



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Washington, DC 20226

www.atf.gov

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OPEN LETTER TO CHIEF LAW ENFORCEMENT OFFICERS OF
STATE AND LOCAL LAW ENFORCEMENT AGENCIES

On January 15, 2016, ATF published in the Federal Register a final rule entitled “Machineguns, Destructive Devices and Certain Other Firearms; Background Checks for Responsible Persons of a Trust or Legal Entity with Respect to Making or Transferring a Firearm.” This Final Rule is effective on July 13, 2016, and amends the regulations governing the making and transfer of firearms regulated by the National Firearms Act.

This final rule:

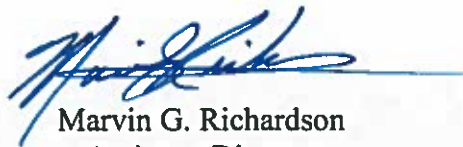
- establishes the concept of a “responsible person” associated with an unlicensed trust or legal entity;
- defines the term “responsible person” as follows: “in the case of an unlicensed entity, including any trust, partnership, association, company (including any Limited Liability Company (LLC)), or corporation, any individual who possesses, directly or indirectly, the power or authority to direct the management and policies of the trust or entity to receive, possess, ship transport, deliver, or otherwise dispose of a firearm for, or on behalf of, the trust or legal entity. In the case of a trust, those persons with the power or authority to direct the management and policies of the trust include any person who has the capability to exercise such power and possesses, directly or indirectly, the power or authority under any trust instrument, or under State law, to receive, possess, ship, transport, deliver, transfer, or otherwise dispose of a firearm for, or on behalf of, the trust. Examples of who may be considered a responsible person include settlor/grantors, trustees, partners, members, officers, directors, board members, or owners. An example of who may be excluded from this definition of a responsible person is the beneficiary of a trust, if the beneficiary does not have the capability to exercise the powers or authority enumerated in this sections;”
- requires “responsible persons” associated with trusts or legal entities to complete an ATF Form 5300.23, *National Firearms Act (NFA) Responsible Person Questionnaire*, when the trust or legal entity files an application to make an NFA firearm or is listed as the transferee on an application to transfer an NFA firearm;
- requires that a copy of all applications to make or transfer a firearm, and the responsible person questionnaire, if applicable, be forwarded to the chief law enforcement officer (CLEO) of the locality in which the applicant, transferee or responsible person is located (“CLEO notification”);

- eliminates the requirement that an applicant obtain a certification signed by the CLEO before the transfer or making of an NFA firearm may be approved.

There is no action required of the CLEO upon receipt of the notification documents, and each CLEO can determine whether and how to retain or dispose of notification documents once received. ATF requests, however, that CLEOs who have information that may disqualify any maker or transferee, including any responsible person of a trust or legal entity, from making or possessing a firearm, provide that information to the ATF National Firearms Act Branch by telephone at (304) 616-4500 or by email at NFA@atf.gov.

Applications to make or transfer NFA firearms that are postmarked prior to the effective date (July 13, 2016) will be processed under the current rules and will therefore still require an individual applicant or transferee to obtain a CLEO certification. Only CLEO notification will be required for any applications postmarked on or after the effective date of the final rule.

A copy of the final rule may be found online at <https://www.gpo.gov/fdsys/pkg/FR-2016-01-15/pdf/2016-00192.pdf>. For further information please contact the ATF NFA Branch at (304) 616-4500 or NFA@atf.gov.



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