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American Automotive
Leasing Association

April 10, 2003

United States Department of the Treasury
Financial Crimes Enforcement Network ("FinCEN")
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regcomments@fincen.treas.gov

ATTENTION: ANPRM- Sections 352 and 326- Vehicle Seller Regulations

Ladies and Gentlemen:

I am writing on behalf of the American Automotive Leasing Association (AALA) in response to FinCEN's advanced notice of proposed rulemaking (the ANPRM) on vehicle sellers' anti-money laundering obligations under the USA PATRIOT Act. *See* 68 Fed.Reg. 8568 (February 24, 2003). AALA is a national trade association representing the commercial motor vehicle fleet leasing and management industry. The member companies of AALA own over 3 ½ million cars and trucks, used throughout the United States by commercial businesses, as well as state and local governments.

Our basic submission is that a new regulatory scheme is unnecessary, since vehicle sellers already must report on Form 8300 the receipt of over $10,000 in currency or monetary instruments. Vehicle sales by our industry – the corporate-to-corporate commercial vehicle fleet leasing industry – do not involve cash transactions and do not present money laundering risks requiring significant additional regulation. More publicity about money laundering issues, rather than additional regulatory requirements, will better serve the Government's goals.

AALA's comments are set forth below on the specific "issues for comment" identified in the ANPRM.

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)?

Over 42 million used vehicles are sold each year in the United States, most in consumer-to-consumer transactions that are not covered by anti-money laundering regulations. Our industry, the corporate-to-corporate commercial motor vehicle fleet leasing industry, is very different. Our member companies, which are involved in the sales of about 1 million used vehicles a year, already are subject to thorough-going anti-money laundering regulation and reporting requirements.

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Vehicle sales by the corporate-to-corporate commercial motor vehicle fleet leasing industry, which AALA represents, typically involve the sale of used, previously leased vehicles by third-party brokers or dealers, or by auction houses at wholesale auction,[1] after fleet-leased vehicles are turned in by the lessee. These methods of disposing of used vehicles account for the vast majority of used vehicle dispositions by commercial fleet lessors. They do not involve cash payments to commercial vehicle fleet lessors. Instead, these are corporate-to-corporate non-cash transactions in which our industry retains third-parties to sell used vehicles, with those third-party sellers being subject themselves to the reporting requirements of the IRS on Form 8300.

Our view is that, in this specially-controlled market for sales of used fleet-vehicles,[2] the risks of money laundering are adequately addressed by existing law requiring all vehicle sellers to report, pursuant to 26 U.S.C. 6050 I, 31 C.F.R. 5331 and 31 C.F.R. 103.30, the receipt of cash or monetary instruments in excess of $10,000.

Where vehicles are sold at retail,[3] the same restrictions on accepting cash and monetary instruments apply to our industry directly. The seller may not accept cash or cash equivalents in excess of $10,000 without completing Form 8300. Moreover, many member companies of AALA do not accept cash in any amount as payment of rent or as payment for the purchase price of an automobile. All AALA members have prohibitions against accepting cash or cash equivalents that cumulatively aggregate to more than $10,000.

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

Yes, vehicle sellers should be exempt. As noted above, sufficient controls already exist to prevent money-laundering by purchasers of used vehicles. In particular, the corporate-to-corporate vehicle fleet leasing industry should be exempt from coverage under sections 352 and 326 of the USA Patriot Act, since our operations entail minimal risks of money laundering.

3. How should the program be structured?

To the extent that vehicle sellers, or some subset of them, are subject to Patriot Act anti-money laundering program requirements, the scope of the program should be clarified: (1) Anti-money laundering requirements should be separated from the more burdensome customer identification program requirements. (2) If FinCEN ultimately determines that sellers of motor vehicles should be subject to the customer identification requirements of the regulations, then FinCEN should specify that anti-money laundering regulations apply only to the sale of vehicles by the entity, and not to the leasing business of leasing companies. The program should build on

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1 Wholesale auctions of used fleet vehicles, which account for a significant percentage of the sales of all used fleet vehicles, limit "buyers" to authorized dealers. Individual consumers, or companies that are not authorized dealers, are simply not authorized to purchase used fleet-leased vehicles at these wholesale auctions. Instead, the buyers of used fleet vehicles are specifically-identified dealers, who themselves are subject to the reporting requirements of the IRS in Form 8300.

2 As your ANPRM notes, "sellers of used vehicles often have different characteristics than sellers of new vehicles, reflecting the different relationships with vehicle manufacturers and the differences in these markets."

3 Occasionally, "retail" sales are made by commercial vehicle lessors, either to the driver (an employee of the lessee of the vehicle), or in a "customer-arranged offer to purchase" to another buyer.

current controls over money-laundering (*i.e.,* Form 8300 requirements) and exclude the "know your customer" routines more suitable to businesses at greater risk for money laundering and other terrorist activity.

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

No, AALA members and other commercial leasing companies do not maintain "accounts" for purchasers of their vehicles. The typical sale of a vehicle, through an auction or vehicle broker, results in the sale proceeds being sent by wire transfer, bank check or cashier's check to the leasing company. In the case of retail sales (*i.e.,* sales directly to the end user of the vehicle) AALA members have prohibitions against accepting cash or money orders or other monetary instruments if the instruments aggregate to more than $10,000.

Typically, the purchasers of used fleet motor vehicles are registered dealers with whom AALA members have regular dealings, or with whom auctions retained by the sellers have regular dealings. The sale of used fleet vehicles to such dealers at wholesale auction involves little risk of money laundering.

We urge the Department of the Treasury to exercise common sense in drafting proposed rules governing sellers of automobiles under sections 352 and 326. Adequate and effective controls already exist against the risk of money laundering by automobile dealers, and in particular by corporate-to-corporate vehicle leasing companies. Additional duplicative regulation will not improve these controls; it will unduly burden the industry without conferring additional security. In any case, the Department of the Treasury should undertake an additional examination of the vehicle leasing business before imposing any further regulation on it.

Thank you for considering AALA's comments on FinCEN's advance notice of proposed rulemaking concerning anti-money laundering programs for businesses engaged in vehicle sales.

Sincerely,

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