U. S. Customs and ultimately is filed with the U.S. Department of Commerce. The United States Government can use the Shipper's Export Declaration to identify the owner or operator of the aircraft and its destination at the time Boeing exports the aircraft.

As noted earlier, Boeing's contracts require that payments be made by wire transfer to Boeing's bank account in a U. S. bank. Boeing's bank adds an additional element of protection for Boeing against money laundering because the bank will be faithfully administering its own anti-money laundering procedures with respect to the funds transfers coming into Boeing's account.

With respect to "market", there is a recognized leasing and brokerage market, but there is no "wholesale market" for large aircraft.

2. Should vehicle sellers be exempt from coverage under sections 352 and 326 of the Patriot Act?

In view of the lengthy aircraft purchase process, Boeing's knowledge of customers, the protections already provided by government regulations regarding aircraft sales and operations, and Boeing's bank's anti-money laundering procedures, there is a minimal risk of money laundering in connection with Boeing's sale of large aircraft. Thus, Boeing believes that there is no need for the Department of the Treasury to institute anti-money laundering regulations for the sale of new or used large aircraft by the aircraft manufacturer.

Furthermore, because of the limited risk of money laundering and the burden it would place on commercial airlines and aircraft leasing companies, any sale by a commercial airline or aircraft leasing company for the purpose of financing an aircraft (such as a sale-leaseback) should also be exempt from any anti-money laundering regulations.

3. If vehicle sellers, or some subset of the industry, should be subject to the anti-money laundering program requirements, how should the program be structured?

If the Secretary determines that sellers of large aircraft are to be subject to anti-money laundering program requirements, Boeing's view is that due to the low risk of money laundering that such requirements be minimal and not redundant of the programs instituted by the banks where Boeing has its accounts. Boeing could designate a compliance officer who would have the responsibility to ensure that all appropriate employees are adequately trained to detect money laundering. Boeing has procedures already in place to determine the purchaser's creditworthiness and to ensure that the purchase complies with applicable laws and regulations. It thus should not be necessary to develop internal policies to make certain that Boeing knows its customers and their businesses and conduct an independent audit. The essence of Boeing's business is to know its customers.

4. How should a vehicle seller be defined? Should there be a minimum threshold value in the definition? Should it include wholesale and retail sellers? Should sellers of used vehicles be included?

Because of the diversity in the size and types of the sellers of vehicles and the significant differences in the amount of money involved in the myriad of transactions, there needs to be specific definitions of "vehicle sellers" to keep the regulations from being overly burdensome.

Vehicle sellers of large aircraft, defined as "a person who sells new or used aircraft to which Part 25, Airworthiness Standards: Transport Category Aircraft, of Title 14 of the Code of Federal Regulations, is applicable", should be excluded from any anti-money laundering regulations.

The definition of "financial institution" in 31 USC § 5312 refers to a business engaged in "vehicle sales" and not to the sale of spare parts or other services related to aircraft. It is Boeing's understanding that the Department of Treasury does not intend to include the sale of spare parts or services or the leasing of aircraft within the purview of any regulations that it may issue. Boeing agrees that the definition should not be broadened to include such sales and leasing.

5. Do vehicle sellers maintain "accounts" for their customers?

Boeing does not maintain accounts for its customers. The advance payments that a customer makes to Boeing pursuant to a contract are not segregated into an account like a bank account over which the customer may exercise control. The advance payments become the property of Boeing and are used for the production of the aircraft.

Boeing representatives would be happy to meet with Treasury to discuss these issues further, or to provide more information on how the commercial aircraft industry works. If you have any questions, please contact Marilyn Sloan at (206) 766-1811 or Mike Emerson at (206) 766-2405.

Sincerely yours,

Louise R. Mnich
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The Boeing Company