

Development of Internet Gambling Regulations Conference Call with Bank of America

- Call Date:** March 4, 2008, 2:00 p.m. EST.
- Bank of America:** Joann Carlton, Associate General Counsel, Consumer Banking; Peter Hohenstein, SVP of ACH and Check Products; Kevin MacMillan, Assistant General Counsel, Regulatory and Public Policy.
- FRB:** Joseph Baressi, Financial Services Project Leader, and Joshua Hart, Financial Services Analyst, Division of Reserve Bank Operations and Payment Systems.
- Treasury:** Charles Klingman, Director, Office of Critical Infrastructure Protection and Compliance Policy.

On March 4, 2008, at 2:00 p.m. EST, staff of the Federal Reserve Board and the Department of the Treasury (the Agencies) participated in a conference call with staff of Bank of America to obtain clarifying information from Bank of America regarding the comment letter it submitted in response to the Agencies' proposed rule.¹ Specifically, the purpose of the call was for the Agencies to obtain clarifying information regarding the resources associated with a large bank, such as Bank of America, conducting risk-based due diligence inquiries into the business lines of its existing commercial customer base pursuant to a rule implementing UIGEA.

For card-based merchant accounts, Bank of America conducts due diligence at the time the relationship is established. Additionally, Bank of America has a program of back-end monitoring to assess whether the transactions cleared by the merchant fit within internal guidelines for the nature of the account as described by the merchant at the time of account opening.

Bank of America noted that many of its merchant card "accounts" are not deposit accounts (the merchant's deposit account resides at another institution) and that card merchants constitute only a portion of its entire commercial customer base. Bank of America stated that it generally maintains records pertaining to the nature of its commercial customers' businesses as part of the bank's customer identification program (CIP), implemented pursuant to section 326 of the USA PATRIOT Act. The bank noted, however, that that Act's CIP requirements were only made applicable prospectively. The bank also stated that over time it has participated in numerous bank-acquisition transactions, and that its CIP has not been applied to a substantial portion of its legacy commercial customer base. Moreover, the bank noted that the CIP may not always include information that would permit the bank to reliably assess whether a commercial customer might be engaged in Internet gambling.

¹ The Agencies published a proposed rule to implement UIGEA on October 4, 2007. See 72 FR 56680. In response to the proposed rule, Bank of America submitted a comment letter dated December 12, 2007, which is also part of the public record in this matter.