



## **U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS**

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### **DEPUTY ASSISTANT SECRETARY VALERIE ABEND TESTIMONY ON IMPLEMENTATION OF REGULATIONS REQUIRED BY THE UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT OF 2006**

**WASHINGTON** — Mr. Chairman, Ranking Member Paul, and Members of the Subcommittee, it is my privilege to appear before you today to discuss the Unlawful Internet Gambling Enforcement Act of 2006 (the "Act").

#### **Proposed Rulemaking**

The Act was fashioned to require payment systems to interdict the flow of funds from gamblers to businesses providing unlawful internet gambling services. To accomplish this, the Act requires the Treasury Department and the Federal Reserve Board, in consultation with the Justice Department, to jointly prescribe regulations requiring participants in designated payment systems to establish policies and procedures that are reasonably designed to prevent or prohibit such funding flows. It also requires that payment systems, or portions of payment systems, be exempted in situations in which it would not be reasonably practical for payment systems to prevent or prohibit unlawful internet gambling transactions.

On October 4, 2007 the Treasury Department and the Federal Reserve Board, after consultation with the Justice Department, published a Notice of Proposed Rulemaking seeking public comment. Our goal when writing this proposed rule was to faithfully adhere to the mandates set forth by Congress in the Act. The comment period ended on December 12, 2007.

We received more than 200 comments from a diverse group of interests, including entities potentially subject to the proposed regulations, individuals and groups supportive of internet gambling, individuals and groups opposed to internet gambling, as well as others.

We are currently reviewing each comment closely, and analyzing the issues presented. Many comments present more than a single issue, and certain issues require additional research into operations of various parts of payment systems, or into existing law relevant to the comment provided.

Some of the comments address the meaning of statutory definitions provided by Congress, the applicability of requirements to specific portions of designated payment systems, and the impacts this proposed regulation could have in the event it were to be finalized as proposed.

Crafting such a joint rulemaking requires extensive coordination. We are working jointly with the Federal Reserve Board in consultation with the Justice Department. We have been impressed with the quality of the comments provided, and with the effort and expertise employed in the development of many of these comments.

An over-arching goal for our efforts has been to closely adhere to the statutory instructions provided to us by the Congress. The Act requires designation of payment systems that could be used in connection with unlawful internet gambling. Such a designation makes the payment system, and financial providers participating in the system, subject to the requirements of the regulations. The proposed rule designated the following 5 payment systems:

- Automated Clearing House Systems
- Card Systems (e.g., credit cards, debit cards, as well as stored value products)
- Check Collection Systems
- Money Transmitting Businesses
- Wire Transfer Systems (i.e., CHIPS)

The Act requires us to exempt certain restricted transactions or designated payment systems from any requirement imposed by the regulations if the Treasury Department and the Federal Reserve Board jointly determine that it is not reasonably practical for participants to prevent or prohibit unlawful internet gambling transactions. However, the proposed rule does propose to partially exempt certain participants within some of the designated payment systems from having to establish reasonably designed policies and procedures. The Treasury and the Federal Reserve Board determined that this was the most appropriate way to implement the Act while retaining fidelity to the intent of Congress.

Under the proposed rule, the gambling *business's* bank (or, if abroad, the first U.S. bank dealing with that bank) would not be exempted because it could, through reasonable due diligence, ascertain the nature of its customer's business and ensure that the customer relationship is not used to receive unlawful internet gambling transactions. The proposed exemptions generally extend to the gambler's bank. For example, in the case of checks, the check collection system is highly automated and it is not reasonably practical for the gambler's bank to know whether a check presented to it for payment involves unlawful internet gambling. However, the proposed rule provides that the gambling business's bank (or, if abroad, the first U.S. bank to receive the check) would need to have reasonably designed policies and procedures to prevent or prohibit unlawful internet gambling transactions involving these checks. In the situation where the bank of the gambling business is located abroad, the proposed requirements focus on the bank in the United States that has a corresponding relationship with the gambling business's bank.

The Act further requires us to provide nonexclusive examples of policies and procedures, which would be deemed "reasonably designed" to prevent or prohibit unlawful internet gambling transactions. As a result, this proposed rule contains a "safe harbor" provision, as mandated by the Act, that includes for each designated payment system nonexclusive examples of reasonably designed policies and procedures.

## **Conclusion**

The Treasury, working closely and collaboratively with our colleagues at the Federal Reserve Board, is making progress in reaching our statutory mandate to promulgate a final rule that strictly adheres to the Act. No final decisions have been made regarding any aspect of the final rule or the comments provided, and we are still considering all aspects of the proposed rule. When we publish the final rule we will, of course, provide an analysis of the comments received, and the reasons for any decisions. We are committed to giving fair consideration to all relevant comments as we are working toward promulgation of a final rule. We have benefited from the knowledge and efforts of our colleagues at the Federal Reserve Board and the Justice Department, as we have proceeded in our consideration and analysis. Thank you, I would be happy to answer your questions.