

May 17, 2006

Financial Crimes Enforcement Network
P.O. Box 39
Vienna, VA 22183
Email: regcomments@fincen.treas.gov

**RE: Comments to FinCEN's Proposed Amendments to Bank Secrecy Act Regulations
Regarding Casino Recordkeeping and Reporting Requirements - Regulatory
Information Number (RIN) 1506-AA84**

To Whom It May Concern:

In response to the Financial Crimes Enforcement Network's ("FinCEN") March 21, 2006 proposed amendments to its regulations that would modify the definitions of "cash in" and "cash out" transactions under the currency transaction reporting requirements of the Bank Secrecy Act ("BSA"), 31 C.F.R. § 103.22, Detroit Entertainment, L.L.C. d/b/a MotorCity Casino ("MotorCity Casino") is hereby respectfully commenting on our position with respect to those proposed amendments.

In summary, listed below is MotorCity Casino's ("MCC") position regarding FinCEN's March 21, 2006, proposed amendments:

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|--|----------------------------------|
| A. Exclude Jackpots | Agree |
| B. Exclude Currency Dealer Transactions | Agree, but not applicable to MCC |
| C1. Delete "Plaques" & Substitute
"Other Gaming Instruments" | Agree |
| C2. Amend "Bets in Currency" | Agree, but not applicable to MCC |
| C3. Track "Cash In" in Bill Validators | Disagree |
| C4. Delete "And Plaques" & Amend
"Tickets and Other Gaming Instruments" | Agree |
| C5. Delete Reference to "Credit to a Customer" | Agree |
| C6. New Examples of "Cash Out" Transactions | Disagree |
| C7. New Section for "Cash Out" Transactions | Disagree |

A. *Jackpots from Slot Machines and Video Lottery Terminals - (103.22 (b) (2) (ii) and 103.22 (b) (2) (iii))*

FinCEN has determined that the awarding of jackpots would not need to be recorded for Currency Transaction Report ("CTR") purposes because: 1) the funds won are solely because the workings of a random numbered generator, and are not likely to form a scheme to launder funds through casinos; 2) casinos file W-2Gs for jackpots \$1,200 or more and 3) jackpots do not pose a significant risk from money laundering, terrorist financing or tax evasion. We agree with this determination.

B. *Currency Dealers or Exchanger, or Check Casher Transactions - (103.22 (b) (2) (iii) (A))*

FinCEN proposes to eliminate reportable “cash in” and “cash out” transactions in currency between a casino and a currency dealer based on their assumption that the currency dealer/check cashing service provider would give a business check to the casino which the casino “exchanges for cash”. This enables the third party service provider to cash checks and/or provide cash advances for customers of the casino. The primary basis for excluding this type of transaction is that the currency provider/check cashing service will still have the obligation to file a CTR for the “cash in” transaction when it receives the cash from the casino; this change would merely alleviate the duplicate filing by the casino.

We agree with this determination, and also argue that a cash transaction pursuant to a contract between a casino and a third party service provider is not likely to form a part of a scheme to launder funds or be part of a scheme to evade taxes, and therefore does not pose a significant risk for money laundering, terrorist financing or tax evasion. [Note: This process does not currently affect MCC]

C. *Other Amendments*

1. *Gaming instruments - 103.22 (b) (2) (i) (A).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(i)(A) by deleting the term “plaques” and substituting the phrase “other gaming instruments” for “cash in” transactions. Given the advance in technologies we agree that a more general term will be more inclusive to capture the intent of reporting cash transactions.
2. *Money plays as bets of currency - 103.22 (b) (2) (i) (E).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(i)(E) to include money plays as “bets of currency” and thus reportable “cash in” transactions for purposes of our currency reporting requirements. While this does not affect MCC, it is our position that since the casino does not have ownership of the currency while the cash bet is in play, that this is not a “cash in” transaction until the bet is lost. If the bet is won, because the casino never had ownership, there is no “cash out” transaction. [Note: This does not affect MCC]
3. *Bills inserted into electronic gaming devices - 103.22 (b) (2) (i) (I).* FinCEN is proposing to add a new paragraph, 31 C.F.R. § 103.22(b)(2)(i)(I), to include “bills inserted into electronic gaming devices” as a type of “cash in” transaction.

MotorCity Casino believes that modifying the definition of “cash in” to include currency inserted into an electronic gaming device does not reduce and/or deter the risk for money laundering, terrorist financing, or tax evasion, and should therefore not be subject to the reporting requirements of 31 C.F.R. § 103.22. To support our position, listed below are reasons why MotorCity Casino objects to FinCEN’s proposed modification as well as our request for your consideration that FinCEN not amend the definition of “cash in” such that it revokes and/or amends FinCEN Ruling 2005-1:

- Our current Slot Accounting and Player Tracking systems do not separately report cash buy-ins by players at slot machines. Rather, these systems report a figure referred to as “coin in,” which is electronic credits accumulated on a slot machine’s credit meter as a consequence of the following occurrences at the slot machine: (i)

insertion of tokens in the machine; (ii) insertion of currency in the machine; (iii) transfer of points or credits electronically from the player's slot club account; and (iv) calculation of credits won as the result of a wager. The last component – calculation of credits won as the result of a wager – accounts for roughly two thirds of the “coin in” amount. We would also like to note, although this is not currently applicable for MotorCity Casino, the insertion of tickets in a slot machine also attribute to electronic credits being accumulated on a slot machine's credit meter.

Theoretically, “cash in” and “cash out” data could be extracted from our software system, but only with extensive re-programming. Our slot machine “cash in” and “cash out” data is not tracked by player. To the extent the data exists, it exists only for “carded” play and in a separate “event” reporting module that is not used for accounting or player tracking purposes. This module tracks separately and chronologically, for each individual slot machine, the enormous number of events taking place at the slot machine. Accordingly, the “cash in” and “cash out” data are commingled with all other events that occur with respect to each individual slot machine, including each of the following, in order in which it occurs: *jackpot pending; machine door opened; employee card inserted; machine powered on/off*; etc. Due to the volume of this data, the data is only retained temporarily, for use in the resolution of patron disputes, correction of machine malfunctions, etc. Extracting “cash in” and “cash out” data from this module and attributing it to individual patrons thus is not currently feasible. (MotorCity Casino also inquired of our slot software system manufacturer, and they confirmed that they do not have a product that separately reports cash buy-ins by players at slot machines; this would need to be developed.)

- Given that FinCEN has acknowledged that slot jackpot payments are “not likely to form part of a scheme to launder funds through the casino”, it would seem that the same logic should apply to members of casino slot clubs who have identified themselves when applying for membership. Providing you with this information, even if it were readily available, does not have a high degree of usefulness in criminal, tax, and regulatory matters as money launderers will most likely attempt to conduct their activity anonymously without the use of a player's card. Making use of a player's card without actually wagering the currency inserted into a slot machine yields the customer no benefit because player incentives (e.g., comps, etc.) are based on wagers, not on physical currency transactions. Not to mention that there is high probability, based on our experience, that some patrons will share their player's card with other individuals (e.g., spouse, family members, etc.) which reduces the reliability of any cash in reports generated based on “carded play” at slot machines.

As described above, our current Slot Accounting and Player Tracking systems do not track “uncarded” play. (At MotorCity Casino, approximately 40% of all slot play takes place with no player's card inserted in the EGD and is therefore, not attributable to any individual by the computerized systems mentioned in Part VI of FinCEN's March 21, 2006, proposed amendments.) Should this amendment be adopted as currently proposed it would result in a significant negative financial impact on our business by discouraging legitimate rated players from using their cards while having absolutely no effect on identifying money laundering by unrated players. Player data collected at slot machines, via card usage, is considered to be among any casino's primary assets.

- MotorCity Casino strongly believes that we as well as other casinos have other physical and configurable constraints that prevent money launderers from exploiting the “anonymity” advantage of laundering currency through a slot machine. Examples of some of these are as follows:
 - Laundering currency through the bill validator of a slot machine would be extremely time consuming – bills have to be inserted one at a time;
 - Bills in poor condition are frequently rejected from bill validators;
 - The cash box in a slot machine has limited capacity to accept bills;
 - Casino staff in the Slot Department are trained to be alert for “fast feeding” of bills into slot machines with no play and report this type of activity on a Suspicious Activity Report – Casino (SARC – FinCEN Form 102)

Within Part VI *Regulatory Flexibility Act* of FinCEN’s proposed rules, FinCEN certifies that this change “will not have a significant economic impact on a substantial number of small entities” and that the requirements of the proposed amendments to 31 C.F.R. § 103.22(b)(2)(i)(E) and 31 C.F.R. § 103.22(b)(2)(i)(I) may be satisfied by using existing business practices and records. As indicated above, this change not only has the potential to impact MotorCity Casino’s revenue significantly, our Slot Accounting and Player Tracking systems do not have the capability to attribute currency inserted into a bill validator by “uncarded” players at slot machines to specific individuals.

4. *Tickets and other gaming instruments - 103.22 (b) (2) (ii) (A).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(ii)(A) to delete the phrase “and plaques” and insert the phrase “tickets and other gaming instruments” for “cash out” transactions. We agree that a revised term will be more inclusive to capture the intent of reporting cash transactions. However, we would also like to note, although this is not currently applicable for MCC, most slot systems do not track tickets to a specific player account when the credits are cashed out of a slot machine. Therefore, it is our position that casinos would have to continue to use thresholds consistent with their MTL reporting of “cash out” (e.g., redemptions of chips and tokens, etc.) when redeeming tickets.
5. *Payments based on receipt of funds through wire transfers - 103.22 (b) (2) (ii) (F).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(ii)(F) pertaining to payments in currency by a casino to a customer based on receipt of funds through a wire transfer to delete the reference to credit to a customer. We agree that the omission would make this section clearer.
6. *Travel and complimentary expenses and gaming incentives - 103.22 (b) (2) (ii) (I).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(ii)(I) to clarify the types of reportable “cash out” transactions under this provision. Specifically, FinCEN is proposing to replace the word “entertainment” with the term “complimentary” for expenses, and to add the phrase “gaming incentives” which would mean that “travel and complimentary expenses and gaming incentives” would be reportable as currency

transactions. While we agree that these would properly be examples of “cash out” transactions, similar to our rationale explained elsewhere herein, these types of transactions would not be utilized as a scheme to launder money, evade taxes or finance terrorism. Reimbursement of travel and complimentary expenses according to general accounting practice would only be made after the casino receives the appropriate receipts evidencing the expense to be reimbursed. Further, cash payments as a gaming incentive program are based on documented programs that in many cases are regulated. The payments made are based on a certain amount of reinvestment that the casino has determined it needs to spend in order to be competitive in the marketplace. As mentioned above, it is our belief that these types of transactions would not be utilized as part of a scheme to launder funds or evade taxes, nor does it seem that these transactions would have a high degree of usefulness in criminal, tax, or regulatory matters. Rather than being added as examples, we believe that these transactions should be excluded from 31 C.F.R. § 103.22(b)(2)(ii)(I).

7. *Tournaments, contests or promotions - 103.22 (b) (2) (ii) (I).* FinCEN is proposing to amend 31 C.F.R. § 103.22(b)(2)(ii)(I) by adding payments for tournaments, contests, or other promotions as types of “cash out” transactions. While we agree that cash payments made for tournaments, contests or promotions are “cash out” transactions, we believe that these payments are not likely to form and/or assist in a scheme to launder funds, evade taxes or finance terrorism. Further, we also believe that these transactions would not have a high degree of usefulness in criminal, tax or regulatory matters. Like jackpots, most of these transactions are awarded randomly. Any individual that receives in excess of \$600 annually in these types of payments will receive an IRS Form 1099, thereby creating an audit trail for these transactions and mitigating the risk of money laundering and/or tax evasion. Therefore, we argue that these types of payments should be excluded as “cash out” transactions. Moreover, it is our position that amounts less than \$600 are *de minimus* in the overall effort to track money laundering, tax evasion or terrorist financing.

Based on the above points, MCC respectfully requests your consideration to adopt our position, as summarized above, with respect to FinCEN’s proposed amendments and **not** amend the definition of “cash in” such that it revokes and/or amends FinCEN Ruling 2005-1.

If you have any questions, or need further clarification regarding our comments and/or position, please do not hesitate to contact me, as I welcome any type of opportunity to meet with you.

Respectfully,

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