

Unlawful Internet Gambling Enforcement Act Policy

Introduction

The Department of the Treasury and the Federal Reserve Board (Agencies) have issued a joint final rule to implement the Unlawful Internet Gambling Enforcement Act. The Act "prohibits any person engaged in the business of betting or wagering (as defined in the Act) from knowingly accepting payments in connection with the participation of another person in unlawful Internet gambling." (Regulation GG – UIGEA)

Purpose

The purpose of this policy is to prevent unlawful Internet gambling businesses from utilizing the banking system. _____ Bank ("the Bank") established this written policy and procedures to screen and prevent unlawful Internet gambling businesses (casinos and others) from opening an account at the bank. Lawful Internet gambling businesses will be required to provide extensive documentation at account opening.

Policy

The rule focuses on screening for unlawful Internet gambling businesses at the time of account opening. If unlawful Internet gambling businesses are prevented from accessing the banking system, then they will not be able to make or receive payments using checks, credit or debit cards, wires, or ACH payments.

Under the rule, the Bank is not required to monitor or determine whether its customer is a gambler except that it must ensure that unlawful credit and debit card transactions are blocked. It is the responsibility of the card networks to establish policies and procedures to identify and block unlawful transactions. The Bank will rely on a written notice from the network (Visa/MasterCard/etc.) stating that the policies and procedures that are in place meet the UIGEA Final Rule requirements. The Bank is not required to validate this claim but will be required to adhere to the card network policies and procedures. The networks may meet this threshold by conducting suitable due diligence checks on commercial accounts or through establishing a code system that would allow card issuers to identify and deny transactions that may be restricted. The Bank is not required to block ACH, wire, or check payments (payments from its customers' accounts) related to unlawful Internet gambling to be in compliance with the Final Rule.

The focus of the rule falls on commercial customer accounts. The Bank's policies and procedures should demonstrate that the following steps have been taken during the account opening process. This due diligence will be performed in conjunction with existing account opening processes that are already required with the Bank Secrecy Act.

- Determine whether the account is for an individual or commercial customer.
- For accounts determined to be for individuals, no further steps are required.

- For commercial accounts where the bank determines there is "minimal risk" of it being an Internet casino, no further steps are required.
- For commercial accounts where it can't be immediately determined that there is "minimal risk" the applicant that does not operate as an Internet casino should certify that they do not engage in Internet gambling business. For those that certify this, no further steps are required.
- For commercial accounts that do engage in Internet gambling business, they must provide evidence of their legal authority to do so, or a legal opinion, and a third party certification of its age and location verification procedures (to ensure that restrictions on minors and geographic legalities are observed). This step places the burden of proving that the Internet gambling entity is operating legally on the casino itself and its governing authorities.

When the Bank has "actual knowledge" that one of their commercial customers is participating in restricted transactions, the Bank may use its own judgment as to when a customer would benefit from counseling on their infraction or if it were more appropriate to deny a customer access to a payment system or even to close the account.

The "actual knowledge" standard is met when a particular fact with regard to a commercial customer is known by or brought to the attention of an individual responsible for compliance functions at your bank or an officer of the organization.

Discovery of restricted and unlawful gambling will initiate a Suspicious Activity Report (SAR) filing with the Bank Secrecy Act (BSA) Officer.

Notification to existing & new commercial customers

As required by the rule, a one-time notification of the requirements under this law will be furnished to said customers no later than December 1, 2009.

The one time notice will apply to any commercial customers that were not subject to the UIGEA due diligence process when they opened an account. If the bank implements these requirements on 12/1/2009, then it would apply to all commercial accounts opened on 11/30/2009 or earlier.

The Bank will provide notification (one time) to new commercial customers within its new account agreement.