

# **Unlawful Internet Gambling**

## **A. Background**

Regulation GG, Prohibition on Funding of Unlawful Internet Gambling, 12 CFR Part 233, was promulgated under Title VIII of the Security and Accountability for Every Port Act of 2006 (31 U.S.C. Section 5361 et seq.), which became effective as of October 13, 2006. The final rule was effective January 1, 2009, with a mandatory compliance date of December 1, 2009.

## **B. General Prohibition**

31 U.S.C. section 5363 directed at persons engaged in the business of betting or wagering prohibits acceptance of credit, EFTs, money transmittals, checks or similar instruments and the proceeds of other forms of financial transactions, as determined by Rule.

## **C. Requirements for financial institutions**

Directed at "designated payment systems", as determined by rule, and all participants in the systems must establish policies and procedures that are reasonably designed to identify and block "restricted transactions" 31 U.S.C. section 5364; Regulation GG, section 233.5(a)

1. Designated payment systems
  - a. Automated Clearing House
  - b. Cards
  - c. Check Collection
  - d. Wire Transfer
  - e. Money Transmitting Businesses
2. Restricted transaction. "Restricted transactions" are those which are prohibited under the Act.
3. Participant
  - a. Operator of a designated payment system
  - b. Provider who is participating in a designated payment system
  - c. Third-party processor

Summary: each bank, as a participant in multiple designated payment systems, must establish and implement written policies and procedures that are reasonably designed to identify and block the acceptance of or receipt by a person engaged in the business of

betting or wagering any money payable by or through a CH; a credit, debit, stored value or prepaid card; a check; or a wire transfer.

**D. Compliance**

1. Safe harbor – reliance on DPS written policies and procedures - written statement.
2. Participant policies and procedures
  - a. Commencement of relationship with commercial customers (all non-natural persons). Is the customer engaging in an Internet gambling business?
    1. Exclusion
    2. Certification by customer
    3. Evidence of legal authority
  - b. Notify all commercial customers that “restricted transactions” are prohibited
  - c. Establish and follow procedures for actual notice of receipt of the restricted transaction
  - d. Obtain statements from and follow procedures established by operators
  - e. Receipt of checks for collection from a foreign banking office - send Appendix A notice

**E. Enforcement**

Exclusive enforcement by federal functional regulators 31 U.S.C. Section 5364(e); 5365(d) 12 CFR Part 233.7