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Proposal: Prohibition on Funding of Unlawful Internet Gambling

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Comments:

Jennifer J. Johnson Secretary, Board of Governors of the Federal Reserve System 20th Street and Constitution Avenue, N.W. Washington, DC 20551 The following comment is in response to: Federal Reserve System 12 CFR Part 233 Regulation GG; Docket No. R-1298 Dept. of the Treasury 31 CFR Part 132 RIN 1505-AB78 Prohibition on Funding of Unlawful Internet Gambling After careful review of the proposed rules for the enforcement of the UIGEA, it is clear that there are several areas that must be clarified. First, it is not in the best interest of Americans, financial institutions, and others that may be affected by these regulations to not have them clearly defined. It is understood that with the varying laws from State to State regarding any form of Internet Gambling that it is most difficult to actually define what is or is not a valid, legal, transaction. However, for a law to be effective, it must establish boundaries. Clearly, the only law that applies to wagering in the federal code is the 1961 Wire Act, which has been found in courts of law to be directed solely to sports wagering. Congress, in its enactment of HR4411 saw this as an arduous task and failed to differentiate between any such activity. The law must be clear as to what activity will be allowed or disallowed. In testimony given to the House Judiciary Committee on the subject of internet gambling, Assistant U.S. Attorney Catherine Hannery of Minnesota, who is prosecuting cases of cross border gambling involving internet betting, notably the Beton Sports case, clearly stated that it is not illegal for Americans to wager online. The onus of enforcement under the proposed rules give the heavy burden of trying to identify such transactions to the banking and financial industries and deputizes them to act on behalf of the government. Clearly, without definitions of what is or is not legal, this leads open to very wide and arbitrary enforcement and may be influenced by one's personal morality and not that of legality. Often, licensed, legal gambling entities offer more than gambling to its customers, such as articles of clothing, memento's, collectables, free games of chance, etc.

There is no defined means of segregating these valid consumer purchases and activities from any type of wagering. Often, Americans make deposits to legal, licensed, online casinos in advance of any wagering, with the intention of having the ability to engage in such activity while on vacation in other countries where there are no laws making such transactions illegal, or it is expressly legal. The proposed rules would severely restrict Americans from participating in such legal activity. Without clear and reasonable regulations, legitimate domestic industries could be affected, such as the Pari-Mutual industry, which currently offer cross-border internet wagering, Land-based casinos, gambling paraphernalia industry, fantasy sports leagues, and even small businesses that offer arcade type games. A large part of determining who may or may not be engaging in this type of transaction could come from the admission of Americans declaring that they do so, but most will not offer this information accurately. Due diligence on the part of financial institutions is cumbersome and costly, and will largely be ineffective in determining what is or is not a legal transaction and will create much distrust in the financial industry if legitimate transactions are blocked. Seventy percent of Americans gamble, it is estimated that 28-35 million do so or have done so online. Many of those engage in 'skill-type-games', many more engage in horse or dog racing. The proposed regulations will close that form of entertainment to the American people without clear definitions of what is or is not legal. The rules as they are proposed are vague and toothless and will create an undefined number of hours of work by financial institutions to make such determinations and to continually monitor those decisions. It also has an endless cost to enforce, modify and stay current. In the end, the rules are without the ability to adequately maintain any reasonable, consistent means to accurately identify such transactions or to legitimately prevent such transactions from happening. The burden that will be imposed on financial institutions is enormous and the final outcome under such proposed regulations will be, at best, inefficient and cause undue harm to many.