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Governor

STATE OF NEVADA
GAMING CONTROL BOARD

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May 17, 2006

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Robert W. Werner, Director
FinCEN, Department of the Treasury
P.O. Box 39
Vienna, VA 22183

Re: Regulatory Information Number 1506-AA84

Dear Mr. Werner:

The Nevada State Gaming Control Board (Board) has reviewed the Federal Register notice, dated March 21, 2006, regarding proposed amendments to Bank Secrecy Act (BSA) regulations, specifically to 31 CFR 103.22(b)(2) (collectively, Proposed Amendments). The Proposed Amendments would (1) require casinos to report certain types of cash transactions and (2) exempt from reporting other types of cash transactions. The following are the Board's comments to the Proposed Amendments.

Inclusion of Table Game Cash Bets Won by the Casino Patron as Reportable Transactions - 31 CFR 103.22(b)(2)(i)(E)

The current BSA regulations list "bets of currency" as reportable transactions. Cash table game bets lost by patrons are currently reported on a currency transaction report (CTR) under this category. One of the Proposed Amendments would also make bets reportable when the patron wins the bet.

The federal notice states:

"A 'transaction in currency' includes any transaction involving the physical transfer of currency to a casino. A 'bet of currency' is listed as an example of a transaction in currency involving cash in. Therefore, a wager of currency on table game play represents a 'bet of currency' – and a

transaction in currency involving cash in – regardless of whether the customer wins or loses the wager.”

The Board has held the position for over 20 years that the cash does not physically transfer to the casino unless the cash is dropped in the table games drop box, in other words, when the patron loses and the money becomes included in the casino’s gaming revenue.

When a patron places cash on a table game for a bet and wins the bet, the patron will then receive back the same cash and receive chips for the amount of win. It is illogical for a CTR to be completed for a patron winning a cash bet on a table game where the essence of the transaction is that the patron receives back his own cash. Further, if the patron places a cash bet, wins, takes back the cash and receives winnings in the form of chips, under the presented philosophy, this would be both a cash-in transaction and a cash-out transaction, requiring completion of two CTRs.

Additionally, the federal notice did not address some of the issues raised in FinCEN’s March 24, 2006 Administrative Ruling FIN-2006-R002, which was issued three days after the proposed regulations were published and deals with this same topic. For aggregated money play transactions, CTRs will be completed when the patron never had more than \$10,000 in currency. Since a patron making cash bets receives back the cash every time he wins, a patron with a small amount of cash, say \$4,000, could re-bet the same physical cash a number of times and, in aggregate, exceed \$10,000 in cash bets. A CTR on such activity would reflect betting activity over \$10,000 when the patron only brought \$4,000 in currency to the casino.

Further, the Board believes there is little regulatory benefit in the Proposed Amendments that would justify the additional burden involved in tracking transactions that are not reflected in current records. Some casinos have indicated to the Board that they may decide to eliminate all money play activity due to difficulty in tracking the activity and anecdotally indicated that this could have a negative effect on state gaming revenue and public relations since some patrons enjoy wagering with cash instead of chips.

Finally, a casino patron receiving the same exact cash he wagered is not a money laundering or terrorist financing transaction by itself. Also, the reporting of such activity does not serve any regulatory benefit in that the reports reflect cash not retained by the casino. Table game cash bets won by the casino patron should not be a reportable transaction.

Inclusion of Bills Inserted into Electronic Gaming Devices as Reportable Transactions

The current BSA regulation lists "bets of currency" as reportable transactions. If a patron places \$1,000 cash in a slot machine bill validator, the patron then has "credits" on the slot machine. The patron is then able to wager such credits. The cash inserted into the machine is not actually wagered. The proposed amendment to 31 CFR 103.22(b)(2)(i)(I) proposes to modify reportable cash-in transactions to specifically include "bills inserted into electronic gaming devices."

The federal notice states:

"The insertion of currency into a slot machine or a video lottery terminal (which are electronic gaming devices), regardless of whether a customer wagers the currency, involves the physical transfer of currency to a casino. In the absence of a wager, the transaction is analogous to the purchase of a token or chip with currency, as the customer exchanges currency for a: (i) Token to wager at a slot machine or video lottery terminal, or (ii) chip to wager at a table game. The purchase of a token (or chip) with currency is a transaction in currency involving cash in. Likewise, the insertion of currency into a slot machine or video lottery terminal is a transaction in currency, even in the absence of a wager."

Unlike table games money plays, we agree that the funds physically transfer to the casino once the bills are inserted into a slot machine bill validator and thus a cash-in transaction has occurred. However, there are several concerns with this potential reporting requirement and the Board believes it is unnecessary to make this transaction type reportable.

When a casino patron inserts cash into the slot machine bill validator, wagers or does not wager, the patron will receive a ticket (gaming instrument) from the slot machine for the slot machine credits on the machine. The redemption of such tickets for cash is already reportable on a CTR. There is little risk for money laundering and terrorist financing when a patron expends slot machine credits by making wagers where the slot machine credits that were the result of cash inserted into a slot machine bill validator. The CTRs generated for such cash-in transactions provide very little additional usefulness in criminal, tax, and regulatory matters.

Rather, the concern is greater when the patron inserts cash into the slot machine bill validator and receives a ticket (gaming instrument) from the slot

machine without wagering or with very minimal wagering activity. Here the patron is either layering transactions to make the activity at the casino appear to be "gaming winnings" or converting cash to another means (e.g., tickets). But, in such instances, besides the redemption of such tickets for currency being reportable on a CTR, the current SARC requirements apply. Therefore, the high risk transactions are associated with the redemption of tickets, for cash or check, and again these are covered by the existing BSA requirements.

Currently, Nevada Slot Machine Technical Standards require that if \$3,000 is inserted into the slot machine bill validator and the patron has not placed a wager the device must be automatically disabled. This requirement (and similar ones in other jurisdictions) is designed to deter and prevent such activity.

Technology in the slot area, though ever changing, is not deployed in a widespread manner in the area of tracking bill-in data related to a specific player. Player tracking systems have patron identification information, other computerized systems will have bill-in data, but currently the information is not merged into a readable report to provide information as to how much currency was inserted into slot machine bill validators by each casino patron.

Further, slot player tracking systems are dependant on casino patrons inserting a "player card" into the slot machine. Player cards are issued in conjunction with slot clubs (clubs where patrons typically earn points for wagers made, with the points being redeemable for complimentary items) but are not required for slot machine play in Nevada. If a patron forgets to insert their player card into the slot machine or chooses to insert their player card after inserting bills into the slot machine bill validator, then the cash activity will not be associated with the patron. CTRs on such activity would be useless. Moreover, a money launderer or a terrorist would probably choose to not identify themselves by having a player card inserted into a slot machine, especially when it is not required, if they were attempting to convert currency to tickets through a slot machine.

Based upon the above, the addition of this reporting requirement appears unnecessary. However, if the requirement is retained the Board is interested in what FinCEN's expectations are for compliance, specifically how FinCEN's Ruling 2005-1 dated February 7, 2005, which deals with this same topic, relates to this proposed requirement. It would also be helpful to have further explanation as to FinCEN's expectations regarding multiple transactions, recordkeeping requirements, anti-money laundering programs and suspicious activity reporting compliance with regards to cash inserted into slot machine bill validators.

For this area, the Board suggests that FinCEN consider implementing limitations on the knowledge of transactions to "contemporaneous knowledge." This would mean that the transaction is reportable if an employee is aware of the activity as it is happening. This would mitigate many of the noted concerns.

Elimination of Slot Jackpots as Reportable Transactions

The Board supports excluding slot jackpots from the reporting requirements for cash out transactions. The Board has long recognized that these are low risk transactions for money laundering. Although in the future the information regarding slot jackpots will not be part of the currency transaction report database, law enforcement should not be hampered with this exclusion. Law enforcement should be able to obtain slot jackpot information from a casino due to the federal income tax forms (IRS Form W-2G) filed on slot jackpots of \$1,200 or more.

Elimination of Certain Transactions as Reportable Transactions

The Board supports excluding from the reporting requirements for cash transactions certain transactions that are common place within the gaming industry but pose very little risk of money laundering or terrorist financing and, especially, those that are reportable under the BSA by the other party of the transaction. Included in FinCEN's proposal are two such transaction types, specifically, transactions between the casino and a currency dealer or exchanger, and between the casino and a check casher. We suggest that this list be expanded to also exclude from the reporting requirements the following transaction types:

- Cash transactions between the casino and a wire transfer company pursuant to a contractual or other arrangement with the casino to offer financial services to the casino's patrons.

Some casinos have wire transfer company outlets on the casino's property for the casino patrons' convenience. Cash transactions between the casino and the wire transfer company are reportable by the wire transfer company. Therefore, the reporting by the casino of such transactions is considered duplicative and does not serve a high degree of usefulness in criminal, tax, and regulatory matters.

- Cash transactions between casinos arising out of the ordinary course of business.

Many casinos conduct transactions with neighboring casinos especially on busy weekends or after hours when banks are closed. There is nothing unusual about a casino needing a few extra \$100 bills on a busy Saturday night. Further, these casinos in many instances are related parties or sister corporations. Similar to BSA regulations which provide transactions between banks are not reportable, transactions between casinos should also be excluded. The reporting of such cash transactions, often related party business transactions, do not serve a high degree of usefulness in criminal, tax, and regulatory matters.

The Board also offers the following with regards to the specific wording used in proposed 31 CFR 103.22(b)(iii):

- There is a reference to "§§102.22(b)(2)" that should be corrected to "§§103.22(b)(2)".
- Paragraph A includes the phrase "arrangement with a casino covering financial services in §§103.22(b)(2)(i)(H), 103.22(b)(2)(ii)(G) and 103.22(b)(2)(ii)(H)". The inclusion of these citations is unnecessary and confusing. For example, a check casher (who qualifies as an MSB and subject to BSA regulations) that also performs other financial transactions for casino patrons besides check cashing, such as selling gift cards (stored value cards), should still qualify for the exemption. The fact that the check casher is a MSB, is subject to BSA regulations and has an arrangement with the casino is what matters. A revision to "arrangement with a casino to offer financial services" without specific references to sections of the regulations would be more inclusive.

Other Technical Amendments

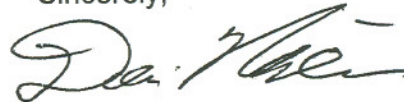
The Board does not have any comments on the other proposed technical amendments.

The Gaming Control Board supports FinCEN's efforts to exclude certain transactions from the reporting requirements. However, the Board does not support the inclusion of table game cash bets won by the casino patron and bills inserted into electronic gaming devices as reportable transactions as these two requirements would impose additional burdens without any meaningful regulatory benefit, especially given that the associated cash-out transactions are already reportable under existing BSA regulations.

Robert W. Werner
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Should you have any questions regarding these comments, please contact me or Chief Auditor Gregory Gale at (702) 486-2060.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis K. Neilander", written in a cursive style.

Dennis K. Neilander
Chairman

DKN/KG

Sent by electronic mail to: regcomments@fincen.treas.gov

cc: Bobby L. Siller, Board Member
Mark A. Clayton, Board Member
Gregory Gale, Chief Auditor
Michael Wilson, Chief Deputy Attorney General – Gaming Division
Records & Research Services