

Guidance

FIN-2017-G001

Issued: January 4, 2017

Subject: Sharing Suspicious Activity Reports with U.S. Parents and Affiliates of Casinos

The Financial Crimes Enforcement Network (FinCEN) is issuing this guidance to confirm that, under the Bank Secrecy Act (BSA) and its implementing regulations, a casino¹ that has filed a Suspicious Activity Report (SAR) may share the SAR, or any information that would reveal the existence of the SAR, with each office or other place of business located within the United States² of either the casino itself or a parent or affiliate of the casino.³

Sharing SARs under these circumstances will assist casinos in discharging their responsibilities with respect to enterprise-wide risk management and compliance with applicable laws and regulations. Sharing SARs with domestic parents and affiliates will facilitate a casino's ability to identify suspicious transactions. In addition, a parent or affiliate's respective anti-money laundering (AML) efforts may be enhanced by reviewing the casino's SARs and obtaining a clearer and more comprehensive understanding of the activities the casino has identified as suspicious. In this regard, sharing within a casino's domestic corporate organizational structure is consistent with the purposes of Title II of the BSA. FinCEN therefore concludes that, subject to the limitations on SAR sharing described below, casinos may share SARs, and more broadly any information that would reveal the existence of a SAR, with U.S. parents and affiliates that are subject to a SAR requirement under the BSA.

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1. "Casino" has the meaning assigned to the term at 31 CFR § 1010.100(t)(5).
 2. "United States" has the meaning assigned to the term at 31 CFR § 1010.100(hhh).
 3. A "parent" is any entity that controls the casino filing the SAR. An "affiliate" is a financial institution that is required under rules implementing the BSA to report suspicious transactions and that is controlled by, or is under common control with, the casino filing the SAR. A "financial institution" has the meaning assigned to the term at 31 U.S.C. § 5312(a)(2). Two or more licensed gaming establishments that are not organized as separate legal entities may be "affiliates" for purposes of this guidance. *See* FIN-2009-G004 ("Frequently Asked Questions – Casino Recordkeeping, Reporting and Compliance Program Requirements") (9/30/2009) (Where gaming activity is licensed separately at each establishment, each establishment may be treated as a separate casino.)

In addition, while BSA regulations generally prohibit SAR disclosures, they authorize SAR disclosures to specific enumerated parties.⁴ Specifically, provided no person involved in the transaction is notified that the transaction has been reported, casinos are expressly permitted to disclose SARs to: (1) FinCEN; (2) any Federal, state, or local law enforcement agency; (3) any Federal regulatory agency that examines the casino for compliance with the BSA; (4) any state regulatory authority that examines the casino for compliance with state laws requiring compliance with the BSA; or (5) any tribal regulatory authority that examines the casino for compliance with tribal laws requiring compliance with the BSA.⁵ The regulations also provide that casinos may: (i) disclose the underlying facts, transactions, and documents upon which a SAR is based, including, but not limited to, disclosures to another financial institution, or any director, officer, employee or agent of a financial institution, for the preparation of a joint SAR; and (ii) share a SAR, or any information that would reveal the existence of a SAR, within a casino's corporate organizational structure for purposes consistent with Title II of the BSA, as determined by regulation or in guidance.⁶

Limitations on Sharing SARs or Information That Would Reveal the Existence of a SAR

The approval to share SARs, or information that would reveal the existence of a SAR, with domestic parents and affiliates is subject to certain limitations. Specifically, casinos may not share SARs or revealing information with:

- Parents, affiliates, offices, or other places of business located outside the United States, including non-U.S. offices of domestic parents or affiliates;
- Individuals or entities within a parent or casino's organizational structure who perform functions unrelated to gaming;⁷
- A financial institution without an independent SAR-filing obligation, such as a check casher; or

4. See 31 CFR § 1021.320(e)(1)(ii).

5. Under 31 CFR § 1021.320(e)(1)(ii)(A)(1), a casino may share a SAR with a state or tribal authority only if that agency or authority examines the casino or requires the casino to comply with the BSA. Conversely however, a casino is not permitted to share a SAR with other government agencies or authorities that may have general oversight but which do not have express BSA oversight authority. In the case of such requests by non-BSA enforcement agencies or authorities, the casino should direct such requests to FinCEN.

6. See 31 CFR § 1021.320(e)(1)(ii)(A)(2) and (B). See also Confidentiality of Suspicious Activity Reports, 75 FR 75593, 75599 (Dec. 3, 2010). The final rule established the regulatory framework for a phased approach for "granting additional industries the ability to share [SAR information] within their corporate organizational structure."

7. See 31 CFR § 1021.330(c) ("[S]hops, restaurants, entertainment, hotels [and similar businesses within a gaming establishment] are separate trades or businesses...").

- A money services business that may be co-located with a casino but is not an affiliate of the casino.⁸

In addition to the above limitations, a casino's domestic affiliate receiving a SAR from the casino may not further share that SAR with an affiliate of its own, even if that affiliate is subject to a SAR rule. In other words, an affiliate that obtains a SAR (or information that reveals the existence of a SAR) cannot forward that SAR (or information) to another affiliate. There also may be circumstances under which a casino, its parent or affiliate, or both would be liable for direct or indirect disclosure of a SAR, or any information that would reveal the existence of a SAR, to any person who is the subject of the SAR. In this regard, casinos should have policies, procedures, and internal controls in place to ensure that the confidentiality of SARs is protected.

Consistent with the BSA and the implementing regulations issued by FinCEN, this guidance does not, authorize the disclosure of a SAR, or any information that would reveal the existence of a SAR, where a casino has reason to believe this information may be disclosed to any person involved in the suspicious activity that is the subject of the SAR.

This guidance does not address or affect the applicability of any other Federal or state laws.

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For Further Information

Additional questions or comments regarding the contents of this Guidance should be addressed to the FinCEN Resource Center at FRC@fincen.gov, (800) 767-2825, or (703) 905-3591. *Financial institutions wanting to report suspicious transactions that may relate to terrorist activity should call the Financial Institutions Toll-Free Hotline at (866) 556-3974 (7 days a week, 24 hours a day).* The purpose of the hotline is to expedite the delivery of this information to law enforcement. Financial institutions should immediately report any imminent threat to local-area law enforcement officials.

FinCEN's 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.

8. See generally FinCEN Ruling 2005-5 ("Definition of Money Services Business (Casinos as Money Services Businesses)") (7/6/2005) (A person who cashes checks or processes funds transfers and leases space within a casino for the performance of these functions may qualify as a money services business. Also, please note that this SAR sharing guidance does not apply to an individual or entity who operates a gaming establishment that does not satisfy the threshold in 31 CFR § 1010.100(t)(5) for gross annual gaming revenue; however, such person may qualify as a money services business).