



**REMARKS OF JENNIFER SHASKY CALVERY  
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Good morning. I would like to thank the American Gaming Association for inviting me to speak with you today.

Let me begin with a brief overview of FinCEN, for those of you who might not be as familiar with our role. FinCEN is a bureau of the Treasury Department, and reports to the Undersecretary for Terrorism and Financial Intelligence. With approximately 340 employees, we are relatively small considering our broad responsibilities. Our mission is to safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities.

A key aspect of FinCEN's mission is to administer and issue regulations pursuant to the Bank Secrecy Act (BSA). The BSA requires a broad range of U.S. financial institutions -- such as casinos, banks, money services businesses, insurance companies, securities and futures brokers, and dealers in precious metals, stones, and jewels -- to assist U.S. government agencies in the detection and prevention of money laundering and terrorist financing. Financial institutions do this by instituting effective anti-money laundering (AML) programs, and maintaining records and filing reports with FinCEN. FinCEN, along with its law enforcement partners, uses the data contained in these reports to help protect the financial system from misuse by a number of illicit actors.

Some of the threats we are focusing on at FinCEN include Mexican drug trafficking organizations, transnational criminal organizations, frauds against U.S. government programs or that are massive in scale, foreign corrupt officials and rogue regimes, terrorist organizations, and proliferators of weapons of mass destruction. These are serious threats to the United States, our people, our businesses, and our communities.

Casinos and other financial institutions play an important role in countering these threats. Your casinos are the eyes and ears in the fight against terrorists and other bad guys, and your AML programs are the first line of defense from keeping these bad actors out of the financial system. In our public-private relationship, we depend on you to make yourselves resilient to abuse by illicit actors and to report to us when you encounter them.

It is this public-private partnership which serves as the foundation for the protection of the U.S. financial system, our national security, and in a less abstract way, helps the millions of Americans who are the victims of financial crime. This last point bears noting, because as all of you know, the majority of crime in this country is committed for one reason: Profit. If we are able to take the profit out of crime, or make this profit difficult to realize, this helps protect the American public from financial crime.

However, equally important is the need to ensure integrity and transparency. Because the fact is, being a financial institution – whether a casino, a brick and mortar bank, or a virtual currency provider – comes with certain responsibilities. And while any financial institution or financial service could be exploited for money laundering purposes, what is important is for institutions to put effective controls in place to deal with money laundering threats, and to meet their AML reporting obligations.

Let me start by recognizing the obvious: Casinos, and other financial institutions, spend a great deal of time and money to comply with the BSA. And we are committed to working with you to maximize our ability to be effective partners.

Something that we often hear from some casinos is that your primary product is entertainment rather than a traditional financial service and that this is something that you want us to take into consideration when we compare the casino industry to other industries that we regulate.

We do take that into consideration. But whether a company is in the business of helping people invest and protect their money, or using that money for the purpose of entertainment, both are at risk. Both can serve as the vehicle for the use and movement of ill-gotten gains. And just like everyone else, casinos are responsible for reporting suspicious activity when they suspect that the money being brought to them for gaming derives from an illegal source.

Knowing your customers is something that casinos do very well. In fact, it can be argued that casinos in many cases have vastly more information on their customers than any other financial institution. Your surveillance systems are extensive. You cater to your customers and know everything about your high-rollers. These sophisticated systems and the development of client relationships are very important to your bottom line. And these same sophisticated systems and controls can and should be used to also protect our financial system, our national security, and our people. You ask your customers many questions about their preferences; you can and should get information about their sources of funds to meet your obligations to identify and report suspicious activity.

Whether it is cash, chips, wires, branch office transactions, junket operators, or any other financial service you choose to offer, you must have effective policies and procedures around that service. And your obligations in this regard are in addition to any obligations that other types of financial institutions carry. You cannot just assume, for example, that banks are following their AML obligations such that you are relieved from implementing yours.

I want to talk a little about the culture of your industry and institutions, because, as we have seen in some of the recent enforcement actions, the culture of an institution is key to its ability to

comply with our regulations. When some casinos say that they are in the gaming business and not really in the business of providing financial services, I get the impression that they are saying that they should not have as much responsibility in the AML context as those financial institutions whose business it is to receive, move, and protect money. And when some casinos say that probing their customers about their activities outside of the casino will drive customers away, I sense that they feel that it is not their responsibility to protect their institutions, and our financial system as a whole, from being used by illicit actors. I fear there may be a culture within some pockets of the industry of reluctant compliance with the bare minimum, if not less. I hope that together we can make a cultural change.

The rules issued by FinCEN help financial institutions, including casinos, identify and manage risk; provide valuable information to law enforcement; and create the foundation of financial transparency required to deter, detect, and punish those who would abuse our financial system. It is, of course, critical that we design our laws and rules, as well as our oversight and examination efforts, to address the spectrum of risks that we face.

But the laws, rules, and compliance manuals can only do so much. A truly robust AML framework – one that hardens our financial system against the unrelenting efforts of money launderers, financial criminals, sanctions evaders, and other illicit actors – requires effective AML program implementation by financial institutions that understand what is at stake not only for them, but for the financial system as a whole.

And where this understanding is lacking, strong enforcement efforts may be needed. Not only do such actions correct the bad behavior of those on the receiving end, they also ensure that industry actors who have been diligent in their efforts do not lose business to competitors seeking to cut corners with respect to AML.

### **BSA Value**

Part of enhancing a culture of compliance is to make sure that our stakeholders – including industry – understand just how important their efforts are to government. One of the questions I get most often is what do we do with all that data? FinCEN is a leader in the analysis of BSA data and financial intelligence. And FinCEN depends on the information casinos and other financial institutions provide to us. Our advanced analytic tools and highly skilled team play a unique role in analyzing and integrating BSA data and other information to accomplish three ends:

- (1) map illicit finance networks;
- (2) identify compromised financial institutions and jurisdictions; and
- (3) understand the current methods and schemes for illicit finance.

These three key pieces of analysis are critical to enable all of our stakeholders -- including law enforcement and other governmental authorities at home and abroad -- to take action against money laundering and terrorist financing. We also provide federal, state, and local law enforcement and regulators with direct access to the BSA data. We have nearly 9,000 users that have been cleared for direct access and they make approximately 18,000 queries of our extensive database each day.

The Organized Crime Drug Enforcement Task Force's Fusion Center maintains a comprehensive intelligence and data center containing international organized crime, drug, and drug related financial intelligence information from 21 organizations, in addition to all the BSA data provided by FinCEN. The Fusion Center has access to numerous sources of information from multiple Federal agencies, but the BSA data makes up 45 percent of their data – almost half. And in 2012, of the investigations that the Fusion Center has supported through research and analysis, 65 percent have BSA data associated with the investigations.

Similarly, the Federal Bureau of Investigation reports that, as of June 2012, 37 percent of their pending counter-terrorism cases have associated BSA records, and more than 90 percent of these are Currency Transaction Reports (CTRs).

BSA information furthers both criminal and civil enforcement actions. And as our data analytics capacity at FinCEN continues to improve, we are entering an era in which preventing criminal activity will become a reality.

### **Information Sharing**

Not long ago, AML compliance was viewed purely as a cost center within a financial institution. But the trend we are beginning to see with depository institutions is that they are moving toward a more global compliance standard and sharing information across their business lines. Casinos need to take note of this and also realize that they cannot outsource their AML responsibilities simply by outsourcing relationship management to other entities. That outsourcing arrangement does not relieve a casino of the obligation of knowing its customer as part of its AML program and SAR reporting obligations.

I want to underscore this point. Several recent enforcement actions, involving financial institutions of various types, included findings that the subject institution had access to information that was not made available to those that were responsible for their institution's BSA compliance. This may have been the result of the lack of an appropriate mechanism for sharing information, or intentionally preventing compliance department personnel from having access to the information.

There is information in various departments within a casino that should be shared with your compliance department. The sharing of information is especially critical for casinos that develop significant information on their gaming customers. This information would be useful for the compliance department to assist in monitoring customers for suspicious activity.

In addition, information developed by the department combating and preventing fraud and the department performing surveillance should be shared with compliance officials. The legal department should also alert the compliance department to subpoenas received to trigger reviews of related customers' risk ratings and account activity for suspicious transactions. Also, in a larger casino there may be multiple affiliated casinos that may benefit from sharing information across the organization. This is something that FinCEN wants to explore with the industry, as currently our guidance on sharing SARs among domestic affiliates applies to banks and the securities and futures sector, but not to casinos. In the interim, the information underlying your SAR reporting is something that can already be shared.

Information sharing is important because being a good corporate citizen and complying with regulatory responsibilities is also good for a company's bottom line. It saves your casino from a large fine, and it saves your casino's reputation, which is something that you can't put a price on.

Every financial institution needs to be concerned about its reputation and to go out of its way to show it is operating with transparency and integrity within the bounds of the law. Las Vegas' revitalization efforts already demonstrate that there is a broader recognition of this fact.

We know a lot of you work very hard on compliance and are committed to doing the right thing. You would not be present here today if that was not the case. But those casinos that do choose to ignore their AML obligations and operate outside of the law are going to be held accountable. FinCEN will act to stop abuses of the U.S. financial system.

### **Enforcement**

Over the summer, FinCEN established a stand-alone Enforcement Division to ensure that we are fulfilling our key role in the enforcement of our AML regime. It serves as the primary action arm for asserting our regulatory authorities against jurisdictions and financial institutions that are of primary money laundering concern outside the United States, as well as civil enforcement of the BSA at home. FinCEN has broad ground to cover with a small, but dedicated, staff.

We are cognizant of our enhanced role with regard to nonbank financial institutions, such as casinos, for whom we serve as the sole civil enforcement authority of the BSA. We work closely with the Internal Revenue Service (IRS) to whom we have delegated examination authority, and rely on their expertise and recommendations with regard to potential enforcement actions. Enforcement is a role you should want us to play. We know there is a cost to compliance, and we know you are paying it, so I think you will agree that you want there to be an equal playing field.

When AML safeguards are not effectively implemented and compliance lags, money launderers, terrorist financiers and other illicit actors freely abuse our financial system. I mentioned before our desire to change the culture of compliance within your industry. To do that, the business side of your organization needs to take AML controls seriously. Recently, given some of the issues that have been discovered in a few large banks, there have been calls for more accountability on the business side of an organization when AML compliance fails. There have also been calls for a focus on individuals, as well as institutions. This may also be the case with your industry.

The BSA provides FinCEN with broad authority to obtain injunctions against institutions and individuals it believes are involved in violations of the BSA. It also allows FinCEN to impose civil penalties not only against domestic financial institutions, but also against partners, directors, officers and employees of such entities who themselves willfully participate in misconduct. We will employ all of the tools at our disposal and hold accountable those institutions and individuals who allow our financial institutions to be vulnerable to terrorist financing, money laundering, proliferation finance, and other illicit financial activity.

## **Partnership**

Even though I am up here talking about the specter of strong enforcement, we need to resort to such steps only when there have been serious failures. There are also other ways for us to work together to continually strengthen our financial institutions against the tide of illicit actors. To be good stewards of the BSA, we must continually challenge not only industry, but also government, to be sure that the investment we are making in our AML system is aligned not to the perceived risk, but the actual risk.

We need to ask ourselves if the money being spent on compliance is being spent in the right ways and ask ourselves hard questions. How does compliance risk compare with the actual illicit financing risk? What is the delta between the two?

Fortunately, FinCEN has a productive forum in which to have these discussions. The Bank Secrecy Act Advisory Group, or BSAAG, is comprised of high-level representatives from financial institutions, federal law enforcement agencies, regulatory authorities, and others from the private and public sectors, including the American Gaming Association. And as part of the BSAAG, we have formed a “Delta Team” to challenge our assumptions and make recommendations for change where we find the system can be improved. We have appreciated the AGA’s participation in this forum as we move forward in these discussions.

## **Conclusion**

Every financial institution, casinos included, should be concerned about its reputation. Integrity goes a long way. I recently heard a banker say that there is a reason that financial institutions have to obtain licenses. It is a great bestowal of trust that enables banks to be part of the U.S. financial system, to be part of the global financial system. And that trust -- that privilege -- comes with obligations. One of those obligations is a responsibility to put effective AML controls in place so that criminal actors are not able to operate with impunity in the U.S. financial system. The same is true for the gaming sector. The public has entrusted you with providing an entertainment service in an area where we know that there are certain risks. We are counting on you to control for those risks.

FinCEN is a critical partner in the fight against money laundering and terrorist financing. Our talented and dedicated team is committed to that mission. We have an incredible opportunity to serve the American public and to contribute to the safety of this country. FinCEN will meet the challenges ahead working together with you, law enforcement, and our regulatory and foreign partners. We see casinos as important partners in our efforts and I hope that you see us that way as well. Thank you once again for inviting me here to speak with you today.

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