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**General Aviation
Manufacturers Association**

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April 9, 2003

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

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

ATTN: ANPRM--Sections 352 and 326--Vehicle Seller Regulations"

Ladies and Gentlemen:

The General Aviation Manufacturers Association (GAMA) represents over fifty manufacturers of general aviation airplanes, avionics, engines and related components. GAMA members also operate fleets of aircraft, Fixed Base Operations (FBOs), pilot and technician training facilities and maintenance facilities throughout the world.

The primary activity of GAMA manufacturers is the design, certification and sale of new general aviation airplanes, or replacement components for those airplanes. In the course of this business, some GAMA members also trade, buy and sell used airplanes. As such, many GAMA members are clearly "vehicle sellers".

GAMA members are quite different from what is commonly known as a "financial institution", and our industry is correctly not classified as such by the U.S. Department of Commerce. But, as the Bank Secrecy Act (BSA), 31 U.S.C. 5312(a)(2)(T) defines all "vehicle sellers" as "financial institutions", for the purposes of this ANPRM, we are responding accordingly.

Background

In 1994, shipments of general aviation airplanes had dropped 95 percent from their peak in 1978. Recognizing this dramatic downturn Congress enacted the "General Aviation Revitalization Act of 1994" (GARA). From 1994 to 2001, airplane shipments nearly doubled.

However, in 2002, primarily because of a decline in the U.S. economy, the general aviation industry reported a 16 percent decline in the shipments of general aviation airplanes. Billings declined by 10 percent. Most industry forecasters do not envision an increase in shipments until at least 2004.

The general aviation industry is extremely competitive, and approximately forty percent of world's new general aviation airplanes are produced and sold by manufacturers that will not be subject to U.S. financial regulations. Some aircraft customers may view lengthy delays in taking possession of purchased aircraft as an unnecessary and major impediment. U.S. general aviation aircraft manufacturers should not be placed at a disadvantage in a very competitive international market.

It is therefore essential to avoid placing unnecessary economic burdens on this industry. To do so would certainly be contrary to the intent of Congress when it passed GARA.

Unlike other types of vehicle sales, aircraft manufacturers often enter into extensive contractual arrangements with new aircraft buyers. This greatly increases a manufacturer's knowledge of their customer.

Manufacturers are confident that with the industry's voluntary guidelines already in place, and in conjunction with other established banking and export regulations, there is a reasonably high likelihood that illicit activity can be identified and avoided. Aircraft purchases typically have not and probably will not be successfully used for laundering money. However, despite all of the industry's good-faith efforts, aircraft sellers cannot be the guarantor of any financial transaction.

GAMA provides the following specific answers to the five questions (in italics) asked 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?)

Compared to other potential avenues for laundering money, the risk posed by aircraft sellers is small.

Aircraft And Aircraft Operators Must Be Registered By Sovereign Nations.

Unlike other vehicles, an airplane owner's name and address must be registered with the aviation authority designated by each sovereign nation. This is required by the International Civil Aviation Organization (ICAO), a body of the United Nations, to which 188 States, including the U.S., are Contracting Members. The aircraft must always bear a registration code that indicates the country of registration and a unique registration number that is clearly visible on the outside of the aircraft. Failure to comply with these regulations can result in civil or criminal penalties.

Ownership records cannot be transferred to an owner in another country without first de-registering the aircraft in the country of origin. Significantly, this aircraft-ownership information is a public record.

Because aircraft are government-registered by a sovereign State, government authorities must be notified of any change-of-ownership for an aircraft. This often takes additional time, requiring verification of the customer's identity. Few airplanes are sold "cash-and-carry", as other vehicle-sales might be characterized.

In addition, pilots and maintenance technicians must possess a national government-issued certificate in order to perform their duties. Contracting ICAO States are required to provide oversight of aircraft, pilots and maintenance technicians located in that State, or performing duties on aircraft registered in that State. And unlike other vehicle classes, aircraft can be readily located at a relatively small number of locations – airports and landing facilities. This greatly increases the ability of governments to provide adequate compliance oversight.

It is therefore very likely that anyone suspected as buying or selling an aircraft for illegal or illicit purposes could be readily traced by a Government authority. This makes it a poor choice for laundering money.

Aircraft Are Subject To Export Controls. Unlike other vehicles, the U.S. and other nations have established strict procedures for exporting aircraft, including prohibitions to certain countries. In some cases, extensive government review and specific approval on a sale-by-sale basis is required.

Typically, Airplane Manufacturers Have Well-Established Relationships With Their Customers. Aircraft are not sold like commodities, and when compared to sales-volumes of other types of vehicles, aircraft-sales volumes are low. The annual number of new and used airplanes sold in the U.S. is approximately 20,000, of which only 400 are turbine-powered. This makes it relatively easy for manufacturers or sales-agents to gather and track information about current and potential customers.

Manufacturers typically sell aircraft to an operator and then "move them up" to other larger or higher performing aircraft over many years. Manufacturers often develop a great deal of "customer loyalty". They often seek to develop and enhance these relationships by hosting events for existing and potential customers at industry trade shows or special events. It is common for a single airplane manufacturer's salesperson to repeatedly visit the worksite of current or potential customers. Subsequently, most aircraft sales are to repeat customers or to customers who have been previously identified as a potential customer.

Some manufacturers have developed proprietary files that contain a great amount of personal detail about current aircraft owners. These files are maintained for many years, and are kept current by salespersons who personally visit or confer with potential buyers, even when they are not actively seeking to buy a new aircraft, and often when they have never bought one of that manufacturer's products in the past.

By Applying Voluntary Guidelines Already in Place in the Industry, Manufacturers Can Readily Identify “Unusual” Aspects Of An Airplane Sale And Take Appropriate Action. The general aviation industry has established guidelines for establishing company policies and controls for identifying unusual aspects of an aircraft sale and taking appropriate action. These procedures and practices have been published by GAMA and widely distributed in a document entitled “*Guidelines for Establishing Anti-Money Laundering Procedures and Practices Related to the Purchase of General Aviation Aircraft*”¹.

Specifically, this document provides procedures and practices that general aviation airplane sellers can adopt to institute:

1. Appropriate internal policies and controls
2. A compliance officer
3. An ongoing employee training program
4. An independent audit function to test programs

Most Aircraft Sales Also Involve Banks. Banks have many resources and procedures for identifying money laundering activity that are quite different from those available to aircraft manufacturers, agents, dealers and brokers and are subject to extensive banking laws and regulations, including new “know your customer” and anti-money laundering regulations. Together, the safeguards from both the aviation and banking industries make it likely that attempted money laundering will be detected.

2). Should Vehicle Sellers Be Exempt Under Sections 352 and 326 of the Patriot Act?

In light of the safeguards inherent to the process of selling new or used general aviation aircraft, and the additional safeguards added by the industry’s guidelines, no regulations by the Department of Treasury on general aviation aircraft sales are necessary.

GAMA looks forward to a continuing dialog with Department of the Treasury and other law enforcement officials to ensure that GAMA’s guidelines are reviewed and updated, as needed, to adapt to future trends in money laundering activity.

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?

¹ A copy of this document is available at
<http://www.gama.aero/resources/security/antiMoneyLaundering.php>

The program for anti-money laundering programs applicable to general aviation aircraft sales is already in place, and is outlined in GAMA's publication entitled, "Guidelines for Establishing Anti-Money Laundering Procedures and Practices Related to the Purchase of General Aviation Aircraft".

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?

GAMA's guidelines answer all these questions.

"General Aviation Aircraft" Are Commonly Defined As Aircraft Having A Maximum Gross Take-Off Weight Less Than 100,000 Lbs. And Maximum Certificated Seating Capacity Of 19 Seats Or Less.

However, sellers of other types of aircraft could also effectively employ GAMA's guidelines.

"Vehicle Seller" Includes Sellers Of Both New And Used General Aviation Aircraft Of Any Value. The program outlined in GAMA's document entitled "*Guidelines for Establishing Anti-Money Laundering Procedures and Practices Related to the Purchase of General Aviation Aircraft*" was developed in consultation with manufacturers and sellers of both new and used aircraft. Specifically, the guidelines are intended for:

- New general aviation aircraft manufacturers and their agents (both wholesale and retail)
- Aircraft sellers, resellers, brokers and dealers of new and used general aviation aircraft
- Companies involved in selling ownership-shares of new or used general aviation aircraft

An individual or corporation that chooses to buy or sell their own aircraft to another party without using an intermediary, such as an aircraft dealer, broker or agent, could also reference GAMA's guidelines.

GAMA's Guidelines are Not Intended for Government Sales. Because of the extensive U.S. government oversight involved in making sales to government agencies, the guidelines are not intended for general aviation aircraft sales to a U.S. or other nation's government agency.

Sale of Parts, Services and Related Products is not a "Vehicle Sale". GAMA's guidelines are intended for the sale of aircraft, and not to the sale of parts,

services and related products for aircraft, although many, if not most, aircraft manufacturers, sellers and resellers engage in both types of sales.

31 United States Code, Section 5312(a)(2) defines "financial institutions" to include businesses engaged in aircraft sales. Previously, the U.S. Treasury Department has indicated that it interprets this definition as excluding the sale of parts, services and related products for aircraft. As broadening this definition would add little value and greatly increase complexity, we believe Treasury's current definition is appropriate.

5). Do Vehicle Sellers Maintain "Accounts" For Their Customers?

Manufacturers Maintain Customer Accounts, But Transactions Are Very Limited.

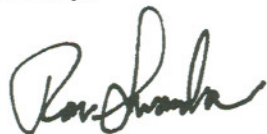
Manufacturers sometimes maintain "accounts" for customers who have a contractual relationship. These "accounts" differ substantially from the definition of "transaction account" defined under Section 19(b)(C) of the Federal Reserve Act. That definition includes *"a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such a term includes deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers and share draft accounts."*

"Accounts" as used in the context by the general aviation industry context are strictly based upon a contractual relationship with regard to the purchase of an aircraft or of parts and spares. These accounts revolve around a contractual relationship rather than a fiduciary relationship or a banking relationship of the type contemplated under the Federal Reserve Act. These "accounts" are screened to insure financial viability and to insure that manufacturers are in compliance with the various export regulations. Accounts are monitored and scrutinized to a very high degree. Customers having an "account" are in no way able to *make withdrawals by negotiable transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others*"; such accounts, as described previously are merely to facilitate the purchase of aircraft or spare parts.

April 9, 2003

GAMA appreciates the opportunity to provide answers to these important questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Swanda". The signature is written in a cursive style with a large initial "R" and a long, sweeping tail.

Ron Swanda
V.P. Operations