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Proposal: Prohibition on Funding of Unlawful Internet Gambling

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Comments:

Comments to Notice of Joint Proposed Rulemaking, Prohibition on Funding Unlawful Internet Gambling: Docket Treas-DO-2007-0015; Docket Number R-1298 The proposed regulations fail to guarantee that financial transactions for lawful gambling will be processed. Certain types of gambling, including horse race wagering under the Interstate Horseracing Act and entering fantasy sports contests and other contests, were exempted from the prohibitions of UIGEA. Whatever might be someone's particular belief as to whether such activity should be allowed, the Act clearly mandated that the regulations be written so that financial transactions for horse racing under the Interstate Horseracing Act would not be blocked. Specifically, the UIGEA regulations were required to "ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or(D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations." (31 U.S.C. § 5364(b)(4)). According to Webster, "ensure" means to guarantee or to make certain. The proposed regulations do not come close to guaranteeing that transfers for these enumerated activities, including horse racing under the Interstate Horseracing Act, will be permitted. The proposed regulations have failed their statutory mandate to guarantee that transactions for the activities identified under subparagraphs (B), (C) and (D)(i) of Section 5362(10) will not be blocked. Rather, in an abdication of responsibility, the regulations leave it to the financial institution to create their own policies in the exercise of their own judgment. No, the financial institutions must be required, through regulation, to ensure that transactions for horse racing under the Interstate Horseracing Act and other lawful gaming not be blocked, or otherwise prevented or prohibited. At BAM Software and Services, we have witnessed first hand the need for this regulatory requirement, as a result of our recent dealings for a client who is preparing to launch a licensed and regulated U.S. based horse racing website, in accordance with the

Interstate Horseracing Act. Many financial institutions are unwilling to process financial transactions for such a business. Only if the regulations follow the statutory mandate of requiring financial institutions to not block, or otherwise prevent or prohibit such transfers, will the industry realize the benefits of the exemption which UIGEA provided. We would respectfully submit that the proposed regulations be modified so that financial institutions are required to not block, or otherwise prevent or prohibit financial transactions for the enumerated lawful gambling transactions, including wagering on horse racing under the Interstate Horseracing Act. Sincerely John J. Ford, President BAM Software and Services LLC