

Guidelines for Establishing  
ANTI-MONEY LAUNDERING  
Procedures and Practices

Related to the Purchase of  
General Aviation Aircraft

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## **Guidelines For Establishing Anti-Money Laundering Procedures and Practices Related to the Purchase of General Aviation Aircraft**

### **Preface**

General aviation aircraft, both new and used, are sold to customers from nearly every country in the world. These sales may involve financial transactions valued at tens-of-thousands of dollars to tens-of-millions of dollars. They may involve financing by a single U.S. bank, or multiple transfers of funds from banks and other financial institutions based outside the U.S. Although unusual and unlikely, given the current security concerns, manufacturers understand the sale of a general aviation aircraft could be used as a method of disguising, or “laundering”, money gained from illegal or illicit activities.

This document outlines examples of procedures and practices that could be included in a company’s anti-money laundering policy/program. Due to the broad diversity of aircraft manufacturers, sellers and resellers, aircraft types, locations and types of customers involved in the sale of general aviation aircraft, not all practices and procedures specified herein may be appropriate for every general aviation aircraft sale. Manufacturers, brokers and other parties involved in these sales should create policies and procedures that allow judgment when deciding which particular practice or procedure will most effectively preclude or identify money laundering activity.

Financial transactions involving the sale of aircraft have many inherent safeguards, including export compliance laws and restrictions of aircraft sales to certain embargoed countries. International treaties, recognized by nearly every country in the world, also require that all civil aircraft be registered with the State of the owner, including the owner’s name and address and a unique, permanent serial number issued by the manufacturer that is difficult to remove from the aircraft. In addition, the State registration number is displayed on the aircraft fuselage, thus providing a mechanism for tracing ownership that is not usually available for other types of assets. To prevent and detect money laundering, manufacturers and others involved in selling aircraft must rely to a large degree on the banking industry, with its own specific laws and regulations. These institutions have access data not available to aircraft manufacturers and sales agents, and we recognize that the information provided to and received by manufacturers and other aircraft sellers from these institutions is often incomplete and inconsistent. The practices and procedures outlined herein supplement all of these institutional safeguards.

These guidelines apply only to 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. The U.S. Treasury Department has indicated that it interprets this definition as excluding the sale of parts, services and related products for aircraft. GAMA has respectfully requested that any regulations promulgated by U.S. Treasury reflect Treasury’s interpretation by expressly excluding the sale of aircraft parts, services and related products from the effect of any such regulations.

## **Elements of an Effective Anti-Money Laundering Program**

### **I. Know Your Customer**

Most companies already have effective “know your customer” policies in relation to compliance with the Foreign Corrupt Practices Act and similar regulations. Compliance with an appropriate “know your customer” policy should allow the company to assess the level of risk for each customer and implement appropriate procedures. For example, an aircraft sale to an unknown customer in a high-risk country may require more diligence than a repeat sale to a well-known and respected customer. Good “know your customer” practices and concepts should include:

Gather, Record and Maintain Adequate Information About the Customer. Manufacturers, brokers and other parties directly involved in general aviation aircraft sales should collect, and maintain for the period mandated by statute or regulation, the following types of information as part of their “know your customer” policy:

- Name of buyer and/or representative
- Address of buyer and/or representative
- Telephone number(s) of buyer and/or representative
- Confirmation that the customer is not identified on any of the following lists of known or suspected terrorists or otherwise suspect organizations:
  - SDN (Dept. of the Treasury)
  - Denied Persons (Dept. of Commerce)
  - Entity List (Dept. of Commerce, Bureau of Industry & Security)
  - Debarred Persons List (Dept. of State)
- Whether the potential customer resides in a country on the Embargo List of countries (sales prohibited)

To the extent reasonable and practicable, other, similar information that would verify the identity of the customer may be collected. What is “reasonable and practicable” may vary depending on the country involved and other facts and circumstances. Such information could include:

- Line of business
- Business cards/brochures, if available
- Meeting with the customer on the business’ premises, and recording that such a meeting occurred
- If applicable, the web site and/or e-mail address for the business

Assess Customer-Risk Indicators. Certain risk factors, identified below, may indicate that additional scrutiny of the transaction is warranted:

- Sales to countries published pursuant to 31 U.S.C. , Section 5318A

- Unwillingness to provide information and/or inability to provide reasonable explanation for withholding such information. (Note that privacy rights must be carefully studied as violations of such rights can lead to liability in the United States and abroad.)
- Unexplained changes to information previously submitted by the customer
- Inconsistency in the materials or information provided

Mitigate Customer Risks. Customer-risk can be mitigated using one or more of the following procedures, among others:

- Written explanation from the customer or the customer's representative, or any other person knowledgeable of the transaction or the customer, of the factual inconsistency
- Where feasible, verify the customer's legal existence through other means (Dunn & Bradstreet, articles of incorporation, financial statements, tax returns, certificates of good standing)
- Checks with applicable U.S. Embassies

Ensure Adequate Record Keeping. The foregoing customer information should be created and maintained for the period mandated by statute or regulation by personnel designated in a company's anti-money laundering policy. If any substantive discrepancies with the information provided by a customer are discovered, the manufacturer/sales agent should document the steps that were taken to resolve each discrepancy.

## **II. Prescribe How Payments May Be Received.**

Payments may be received and held in a variety of ways. For example, funds may be received via wire transfer and check and placed by the receiving bank into aircraft manufacturer's, seller's or reseller's account, where the funds may be commingled with other funds. It is an acceptable practice to allow such funds to remain in such account or to transfer them to a suspense account maintained by the manufacturer, seller or reseller pending the completion of any required due diligence. The nature of wire transfers is that funds are automatically placed into an aircraft manufacturer's, seller's or reseller's account by its bank, without any prior opportunity for the aircraft manufacturer, seller or reseller to accept, reject or complete any required due diligence regarding the transfer. For example, a deposit for the purchase of an aircraft may be received in a bank account before the manufacturer, seller or reseller has signed or accepted a purchase order or agreement. Similarly, checks sent by customers to bank lock boxes maintained by an aircraft manufacturer, seller or reseller (sometimes pursuant to the requirements by its lenders) are automatically cashed and the funds deposited by the lock box bank into the aircraft manufacturer's, seller's or reseller's account without any prior opportunity for rejection or the completion of any required due diligence. Experience has shown that lock box banks cannot be relied upon to follow instructions to suspend such a deposit, hold a check uncashed, reject a check or deliver a check uncashed to the aircraft manufacturer, seller or re-seller pending any required due diligence regarding the payment.

The nature of international payment may include intermediary banks and other intermediaries as a matter of course. Therefore, it is not uncommon for aircraft manufacturers/sales agents to receive incomplete or partial information from banks. Furthermore, some information (such as

bank or originator information) is difficult if not impossible to obtain. Likewise, there may be completely legitimate and legal explanation for a third party payment or payment from an exchange house. Accordingly, while every effort should be applied to obtain reasonable assurances that the payment is legitimate, it is understood that absolute proof that a particular payment is legitimate is not always practicable or reasonable. Accordingly, reasonable discretion should be utilized.

To avoid confusion or mistakes by the customer, payment policies can be annexed to or incorporated in standard purchase agreements.

Companies should adopt payment policies and procedures designed to reduce the risk of receiving monies for the purpose of laundering:

Develop Payment Policies. A company's anti-money laundering policy should detail the preferred forms of payment. Payments not in accordance with one of the prescribed methods may require additional due diligence, including delaying delivery of the customer's product. Examples of preferred methods of payment include:

- A single wire transfer from customer's bank to manufacturer's bank account for each required contractual payment. Such a wire transfer should indicate that it is from the customer.
- A single cashier's, certified or company check for United States Dollars, issued by a United States bank or recognized international bank. Such a check should indicate that it is from the customer detailed in the sales contract.
- Credit card payment (e.g. American Express, MasterCard, Visa, Discover, Debit). The credit card should be issued in the customer's name by an acceptable financial institution.
- Cash payments that are within a limit predetermined by company policy and that are in compliance with federal cash reporting requirements.

Assess Payment Risk Indicators. Certain risk factors, identified below, could indicate that additional scrutiny of the transaction is warranted:

- Payment is not in accordance with the payment method agreed with the customer
- Several payments in cash in amounts less than US\$ 10,000 for a single transaction or payment obligation
- Payments from unrelated third parties without an adequate explanation
- Payments from multiple, unrelated parties for a single transaction
- Multiple payments from several unrelated parties
- Intentional layering of payment so as to disguise the actual originator of the payment
- Payments from "exchange houses"
- Request for a refund to an account or person other than the original account or person

Mitigate Payment Risks. Payment risk can be mitigated using one or more of the following procedures:

- Obtain a written explanation from the customer or customer's representative, or any other person knowledgeable of the transaction

- Where practicable, independently confirm that the payment is legitimate
- Obtain or request additional verifying information about the customer or source of payment
- Investigate the inconsistency (e.g. research the website of the banking agency in the country of the “exchange house” to confirm that it is licensed or approved to operate)

Ensure Adequate Record Keeping. For problematic transactions, the foregoing information should be created and maintained for the period mandated by statute or regulation by personnel designated in a company’s anti-money laundering policy. If any substantive discrepancies with the information provided by a customer are discovered, the manufacturer/sales agent should thoroughly document the steps that were taken to resolve each discrepancy.

### **III. Designate An Anti-Money Laundering Compliance Officer.**

The company should designate a compliance officer (CO) with knowledge of the USA PATRIOT Act, other applicable federal regulations and the company’s internal policies. Using appropriate audit procedures and oversight, the CO should ensure compliance with the Act and company policies.

### **IV. Ensure Employees are Properly Trained.**

All appropriate company officers, employees of the company and the person serving as the company’s Compliance Officer should receive appropriate initial training, and receive periodic “refresher” training, on the company’s anti-money laundering policies and procedures.

### **V. Periodically Perform an Independent Audit.**

Each company should establish an independent internal or external audit program to periodically evaluate compliance with the company’s anti-money laundering programs and policies.