



IGAMING NEWS

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WHITE PAPER

U.S. BANKING REGULATIONS FOR THE UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT

More than a year and a half has passed since the Unlawful Internet Gambling Enforcement Act took effect, but the mechanisms to enforce it are still not in place. America's financial institutions are supposed to identify and block unlawful Internet gambling transactions, but they can't know how to do that until the Federal Reserve Board and Treasury Department prescribe standards and procedures. Creating standards and procedures has proven difficult; already, they are long overdue with much ground still to cover.

In October 2007, three months behind deadline, the Federal Reserve and Treasury published not a finalized regulatory code but a consultation document seeking public opinion. Two hundred and twenty-nine concerned parties contributed responses to the document before the end of the three-month consultation period. Most of them were skeptical of the measures and urged further clarity or reconsideration.

Legislators are aware of the problems in formulating the regulations and have begun to get involved. In February 2008 two Republican senators wrote a letter to the heads of the Federal Reserve and Treasury urging revision of the proposed regulations. Then, in April, the House of Representatives' Subcommittee on International Monetary Policy, Trade and Technology held a hearing on the issue. Officials from both the Federal Reserve and the Treasury cited the ambiguous language and structure of the UIGEA as problematic to their efforts to interpret the law and write enforcement rules for it. "The challenge we have is interpreting something, particularly federal laws, that Congress itself isn't sure what they mean," Louise L. Roseman, director of the Federal Reserve's payment systems and reserve bank operations division, told subcommittee members during the hearing.

Shortly after the financial services subcommittee hearing, Representatives Barney Frank and Ron Paul proposed a bill that sought to prohibit the Treasury and Federal Reserve from going any further with the regulations. That bill was defeated on June 25, 2008, in a 32-to-32 vote.

IGamingNews has been following these developments in close detail and reporting them to our subscribers as they happen. In the pages that follow you will find a small sample of our coverage of the situation as it has unfolded.

U.S. SAYS UIGEA DRAFT REGULATIONS TO BE PUBLISHED FOR PUBLIC COMMENT IN 'NEAR FUTURE'

Mon., July 16, 2007

Last Tuesday marked the conclusion of the 270-day period during which the regulations for the Unlawful Internet Gambling Enforcement were to be prescribed.

Regarding the publication of the regulations, IGamingNews contacted the Federal Reserve Board and received the following this morning:

"The Unlawful Internet Gambling Enforcement Act of 2006 requires the Department of the Treasury and

the Board of Governors of the Federal Reserve System (in consultation with the Department of Justice) to jointly prescribe regulations for designated payment systems and financial transaction providers that implement certain provisions of the [UIGEA].

"The Agencies anticipate that proposed regulations will be published in the Federal Register for public comment in the near future."

The UIGEA does not apply to horseracing.

The UIGEA states: *The term "unlawful Internet gambling" shall not include any activity that is allowed under the Interstate Horseracing Act of 1975.*

Essentially, the situation with horseracing remains the same as before the UIGEA was enacted. Pari-mutuel operators may continue to operate in states that authorize the activity and accept wagers from customers located in other states that have also authorized the activity.

A CLOSER LOOK AT THE PROPOSED UIGEA REGS

Mon., Oct. 1, 2007

Around a year ago, President George W. Bush signed into law the Unlawful Internet Gambling Enforcement Act, seemingly ending Congress's long pursuit of a ban on Internet gambling. But in some respects, this was merely the advancement to the next stage of the process.

The new law, which bans financial institutions from processing money transactions, calls upon the United States Treasury Department and the Federal Reserve Board to prescribe procedures for enforcement. The law was enacted on Oct. 13, 2006, and is effective as of this date--with or without the enforcement mechanisms.

Twelve weeks past the deadline

for completing the regulations, the agencies jointly released their proposals Monday morning, and at a glance, it appears that the burden on financial institutions won't be as heavy as what might have been expected. The most notable aspect in this sense is the proposed rule's inclusion of exemptions pertaining to certain types of transactions. It should also be noted, however, that the agencies have indicated that they will rely heavily on comments from involved parties when drafting the final version of the rule, so the language of the rule could change considerably.

As for the timeline, it will be at least nine months before any rule is finalized.

Following are highlights and interesting points taken from the proposal.

Further Delay Is Certain

The next step is a 90-day consultation period in which interested parties have been asked to submit comments. This will lead to the submission of joint final rules, and the Federal Reserve and Treasury have recommended that the final regulations take effect six months after the joint final rules are published.

No Liability for the Casual Bettor

The Fed and Treasury in their proposal reemphasize the UIGEA's intent to criminalize the act of facilitating transactions for online gam-

bling and not the act of participating in online gambling as a consumer.

Exemptions Abound

For starters, the proposal acknowledges that certain activities--specifically qualifying intrastate transactions, intratribal transactions and interstate horseracing transactions--are exempt under the UIGEA. This has been a point of contention, as Representative Robert W. Goodlatte, Republican of Virginia and the bill's primary House sponsor, has argued on several occasions that despite the common interpretation that betting on horse racing is exempt under the act, it is indeed not exempt. The agencies' contrary interpretation is neutralized, however, by their stated position that "issues regarding the scope of gambling-related terms should be resolved by reference to the underlying substantive state and federal gambling laws and not by a general regulatory definition." The solution to the racing argument, therefore, ultimately remains within the interpretation of the Interstate Horseracing Act (as amended in 2000).

The most interesting aspect of the proposal, as it relates to exemptions, is the agencies' view that certain payment systems should be exempt under the UIGEA because the operators of these systems have no adequate and/or practical means of enforcing the ban. The agencies iden-

tify five types of payment systems: automated clearing house, or ACH, systems; card systems (including credit, debit, and prepaid cards or stored value products); check collection systems; money-transmitting businesses; and wire-transfer systems. Among these systems, the

The Federal Reserve is advised that it should not require financial institutions to identify and block transactions of types that are too difficult or burdensome to monitor:

The UIGEA states: *The Secretary and the Board of Governors of the Federal Reserve shall... exempt certain transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of such transactions.*

Essentially, this means that if the Federal Reserve finds it would be too burdensome on financial institutions to monitor certain types of transactions, then the financial institutions can allow those types of transactions to take place without scrutinizing them to determine if they are for unlawful Internet gambling.

agencies suggest that only card systems and money-transmitting businesses are equipped to effectively block I-gaming transactions. The document states, "The agencies are proposing to exempt all participants in the ACH systems, check collection systems, and wire transfer systems, except for the participant that possesses the customer relationship with the Internet gambling business (and certain participants that receive certain cross-border transactions

from, or send certain such transactions to, foreign payment service providers, as discussed further below). The exemptions for these participants reflect the fact that these systems currently do not enable the exempted."

It should be noted that the agencies are asking for guidance from interested parties on the exemptions and all other aspects of the proposal, so their suggestions could change significantly. Further, the agencies would consider amending the exemptions if, in the future, "the technology prevalent in these payment systems permits such participants to identify and block, or otherwise prevent and prohibit, those restricted transactions."

Small Entities on the Hook

The agencies have proposed that no financial transaction provider will be exempt based on its size. While smaller institutions will likely have more difficulty implementing the rules than larger ones, the agencies have determined that "an exemption for small entities would significantly diminish the usefulness of the policies and procedures required by the act by permitting unlawful Internet gambling operations to evade the requirements by using small financial transaction providers."

Coding Is Here to Stay

Credit card banks have for several years used a system through which gambling-related transactions

are identified by a merchant code and subsequently blocked. The agencies recognize this system as an effective means of isolating gambling transactions. Additionally, they suggest that creating new codes to identify legal transactions (for example, those related to licensed race betting) be considered. This would be a noteworthy shift from the card processors' current approach, which is to not distinguish among legal and illegal transactions and instead block all gambling transactions.

Blacklist Not Likely

The Fed and Treasury acknowledge the interest on the part of some in exploring the creation of a blacklist of Internet gambling businesses, but do not support the idea. The proposal states, "While the Treasury understands that interest exists in such a list, we have tentatively concluded that the benefits of the list as an effective tool for use by regulated entities to identify and block or otherwise prevent or prohibit unlawful Internet gambling transactions is uncertain relative to the likely costs involved in creating such a list." They also point out that Internet gambling businesses can very easily change their names and/or mask their identities.

The Price of Enforcement

The Treasury estimates that it will cost regulated entities a total of approximately \$4 million per year to maintain the policies and procedures recommended in the proposal.

The proposals, in their entirety, are available to subscribers at www.IGamingNews.com.

UIGEA REGULATIONS CRITICIZED BY INDEPENDENT BODY

Fri., Nov. 9, 2007

An independent report put out this week by the Center for Regulatory Effectiveness criticizes the Treasury Department and the Federal Reserve Board for their failure to recognize the impact the Unlawful Internet Gambling Enforcement Act regulations could have on small businesses.

The report notes that under the Paperwork Reduction Act, which minimizes the paperwork burden in this case for individuals and small businesses, the departments failed to provide the required, objectively supported estimate of burden on de

pository institutions, card systems, money transmitting businesses and other small financial organizations.

The center said that according to the UIGEA regulations, a large part of the burden, which would lie with commercial entities, stems from the fact that the proposed regulations do not clarify which gambling transactions are permissible.

The report, in its entirety, is available to subscribers at www.IGamingNews.com.

How Does the UIGEA Prohibit Internet Gambling?

A common misconception is that the UIGEA prohibits Internet gambling, but actually what the law does is require American financial institutions to identify and block transactions for "unlawful Internet gambling." The law makes no attempt to determine what constitutes unlawful Internet gambling, however. In fact, the legislation clearly states: "No provision of this subchapter shall be construed as altering, limiting or extending any Federal or State law or Tribal-State compact, prohibiting, permitting, or regulating gambling within the United States."

To put it another way, the UIGEA does not make anything illegal that was not already illegal before; it simply provides a system to enforce laws already in existence.

For all intents and purposes, the Wire Act remains the guiding federal statute for determining the legality of particular types of remote gambling in the United States. The Wire Act took effect in 1961 to prohibit sports betting via telephones. It specifically refers to "bets or wagers on any sporting event or contest," but it says nothing about gambling that is not sports-related.

One Federal District Court has concluded that the Wire Act is not applicable to non-sports wagering like casino games and poker, but the United States Department of Justice disagrees. The Justice Department's position is that the Wire Act prevents all gambling over the Internet, even horse-race wagering, despite the existence of the Interstate Horseracing Act.

COMMENTS END, QUESTIONS LINGER

Fri., Dec. 14, 2007

Wednesday ended the public comment period for the proposed regulations for the Unlawful Internet Gambling Enforcement Act.

Looking back, the Federal Reserve Board and the Treasury Department on Oct. 1, 2007, jointly released a proposed rule to implement the UIGEA, which prohibits payment systems in the United States--including credit cards, electronic funds transfers and checks--from processing transactions relating to Internet gambling.

The proposed regulations would require United States financial firms that participate in the aforementioned payment systems to have policies and procedures that are reasonably designed to block payments to gambling businesses in connection with unlawful Internet gambling. The proposed rule would provide examples of such policies and procedures. With regard to the proposed rule, unlawful Internet gambling generally would cover the making of a bet or wager that involves use of the Internet and that is unlawful under any applicable federal or state law in the jurisdiction where the bet or wager is made.

During the public comment period, the agencies asked interested parties for specific guidance on the exemptions within the regulations. Such exemptions include certain payment systems like automated clearing house, or ACH, systems; card systems (including credit, debit, and pre-paid cards or stored value products); check collection systems;

money transmitting businesses; and wire transfer systems. The agencies have identified these five as exemptions because the operators of these systems have no adequate and/or practical means of enforcing the ban.

The Federal Reserve and Treasury received 229 comments by the close of the comment period. The following comprises a small sample of what was said by various interest groups.

United States

Chamber of Commerce

The Chamber writes specifically regarding the Paperwork Reduction Act (PRA) since the Chamber has been a strong supporter of the PRA from its inception.

With respect to the PRA, the Chamber understands that the Center for Regulatory Effectiveness (CRE) has formally raised concerns to OMB regarding the Treasury Department's (Department) compliance with their legal responsibilities to a proposed collection of information. The concerns expressed by CRE include an assertion that the Department did not provide OMB with the statutorily required "specific, objectively supported estimate of burden" as part of their proposed information collection.

Among the specific authorities provided by the PRA to the Director of OMB are those contained in § 3504 which states that "the Director shall- (1) review and approve

proposed agency collections of information." OMB has sole authority for approving, or not approving, a proposed collection of information, it is essential that you closely review the Department's Information Collection Request before discharging your statutory authority in this matter.

Compass Bank

Compass believes that the Proposed Regulation suffers from two fundamental issues that will cause the regulation to fall short of its goal of prohibiting transactions in connection with unlawful Internet gambling. First, we believe that the Proposed Regulation fails because it does not define the term "restricted transaction." Second, we believe the Proposed Regulation fails because it requires a specific kind of functionality within the payment systems that simply does not exist. While the first issue may be resolved by revisions to the Proposed Regulation, given the methods and manners in which the payment systems operate, it is unlikely that the second issue can be resolved in the foreseeable future.

Electronic Check

Clearing House Organization

As a check clearing house for image exchange, ECCHO supports this exception from the requirements of the regulation, as set forth in the Proposed Rule. ECCHO also supports the definition of check clearing house as set forth in the Pro-

posed Rule. Check clearing houses provide a range of functions for their member financial institutions including, among others, rules coverage, informational reports to assist members with exchanges, physical locations for check exchanges, electronic information exchange, and settlement; although not every check clearing house performs each of these functions. These activities do not provide the check clearing house with information regarding the customers of the financial institutions or the nature of the underlying transactions to which the checks relate. Accordingly, a check clearing house could not establish or implement policies or procedures reasonably designed to prevent or prohibit restricted transactions. As such, the exception in the Proposed Rule for check clearing houses is appropriate.

The State Department Federal Credit Union

The proposed rule currently exempts Originating Depository Fi-

ancial Institutions (ODFI) from implementing policies and procedures that would require credit unions to identify Internet gambling transactions and businesses. We support this exemption because it minimizes the overall impact of the Act on SDFCU and other credit unions. Nonetheless, we are concerned that this requirement could have an adverse impact on Automated Clearing House (ACH) and other automated payment systems, which would indirectly impact all financial institutions by adding inefficiencies to the automated payment process. Additionally, SDFCU believes that there should be no future requirements placed on ODFIs because of the limited value and huge regulatory burden that would be created.

North American Association of State & Provincial Lotteries

In directing the Agencies to prescribe regulations designed to “block or otherwise prevent or prohibit restricted transactions” Congress required that any regulations

“ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling ... are not blocked or otherwise prevented or prohibited by the prescribed regulations.” 31 U.S.C. 5364 (b) (4) (citations omitted). Contrary to this provision of the Act, the proposed regulations fail to ensure that excluded transactions are not blocked.

All 229 responses are available, in their entirety, to subscribers at www.IGamingNews.com.

SENATORS SAY PROPOSED UIGEA REGS REQUIRE FURTHER GUIDANCE

Tues., Feb. 26, 2008

Earlier this month Republican Senators John E. Sununu of New Hampshire and Pete V. Domenici of New Mexico co-signed a letter to the heads of the United States Treasury and Federal Reserve Board urging that proposed banking regulations for the Unlawful Internet Gambling Enforcement Act be supplemented with further guidance.

“The October Notice of Proposed

Rulemaking...leaves sufficient ambiguity as to what sort of transactions are to be blocked,” the senators wrote. “In failing to provide more detail, the proposed rules would inordinately burden every bank, credit union, credit card company, money transmitting business and payment system in the country.”

A total of 229 organizations responded when the Fed and Treasury opened the regulations to public comment between October 1 and

December 15, 2007, including the United States Chamber of Commerce, The Electronic Check Clearing House Organization, The State Department Federal Credit Union and The North American Association of State & Provincial Lotteries.

Mr. Sununu and Mr. Domenici suggest that the “extensive” number and breadth of public comments indicate that “institutions will simply choose to block every transaction that may be interpreted or could re-

semble gambling, whether legal or not.”

The letter concludes: “We urge that any final rules contain a list of restricted transactions and instances that are covered by the law and the corresponding rules.

“As an alternative, we suggest you consider separating the rules

into those forms of activities for which there is settled federal law (i.e., defined by the Professional and Amateur Sports Protection Act (PAPSA) and those that are not.”

The letter, in its entirety, is available to subscribers at www.IGamingNews.com.

\$3.3 MILLION SPENT LOBBYING U.S. I-GAMING POLICY IN H2 2007

Mon., March 3, 2008

According to Congressional records, Internet gambling legislation attracted approximately \$3.3 million in lobbying at the federal level during the second half of 2007.

The grassroots Poker Players Alliance was the largest spender, budgeting \$1.2 million to federal lobbying efforts throughout the period. Representing the interests of over one million members, the PPA supports efforts to regulate Internet poker and to have it exempt as a game of skill from the Unlawful Internet Gambling Enforcement Act. The organization reported \$780,000 of in-house expenses for lobbying conducted by John Pappas, its executive director, in addition to another \$420,000 paid to four Washington, D.C.-based firms.

The second-largest spender is the Interactive Gaming Council, which has been lobbying for legislative reform since 1999. The group is composed of some of the global industry’s most successful companies, including 888 Holdings, Full Tilt Poker and Playtech Ltd. The council spent a combined \$490,000 with four Washington-based lobbying firms in the second half of 2007.

PartyGaming, the online gambling operator, spent \$220,000 independently, while its rival, Sportingbet, spent \$80,000 independently.

Another group trying to influence policy at the federal level is

Lobbying Spend, H2 2007

American Gaming Association.....	\$329,166*
American Horse Council.....	\$10,000*
Antigua Online Gaming Association.....	\$120,000
Avatar Enterprises Inc.....	\$60,000
Baker Tilly International.....	\$140,000
Christian Coalition of America.....	\$20,000*
Family Research Council.....	\$2,500*
Gtech Corporation.....	\$40,000
Harrah’s Entertainment Inc.....	\$33,333*
Interactive Amusement & Tournament Video Game Coalition.....	less than \$10,000
Interactive Gaming Council.....	\$490,000
Interactive Skill Games Association.....	\$140,000
Magna Entertainment Corporation.....	\$20,000*
MGM Mirage.....	\$13,333
National Basketball Association.....	\$40,000
National Collegiate Basketball Association.....	\$20,000*
National Football League.....	\$109,166*
National Football League Players Association.....	\$20,000*
National Thoroughbred Racing Association.....	\$13,333*
Office of the Commissioner of Baseball.....	\$84,000*
PartyGaming.....	\$220,000
Poker Players Alliance.....	\$1,200,000
Sportingbet.....	\$80,000
Station Casinos.....	\$30,000*
UC Group.....	\$140,000

**denotes that the figures are estimated*

the American Gaming Association. Composed of land-based casino operators and suppliers, the association is a proponent of legislation that would commission the National Academy of Sciences to study Internet gambling in order to determine the appropriate government response. The bill's sponsor is Representative Shelley Berkley, Democrat of Las Vegas.

The AGA's report says the group is interested in a bill that would regulate and tax Internet gambling, as well as the bill that would exempt skill games from the UIGEA, but the group is not obliged to report what position it takes on issues. The association was neutral on the UIGEA in 2006.

The AGA reported \$800,000 of in-house lobbying expenses during the last half of 2007. The sum went toward lobbying on two other issues besides Internet gambling: taxes and tourism. Additionally, the AGA paid \$125,000 to Duberstein Group Inc. in Washington for lobbying on Internet gambling and tourism. Duberstein Group directed its efforts to the House of Representatives and the Department of the Interior.

Harrah's Entertainment Inc., MGM Mirage and Station Casinos, members of the association, each hired their own lobbyists for independent representation on the issue.

Both the Family Research Council and the Christian Coalition of America devoted a portion of in-house lobbying spend toward Internet gambling opposition. Internet gambling is one of 16 broad issues on which the council spent \$40,000 trying to influence lawmakers. For

the coalition, Internet gambling was one of 15 issues on which it spent \$300,000.

America's sports leagues hired lobbyists to ensure betting on their events remains illegal. Lobbyists reported contracts with the National Football League, the N.F.L. Players Association, the Office of the Commissioner of Major League Baseball and the National Basketball Association. The American Horse Council and the National Thoroughbred Racing Association, industry trade bodies, also lobbied on the issue, as did horse-race betting operator Magna Entertainment Corporation. Federal legislation currently exempts remote wagering on horseraces in states where the activity is legal.

In all, federal lobbyists reported working for at least 25 different organizations on the issue of Internet gambling during the period.

***Author's Note:** The Lobbying Disclosure Act requires all lobbyists at the federal level to report all of their lobbying income and to specify whom they represent and on which particular issues. Organizations that use in-house staff to lobby must report their lobbying expenses. Reports must be filed every half-year and are made available to the public over the Internet.*

The figure, \$3.3 million, is an estimate. In cases where lobbyists reported working for an organization on a number of issues, I divided the lobbyists reported sum by the number of reported issues. For example, the AGA reported in-house expenses of \$800,000 for lobbying on Internet gambling and two other issues. My

figures assume that the funds were distributed equally across the three issues and estimate the spending on Internet gambling at \$266,666.

All figures come by way of the Senate's Lobbying Disclosure Act Database.

UIGEA RULES TROUBLESOME FOR FED, TREASURY

Wed., April 2, 2008

Testimony from the Federal Reserve Board and Treasury Department suggests the Unlawful Internet Gambling Enforcement Act's ambiguous language and architecture, well-documented during the public comment period, are posing problems for rule writers trying to interpret and clarify the law's intended objective.

"I think it is very difficult without having more of a bright line about what is intended to be unlawful Internet gambling," said Louise L. Roseman, director of the Fed's payment systems and reserve bank operations division, during a hearing Wednesday.

"The challenge we have is interpreting something, particularly federal laws, that Congress itself isn't sure what they mean," she said.

The House Subcommittee on International Monetary Policy, Trade and Technology today questioned representatives from the Fed and Treasury, which, jointly, wrote the rules on the proposed regulations.

Representative Barney Frank, the Massachusetts Democrat who has sponsored a bill to regulate and license Internet gambling in the United States, challenged Ms. Roseman with questions of clarification.

“If I am a bank in a state where horse betting is banned, do I process a transaction for a bet on a horse, according to the regulations?” Mr. Frank asked.

“Unfortunately, the proposed regulation was silent on that issue,” Ms. Roseman replied. “That’s something we’re going to have to look at.”

Ms. Roseman also acknowledged gambling companies have ways of masking transactions, making it difficult, she said, to tell which are related to Internet gambling.

“So, the law doesn’t have teeth to begin with,” said one subcommittee member, responding to Ms. Roseman.

Concerns over enforcement procedures were brought to the fore by the American Bankers Association, a Washington, D.C.-based group which lobbies on behalf of banks nationwide.

Wayne Abernathy, an executive at the association, told the subcommittee that under the Bank Secrecy Act, American banks already dedicate “enormous resources” in fulfilling their obligation to report criminal or otherwise suspicious activity.

“Under this legislation, we are required not only to identify what is illegal, but to impose a sentence,” Mr. Abernathy said. “This goes beyond reporting. We think it’s a step too far in devolving governmental responsibility.

“A bank is really in one position:

Cut off all transactions that look like they may be heading toward an Internet-gambling transaction or become far more intrusive in the questions we ask,” he went on. “We would block a lot more legal transactions in the effort to avoid a penalty for failure to block the illegal ones.”

Mr. Abernathy’s remarks gained traction with the Poker Players Alliance, a Washington-based grassroots group lobbying on behalf of United States Internet poker players.

“Banks should not be deputized by the federal government to enforce unclear laws that prevent their customers from enjoying lawful Internet poker,” said former Senator Alphonse M. D’Amato, chairman of the alliance, in a prepared statement released after the hearing.

The only subcommittee member who spoke in support of the UIGEA was Representative Spencer Bachus, Republican of Alabama. Mr. Bachus argued the UIGEA will mitigate “a scourge on our society,” and said the law has helped curb the gambling prevalence rate across United States colleges and universities.

Meanwhile, J. Daniel Walsh, director of governmental affairs at Greenberg Traurig in Washington, said the UIGEA “looks like it is headed for regulatory limbo.”

“The regulations are in trouble,” he said. “I don’t think there is any way they can finalize the proposed rules. [The UIGEA] would still be on the books, but its practical effect was to come from the regulations.”

Mr. Walsh added that the Bush administration may try to push the

regulations through in the final weeks of its tenure.

After the hearing, however, Roseman said regulators hoped to issue a final rule before the end of 2008 but did not offer a more precise time

Paths to Regulation?

Efforts abound at the federal level to repeal or amend the UIGEA, but the legislation’s implications for individual states and tribes often go overlooked.

The UIGEA clearly states that transactions for intrastate and intratribal Internet gambling--those that are initiated and received within a single state or tribe--do not fall under the definition of unlawful Internet gambling if the bet is authorized by the state or tribe. Essentially, a state or tribe retains the right to license and regulate Internet gaming. The UIGEA says that in such a case the operator must be able to verify the age and location of the customer.

A plan to license and regulate Internet poker is progressing through the state legislature of California. IGamingNews subscribers have access to the article, “Internet Poker Gaining Traction in California,” as well as a 10-minute audio interview with the Lloyd E. Levine, a California assemblyman who is the bill’s main proponent.

U.S. FED, TREASURY TARGET OF NEW BILL

Fri., April 11, 2008

United States Representatives Barney Frank and Ron Paul have jointly introduced a bill that would prohibit the Treasury Department and Federal Reserve Board from “proposing, prescribing or implementing” any regulations under the Unlawful Internet Gambling Enforcement Act.

The text of the bill, HR 5767, has been released, and its import is clear.

“If enacted, the bill would strip the UIGEA of any practical effect,” said a source in Washington, D.C., who is closely acquainted with the new legislation.

The source suggested Mr. Frank, the Massachusetts Democrat, could be using this bill as a vehicle to harness the momentum gathering in the wake of last week’s hearing before a financial services subcommittee, during which Treasury and Fed officials forcefully indicated the UIGEA’s intended objective has been difficult to discern.

“You could tell from the regulators’ testimony and body language, especially Louise Roseman’s, that the Fed thinks this (UIGEA rule writing) is a crock,” the source said.

“This bill, HR 5767, sends a signal to the regulators that Congress is definitely not pushing them to hurry and wrap up this regulation.”

Indeed, Ms. Roseman, director of the Fed’s payment systems and reserve bank operations division, argued before the subcommittee that the rule-writing process has been “challenging” given that Congress itself is unclear on the law--the express definition of unlawful Internet gambling, in particular.

“I think it is very difficult without

having more of a bright line about what is intended to be unlawful Internet gambling,” she said.

Looking ahead, the Frank-Paul bill, as it’s being called, is expected to encounter stiff resistance from professional sports leagues and religious conservatives, though support from the banks--the UIGEA’s intended enforcement mechanism--could lend needed support to the bill.

“I’d put the banks up against the sports leagues anytime,” the source said, “but on the other hand, it’s a lot easier to stop a bill than to advance it.”

However, the Frank-Paul bill has already gained traction with Representative Shelley Berkley, the Nevada Democrat, whose own bill calls for a one-year study of Internet gambling by the National Research Council of the National Academy of Sciences.

“I opposed this unfair law when it was passed, and I fully support Chairman Frank’s legislation to stop these burdensome regulations before they ever go into effect,” Las Vegas Re-

view-Journal quoted Ms. Berkley as saying.

Mr. Frank, who chairs the House Financial Services Committee, and Mr. Paul, the Texas Republican, are noted libertarians and have argued openly that the UIGEA threatens undue government interference with Internet commerce.

Mr. Frank in April 2007 introduced the Internet Gambling Regulation and Enforcement Act, a bill which would establish a licensing and regulatory regime for I-gaming in the United States.

Ms. Berkley is one of 48 co-sponsors of the IGREA.

Martin Gold, a lobbyist at Washington-based Covington & Burling who represents the National Football league; Wayne Abernathy, executive vice president of the American Bankers Association; Tom Minnery, executive vice president of Focus on the Family; the Federal Reserve; and Mr. Frank could not be reached for comment.

NAMBLING NOTES - APRIL 14, 2008

Mon., April 14, 2008

When asked about HR 5767, the new bill co-sponsored by Representatives Barney Frank and Ron Paul, Peter E. Garuccio, a public relations officer with the American Bankers Association, said in a telephone interview:

“As the [UIGEA] regulations have turned out, they’re both unworkable and burdensome. Considering that the bill is sort of an opportunity to fix that, we support it.”

If enacted, HR 5767 would prohibit the Treasury Department and Federal Reserve Board from “proposing, prescribing or implementing” any regulations under the Unlawful Internet Gambling Enforcement Act.

REACTIONS: THE FRANK-PAUL BILL

Mon., April 21, 2008

Representatives Barney Frank and Ron Paul, libertarians hailing from opposite sides of the political aisle, have jointly introduced a bill, HR 5767, to prevent the United States Treasury Department and Federal Reserve Board from proposing, prescribing or implementing regulations under the Unlawful Internet Gambling Enforcement Act.

The UIGEA regulations, which were proposed in October 2007, (one year after the bill was enacted, and three months later than prescribed), have been a source of serious contention among interest groups on both sides -- prohibition, regulation -- of the United States Internet Gambling Debate.

IGamingNews invited members from a number of interest groups to weigh in on what impact, if any, the Frank-Paul bill stands to have on the UIGEA rule-writing process.

Peter E. Garuccio, Spokesman, American Bankers Association

When UIGEA was passed, while we were opposed to it, we were willing to work with members of Congress. But we made it clear to them that whatever rules were going to be promulgated as a result needed to be both workable and un-burdensome. As the rules have come out they are both unworkable and over-burdensome for the banking industry. It just really puts us in a position of having to play police or law enforcement to such a degree that we don't have the resources to

devote to that kind thing.

The introduction of the Frank-Paul legislation, I'm not going to speculate on what its chances are because I just don't know. Anything can happen. I mean, Barney (Frank) is the chairman (of the House Financial Services Committee). And if the bill does what I understand it does--and if, by some chance, it passes the House, passes the Senate and is signed into law--then indeed it will stop the regulations.

I don't know what, legislatively, can be done, but clearly we appreciate the attempt by both Congressmen Frank and Paul.

Keith Furlong, Deputy Director, Interactive Gaming Council

They're (Mr. Frank and Mr. Paul) going to look at fixing something that was forced through Congress at the last minute on a bill that had to do with port security. It's good to see that the banking industry has some hesitation with regard to being the Internet police.

I think that it opens the issue again. Before it was: "Before you knew it there were going to be regulations." Now, this is a hurdle, and it actually shows that maybe Congress wants to move in a different direction.

I think the issue is bigger than one senator. They've tried to ban payments. They're attempting prohibition when in fact I think that, on its merits, regulation is a better solution for consumer protection, and for all the issues that proponents of a prohibition claim are why they

want to prohibit.

I. Nelson Rose, Professor, Whittier Law School

I think it (the Frank-Paul bill) was intended to tell the agencies that a lot of the congressmen's constituencies are unhappy with the proposed regs. The goal is to slow things down until after the election. If it passes it will kill the regulatory process and thus gut the UIGEA. I think there is actually a chance it will pass, because now the banks are against the regs. In fact, no one is in favor of them, even the extreme religious right.

Chad Hills, Analyst, Focus on the Family

Barney Frank's bidding for foreign Internet casinos is fraught with irony: He claims we can do nothing to stop it all the while working to legalize it. He also has no reservation about spending taxpayers' money to help addicted gamblers even as he strives to expose millions more to this destructive vice. It's a sad day when a public servant like Representative Frank works so hard to willfully legislate harm to families under the false pretense of freedom.

Martin Gold, National Football League Lobbyist, Covington & Burling

We have been long-standing supporters of Internet gambling legislation so that state and local gambling laws could be enforced and would not be repealed de facto on

the Internet.

The current legislation, the Frank-Paul bill, would have the effect of negating the Unlawful Internet Gambling Enforcement Act of 2006 because it would bar by legislative injunction issuing any regulations to implement that act. Because

we long-supported the passage of the act (the UIGEA), we must vigorously oppose the Frank-Paul bill.

IGN's Take

The Frank-Paul bill is an unambiguous signpost that Congress is taking seriously the UIGEA's po-

tential impact on the U.S. banking industry.

With HR 5767, Congress has given the Treasury and Federal Reserve needed time to parse the UIGEA and perhaps glean what is intended by "unlawful Internet gambling."

U.S. REPS. FRANK, PAUL WRITE FED, TREASURY TO DELAY UIGEA RULES

Tues., April 22, 2008

United States Representatives Barney Frank and Ron Paul on Monday wrote separate letters to Federal Reserve Board Chairman Ben S. Bernanke and Treasury Secretary Henry J. Paulson Jr., soliciting them to consider delaying the regulation-writing process for the Unlawful Internet Gambling Enforcement Act.

Mr. Frank and Mr. Paul, who recently introduced HR 5767, a bill to prevent the implementation of the regulations under the Unlawful Internet Gambling Enforcement Act, were joined in the letter by Representatives Luiz V. Gutierrez, Democrat of Illinois, and Peter T. King, Republican of New York.

"We believe it would be impru-

dent for you to devote additional agency resources to this Sisyphean task, especially as we intend to vigorously pursue legislation to prevent the implementation of these regulations," the lawmakers wrote.

An April 2 House subcommittee hearing on the UIGEA rule-writing process highlighted the difficulty the agencies responsible are experiencing.

Louise L. Roseman, director of the Fed's payment systems and reserve bank operations division, acknowledged to subcommittee members that the UIGEA's ambiguous language has not been helpful in "drawing a brighter line" under what is intended by "unlawful Internet gambling."

Steven W. Adamske, a spokesperson for Mr. Frank, said that the letter was a message to regulators that Congress wants to address the problems in the UIGEA.

"We understand there are serious problems in the legislation that shouldn't be there in the first place," he said.

"But implementation is becoming problematic--regulators told us that in the hearing," he went on. "So rather than issue something that's going to be unworkable, we want more time to figure out the policy. That's why we asked for the delay."

NARROW VOTE QUASHES CLARITY ON UIGEA

Wed., June 25, 2008

The United States moved no closer to unequivocally defining "unlawful Internet gambling" as an amended bill requiring regulators to draft such a definition was defeated by the narrowest of margins

Wednesday.

In its original form, HR 5767, the Payment Systems Protection Act, would have prevented the Treasury Department and Federal Reserve Board from completing regulations

for the Unlawful Internet Gambling Enforcement Act, which requires financial institutions to block online gambling transactions.

However, Peter T. King, Republican of New York, proposed an

amendment to the payment protection act that would have required the Fed and Treasury to draft a uniform definition for unlawful Internet gambling, a term whose meaning continues to elude regulators.

A 32-to-32 vote by members of the House Financial Services Committee, by whom the bill was under review, saw Mr. King's proposed amendment defeated.

The underlying bill, proposed by Ron Paul, Republican of Texas, and Barney Frank, the Massachusetts Democrat who chairs the committee, was then defeated in a voice vote.

To the surprise of some observers, Mr. King's strategy, that the bill be perceived as "a banking amendment," failed to rally the Republican vote.

"I think it's strange the Republicans would turn their backs on the credit institutions and banks at a time when the Federal Reserve and Department of the Treasury say the proposed rules for UIGEA are unworkable," Michael Waxman, a spokesman for the Safe and Secure Internet Gambling Initiative in Washington, D.C., told IGaming-News in a telephone interview.

In all, 29 Democrats and three Republicans, including Mr. King, voted for the proposed amendment, while 28 Republicans and four Democrats voted against, said Mr. Waxman, whose group lobbies Internet gambling policy.

IGN understands that Alabama's Spencer Bachus, the ranking Republican member of the financial services committee, was influential in garnering his party's vote.

"After this long campaign by offshore gambling interests to block or repeal the law, what Congress needs to do now is urge the Treasury Department and Federal Reserve to swiftly finalize their proposed rules to implement UIGEA," Mr. Bachus said in a prepared statement. "The regulations are long overdue, and our young people need this protection now."

Despite airing concern that the UIGEA's language was difficult to discern--namely, its definition of unlawful Internet gambling--the Treasury and Federal Reserve are now faced with the unenviable task of finalizing the proposed rules.

A spokesman for the Federal Reserve declined comment when asked by IGN how it would proceed, though Jennifer Zuccarelli, a spokeswoman for the Treasury, allowed:

"We're working to finalize the regulations as quickly as possible."

Without the prospect of protection by Mr. Frank's bill, United States banks--which, under the UIGEA, are deputized to enforce its regulations--remain in procedural limbo.

"We'll continue to work with Congress and the regulators to ensure that regulations (for the UIGEA) are not burdensome or unworkable," Peter E. Garuccio, a spokesman for the American Bankers Association in Washington, told IGN by telephone.

The association, one of the more outspoken critics of the gambling enforcement act, lobbies on behalf of banks nationwide.

Looking ahead, the next move by the United States Internet gambling

lobby is far from certain. J. Daniel Walsh, director of government affairs at Greenberg Traurig in Washington, did not immediately return phone calls.

With the Congressional session set to wrap up early, and during an election year when politicians carefully hedge their political bets, it is unlikely that any new policy favorable to Internet gambling would be drafted or enacted.

"My colleague and I want to repeal the whole thing (the UIGEA)," Mr. Frank said during Wednesday's markup. "That may take one more presidential campaign, but we're getting there."