Regulation GG – Unlawful Internet Gambling

The Security and Accountability for Every Port Act of 2006 (SAFE Port Act) was enacted by Congress in 2006. Title VIII of this law is also known as the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). UIGEA prohibits the transfer of funds from a financial institution to an Internet gambling site, with the notable exceptions of fantasy sports, online lotteries, and horse/harness racing. In 2008, the Federal Reserve issued Regulation GG to implement the requirements of UIGEA. The mandatory compliance date was originally set for December 1, 2009, but was eventually extended to June 1, 2010.

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<th>Alert Date</th>
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<td>Mandatory June 1, 2010</td>
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<td>Links</td>
<td>Federal Reserve - Press Release - UIGEA</td>
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In 2009, the Federal Reserve Board issued Regulation GG, which requires financial institutions to have policies and procedures to prevent or prohibit unlawful Internet gambling transactions. Unlawful Internet gambling is defined as the act of placing, receiving, or otherwise knowingly transmitting a bet or wager by any means which involves the use of the Internet where the bet or wager is illegal under any federal, state or tribal law. While the definition may be difficult to apply for most financial institutions, the requirements of the regulation are fairly easy to follow.

Who has to comply?

Each person that participates in a designated payment system must have policies and procedures that are reasonably designed to prevent or prohibit unlawful Internet gambling transactions. A designated payment system is:

- An automated clearing house system;
- A card system;
- A check collection system;
- A wire transfer system; and
- Certain money transmitting businesses.

Because all financial institutions participate in at least some of these payment systems, virtually all institutions will be subject to the requirements of Regulation GG.

What are the requirements?

The policies and procedures under Regulation GG are focused on commercial customers. As a result, financial institutions are not required to have due diligence or other procedures in place to limit gambling transactions of consumer customers. However, for commercial customers, institutions will be required to:

- Put in place detailed procedures for performing due diligence on commercial customers at account opening and when the institution receives actual knowledge that the customer is engaging in unlawful Internet gambling;
- Notify commercial customers that their account or relationship cannot be used for unlawful Internet gambling transactions; and
- Implement procedures for each designated payment system in which the institution participates to prevent or prohibit unlawful Internet gambling transactions.

The regulation contains detailed requirements and examples of procedures that are expected for both the due diligence as well as designated payment systems.
Recommendations for Next Steps

1. Develop an Internet Gambling policy that addresses:
   - How customers will be screened when they open new accounts;
   - Whether your institution will rely on any payment network rules as a part of the policy; and
   - The course of action to be taken if Internet gambling activity is suspected in an account.

2. Supplement your CIP and due diligence procedures for commercial customers to meet the new due diligence requirements.

3. Provide a notice about restricted transactions to commercial customers.

   Tip – The rule is flexible on how this is communicated. Consider adding a provision to your deposit agreement to prohibit restricted transactions, as well as agreements for debit and credit cards, foreign correspondent banks, foreign gateway operators and ACH third parties. Other methods may include mailing notices to commercial customers.

4. Block prohibited transactions for credit and debit cards.

   Tip – Consider protections that may already be provided by your card system operator (as this is allowed under the rules). Document the operator’s process and/or your process to show adequate due diligence.

5. Determine a course of action if the institution discovers that one of its customers is engaging in prohibited activity.

   Tip – Consider a variety of activities such as issuing warnings, imposing fines, restricting activities, terminating relationships, and filing Suspicious Activity Reports.

6. Train employees on the new rules.