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December 12, 2007

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Re: **FRB** Docket No. R-1298; **Treasury** Docket No. DO-2007-0015;
Prohibition on Funding of Unlawful Internet Gambling; 72 [Federal
Register](#) 56680; October 4, 2007

Ladies and Gentlemen:

The American Bankers Association (ABA)¹ appreciates the opportunity to comment on the Prohibition on Funding of Unlawful Internet Gambling (Prohibition) issued by the Federal Reserve Board and the Department of Treasury (Agencies). As discussed in more detail below, ABA recognizes and appreciates the efforts of the Agencies to implement the Unlawful Internet Gambling Enforcement Act of 2006 (the Act or UIGEA) in a workable manner that limits the regulatory burdens associated with pursuing the statutory mandate. However, ABA believes that the proposal, in large part due to the nature of the statute itself, will fail to create a practical process for intercepting prohibited conduct that maintains an efficiently functioning payments system. ABA urges several changes or clarifications to the proposal to enable banks to execute some form of feasible program. Nevertheless, we believe that UIGEA will in the end catch more banks in a compliance trap and do greater damage to the competitiveness of the American payments system, than it will stop gambling enterprises from profiting on illegal wagering.

¹ The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$12.7 trillion in assets and employ over 2 million men and women.

Summary of Comments

ABA applauds the Agencies for establishing two fundamental limits in implementing UIGEA: first, “proposing to exempt all participants in the ACH, check collection and wire transfer systems, except for the participant that possesses the customer relationships with the Internet gambling business,” and second, considering as sufficient compliance the establishment of reasonable procedures and policies *restricted to commercial customers* of any non-exempt participants in any designated payment system. Furthermore, ABA considers the “over-blocking” safe harbor to provide essential operating latitude for all payments system participants.

Unfortunately, these promising elements are ultimately compromised by the following issues: (1) the definition of unlawful Internet gambling in the Prohibition leaves the vague definition of the Act uncured and therefore renders compliance virtually impossible; (2) the intractable problem of identifying or intercepting cross-border gambling activities and tainted correspondent relationships has not been adequately solved by the proposal; and (3) the uncertain standard for knowledge that triggers blocking is too indefinite to be practically operative. We provide suggestions on how to address each of these issues, at least to some degree, and offer several additional comments to improve the prospects for effective implementation.

Background

ABA members are well aware that with the promise of web-based commerce come new complexities and vulnerabilities. Not surprisingly, prosecuting unlawful Internet gambling poses numerous law enforcement challenges. However, we maintain that the UIGEA is a fundamentally flawed response to those challenges.

ABA members have invested enormous resources in fulfilling their general obligation to report criminal or otherwise suspicious activity under the Bank Secrecy Act and anti-money laundering laws. These efforts to maintain the integrity of the financial system demonstrate that banks are dedicated partners in combating all forms of financial crime. But the UIGEA takes banks beyond the role of reporting *potentially or allegedly* illegitimate financial activity, and makes banks and other financial institutions, police, prosecutors, judges, and executing marshals in place of real law enforcement officers when it comes to one of the most elusive of modern crimes, namely, unlawful Internet gambling.

We are saddled with this exceptional burden as the Act says “because traditional law enforcement mechanisms are often inadequate for enforcing gambling prohibitions or regulations on the Internet, especially where such gambling crosses State or national borders.” In other words, in the view of the drafters of the legislation, all the sophistication of the FBI, Secret Service, and other police computerized detection systems and investigative expertise devoted to fighting terrorism and financial crime are inadequate to the task of apprehending the unlawful gambling business or confiscating its revenues. ABA believes that punting this obligation to the participants in the U.S.

payment system is an unprecedented delegation of governmental responsibility with no prospect of practical success in exchange for all the burden it imposes.

While the Agencies have succeeded in addressing some of the shortcomings of the UIGEA, we believe that further changes to the proposal are warranted to make any future regulation somewhat more workable and less burdensome.

Discussion

As a general proposition, ABA supports the Agencies in their efforts to implement the Act² while limiting the burden placed on the payments systems and their participants. Our first three points seek to strengthen beneficial aspects of the Prohibition. The remaining points address deficiencies that persist in the proposal that preclude effective implementation of the Act.

1. The exemption language in the proposed rule should be reinforced to underscore that all participants in the specified payment systems except those with a customer relationship with the Internet gambling business are exempt.

The Agencies have taken great care in responsibly exercising the Act's exemption authority by recognizing the limit of payments system participants to intercede in gambling transactions on a gambler-by-gambler basis. Instead, the focus of the proposal is placed on identifying the unlawful Internet gambling business. Although this is no small task in itself, it is far superior to the alternative of identifying and monitoring individual gambler activity. Consequently, the explanatory language of the Prohibition states that "[t]he Agencies are proposing to exempt all participants in the ACH, check collection, and wire transfer systems, except for the participant that possesses the customer relationship with the Internet gambling business."³ This statement meshes with one of the stated intents of the Act, which is to "exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions."⁴

Upon closer inspection, however, the text of the proposed rule does not exactly match up with the Supplementary Information to the Prohibition. For instance, §____.4 of the proposed rule states that the "participants providing the following functions of a [ACH, check, or wire transfer payments system] are exempt from this regulation's requirements for establishing written policies and procedures"⁵ While functionally this may be the equivalent of "exempt[ing] all participants . . . except the participant that possesses the customer relationship with the Internet gambling business" as outlined in the Supplementary Information, it has the effect of unnecessarily narrowly defining those participants which will be exempt. Additionally, as the payments system evolves

² Unlawful Internet Gambling Enforcement Act, Pub. L. No. 109-347, 120 Stat. 1952 (codified as amended at 31 U.S.C. §§ 5361-5367 (2006)).

³ 72 Fed. Reg. at 56685.

⁴ 31 U.S.C. § 5364(b)(3). This language is mirrored in the Prohibition. See 72 Fed. Reg. at 56685.

⁵ 72 Fed. Reg. at 56697.

and further iterations are developed, this language could potentially pose problems for these new participants, even though the intent to include them as non-exempt institutions may be lacking. ABA therefore recommends that the Agencies rework the text of the proposed rule in §____.4 to make clear that all participants in the ACH, check collection and wire transfer systems are exempt, except for the institution which possesses the customer relationship with the Internet gambling business.

As a further illustration of this drafting problem, the Prohibition narrows the general customer relationship exemption for ACH, check and wire transfers in cases involving cross-border transactions. Although the only bank with a customer relationship with the Internet gambling business is a foreign bank, the domestic payment system participant acting as an extension of the gambler's bank suddenly becomes a non-exempt participant when directly engaging with a foreign correspondent bank in a restricted transaction. For all the reasons this is not feasible in a domestic banking transaction, such an arrangement is not feasible cross-border. Only the bank with the customer relationship with the Internet gambling business can practically access sufficient information to identify the circumstances giving rise to a judgment about a restricted transaction.

The fact that U.S. authority does not reach such foreign banks does not alter the practical position in which U.S. banks find themselves for purposes of qualifying for the exemption. At the end of the analysis, the statutory standard for applying an exemption is whether the Agencies find that it is not reasonably practical for a participant to identify and block restricted transactions. For the reasons recited in the proposal with respect to the limits of ACH, check collection and wire transfers, participants without the direct customer relationship with the Internet gambling business at home or abroad must be exempt from requirements for establishing policies and procedures to identify and block restricted transactions.

2. ABA urges the Agencies to clarify the Prohibition to confirm that compliance by all non-exempt participants in any designated systems can always be satisfied through procedures limited to commercial customers or merchants acting in the capacity of Internet gambling businesses.

The Supplementary Information to the Prohibition states that the responsibility for adopting policies and procedures reasonably designed to prevent or prohibit restricted transactions for non-exempt participants in the system should “address methods for conducting due diligence in establishing and maintaining a *commercial customer relationship* designed to ensure that the *commercial customer does not originate or receive restricted transactions* through the customer relationship.”⁶ This language in the Supplementary Information is paralleled in the recitation of reasonable policies in proposed section _____.6 for each of the designated payment systems. While ABA is confident that the Agencies have intended that procedures need not monitor non-commercial consumers (e.g., the gambler), we urge that the final Prohibition make crystal clear that compliance can be fully demonstrated based on procedures limited to

⁶ 72 Fed. Reg. at 56688 (emphasis added).

commercial customers complicit in the restricted transactions as an unlawful Internet gambling business.

3. Preservation of the “over-blocking” provisions of the Prohibition is essential to workability for financial institutions.

While the Prohibition only requires policies and procedures to identify and block transactions related to unlawful Internet gambling, § ____ .5 of the Prohibition contains a “safe harbor” provision for financial institutions that block a transaction that is: (1) a restricted transaction; (2) reasonably believed to be a restricted transaction; or (3) blocked out of reliance on the policies and procedures of a designated payment system.⁷ More importantly though, the Prohibition allows for financial institutions to refuse to process any gambling transactions, “including those transactions excluded from the Act’s definition of unlawful Internet gambling, if a system or participant decides for business reasons not to process such transactions.”⁸ This allowance combined with the so-called “over-blocking” provision serves an important purpose in granting financial institutions the ability effectively to tailor their policies and procedures to fit their unique risk management profiles and their own business strategies. The freedom banks have today to refuse to process gambling transactions was not intended to be impaired by the Act—and the Agencies rightly conclude that the Act affords them no authority to compel the processing of lawful gambling transactions.⁹

ABA believes that allowing financial institutions the flexibility to determine for themselves whether to refuse to process any gambling transactions, or to block only those that are deemed to involve “unlawful Internet gambling,” is essential to providing a workable rule. ABA concurs with the Agencies’ statement that they may not compel financial institutions to process gambling transactions and believes that any final rule should make this point clear. However, ABA is concerned that the “safe harbor” provisions contained in § ____ .5 of the Prohibition may not adequately communicate that elective refusal to process is permissible. ABA requests that the text of the “safe harbor” provision contained in § ____ .5 be amended to include an explicit statement affirming the ability of payments systems and their participants to refuse to process any gambling transactions for their own business reasons or discretion.

Even if the steps recommended above are adopted, the regime proposed remains unworkable for the following reasons.

4. The definition of what constitutes “unlawful Internet gambling” is inadequate. It must be rectified.

The Agencies need to cure the impossibly vague scope of what is meant by “unlawful Internet gambling.” As drafted, § ____ 2(t) of the Prohibition perpetuates the uncertain breadth of the Act. All of the complicating cross-jurisdictional problems in specifying what is unlawful versus what is lawful Internet gambling persist. All the basic proof problems that have plagued law enforcement prosecution have been automatically

⁷ 72 Fed. Reg. at 56698.

⁸ Id. at 56688.

⁹ Id. at footnote 15.

imposed by the Act, and now the Prohibition, upon the participants in the payments system. All of the hurdles that the Agencies have identified in connection with a government obligation to create a list of unlawful Internet gambling businesses are left to each and every U.S. bank individually to clear, including “ensur[ing] that the particular business was, in fact, engaged in activities deemed to be unlawful Internet gambling...requir[ing] significant investigation and legal analysis ... complicated by the fact that the legality of a particular Internet gambling transaction might change depending on the location of the gambler at the time the transaction was initiated, and the location where the bet or wager was received.”¹⁰

The Prohibition does not specify which transactions qualify as “unlawful Internet gambling.” Instead, the Prohibition looks to “underlying substantive State and Federal gambling laws and not . . . a general regulatory definition” to determine the scope of what unlawful Internet gambling comprises.¹¹ ABA believes that requiring banks to be arbiters of gambling laws for all states, as well as federal gambling laws, is infeasible and would place a crippling processing burden and unbounded litigation risk on the nation’s payments system participants.

Furthermore, the conflict between the Department of Justice and the Agencies on the scope of “unlawful Internet gambling” sows added confusion over what transactions are indeed subject to the Prohibition.¹² By its terms, the Prohibition “exempts three categories of transactions” from what “unlawful Internet gambling” appears to be: (1) intrastate transactions; (2) intra-tribal transactions; and (3) interstate horseracing transactions.¹³ Additionally, according to the Department of the Treasury, “[s]ince the proposed rule only covers “unlawful internet gambling,” it in no way requires participants to prevent or prohibit transactions that are lawful under the Interstate Horseracing Act and all other applicable federal statutes.”¹⁴ However, the Department of Justice “interprets existing federal statutes . . . as pertaining to and prohibiting Internet gambling. These statutes pertain to more than simply sports wagering.”¹⁵ Since the Department of Justice “has consistently taken the position that the interstate transmission of bets and wagers, *including bets and wagers on horse races*, violates Federal law . . . ,”¹⁶ no clear authority exists as to which interpretation banks should follow when implementing the Prohibition. If the federal agencies themselves cannot agree on the law, what hope is there that banks can resolve these confounding legal issues?

¹⁰ Id. at 56690.

¹¹ Prohibition on Funding of Unlawful Internet Gambling, 72 Fed. Reg. 56680, 56682 (Oct. 4, 2007) (to be codified at 12 C.F.R. § 233 and 31 C.F.R. § 132).

¹² Most recently, this disagreement was evidenced on November 14, 2007, by representatives of the Department of the Treasury and Department of Justice before the House Judiciary Committee’s hearing on establishing consistent enforcement policies in the context of online wagers. See <http://judiciary.house.gov/oversight.aspx?ID=396>.

¹³ 72 Fed. Reg. at 56861, n. 1.

¹⁴ Valerie Abend, Deputy Assistant Secretary, U.S. Dep’t of the Treasury, Statement before the U.S. House of Representatives Comm. on the Judiciary (Nov. 14, 2007).

¹⁵ Catherine L. Hanaway, U.S. Dep’t of Justice, Statement before the U.S. House of Representatives Comm. on the Judiciary (Nov. 14, 2007).

¹⁶ 72 Fed. Reg. at 56682, n. 1 (emphasis added).

It is one thing for banks to report suspicious activity based on legal uncertainty about the criminality of the conduct; it is quite another to require a bank to act on its own judgment about legality and to impose sanctions for such *ex parte* determinations. Given the different entities encompassed by the proposal as participants in the payments system who are deputized with this authority, the Prohibition seems effectively to require vigilante justice empowered by a vague and overbroad delegation of the government's police powers. While ABA believes banks and other payments system participants must retain the operational flexibility to refuse any gambling or otherwise uncertain transactions for compliance or business reasons should they so desire, and without legal liability for doing so, such business judgment latitude does not eliminate the fundamental flaw of the Prohibition in establishing a law enforcement regime predicated on a private sector decree.

Moreover, the definition of "unlawful Internet gambling" is pivotal to the operation of the Prohibition in another way. Without an adequate definition of "unlawful Internet gambling," it is impossible to determine what constitutes an "unlawful Internet gambling business" for purposes of determining the customer relationship. This deficiency goes to the heart of the compliance process; if it is impossible to determine what an "unlawful Internet gambling business" is, it is impossible to determine what participant possesses the customer relationship with such business, and thus it is impossible to implement the terms of the Prohibition.

ABA believes that the flaws in the definition of "unlawful Internet gambling" are fatal to this proposal as a legal, policy and practical matter. A unified, practically workable definition of "unlawful Internet gambling" must be included in the Prohibition. This is such a keystone element of the Prohibition and is currently so thoroughly flawed that a workable rule cannot possibly be issued in final form without re-proposal.

5. The Prohibition's handling of cross-border relationships presents substantial problems for financial institutions and should be revised.

ABA believes that while well-intentioned, the Agencies' efforts at cross-border implementation by requiring U.S. participants to engage foreign correspondent banks in identifying and blocking unlawful Internet gambling-related transactions raises more problems than it solves. First, for the reasons recited earlier U.S. participants have none of the system capabilities that enable them to identify and block restricted transactions conducted vis-à-vis ACH, checks, or wire transfers when they are not the bank with the customer relationship with the Internet gambling business.

Second, the implicit assumption that the correspondent relationship among banks conducting restricted transactions parallels that among banks engaged in transactions that have attributes for money laundering is not warranted. International standards for anti-money laundering and counter terrorism financing controls have been adopted in nearly all international jurisdictions; whereas, there are no similar international control standards for Internet gambling; indeed there is broad international disagreement about the desirability of such controls. Consequently, there is no generally accepted standard upon which a U.S. and a foreign correspondent can practically agree that will provide

assurance that they are implementing reasonable controls to block unlawful cross-border gambling transactions.

Third, the levels of corresponding relationships between the foreign correspondent (that has direct dealings with a U.S. participant) and the ultimate foreign bank that has the gambling business customer relationship may have several intermediate levels. This nesting defies any realistic expectation that a contractual agreement between the U.S. bank and their immediate foreign counterparty will effectively screen out “unlawful Internet gambling” transactions initiated by U.S. gamblers with commercial customers of foreign banks in off-shore jurisdictions.

Fourth, the cross-border system proposed is dependent on the unlikely expertise that a foreign bank will be able to distinguish what is or is not “unlawful” Internet gambling in any of the 50 United States and therefore be in a position to comply with any contractual undertakings with U.S. payment system participants.

Fifth, the proposal fails to consider the issue of when a foreign correspondent’s home country expressly prohibits them from having policies and procedures required by the Prohibition. For instance, if a British bank has policies and procedures to identify and block transactions which qualify as “unlawful Internet gambling” in the U.S., but these same transactions are legal in the U.K., the bank could be subject to litigation or enforcement actions in their own country. Some foreign correspondent banks may be prohibited by their home country laws from adopting policies and procedures to identify such transactions. Likewise, if a foreign correspondent bank fails to comply with the Prohibition, the remedial action of blocking their access to the U.S. payments systems, as provided in § ____.6, seems to be a rather harsh penalty with little likely offsetting benefit. Exposing foreign correspondent banks to such risks seems an unacceptable byproduct of the Prohibition, especially since the institutions likely to be affected are not located in the United States.

The cross-border implementation problems are exacerbated by the fact that unlawful Internet gambling may be legal in a correspondent bank’s jurisdiction, and, as pointed out above, the Prohibition does not adequately define what constitutes unlawful Internet gambling. Thus, even if the foreign correspondent bank is willing and able to implement parts of the Prohibition, a U.S. bank may be unable to provide them with clear directions so that unlawful Internet gambling-related transactions are not inadvertently sent to the U.S. payments systems.

ABA urges the Agencies to exercise their exemption authority to exclude from the scope of the Prohibition international transactions conducted through correspondent relationships.

6. The Prohibition should clarify what exactly the standard is for when a bank “becomes aware” that a commercial customer has received an unlawful Internet gambling-related transaction.

The Prohibition’s § ____.6 contains language indicating that non-exempt institutions must have procedures “if the [institution] becomes aware that the customer has [engaged in]

a restricted transaction.”¹⁷ However, nowhere in the Prohibition or the explanatory language is it made clear what level of knowledge triggers the condition when a financial institution will be found to “become aware” of a restricted transaction. A clear definition of when a bank will “become aware” of a restricted transaction is crucial to enabling banks to comply with the Prohibition.

ABA recommends that the Agencies adopt an “actual knowledge” standard before finding that a bank “becomes aware” that a restricted transaction occurred, and that “actual knowledge” will only be found when facts are made available to a person at the institution who bears responsibility for that transaction or for the institution’s compliance obligations for such transaction. Additionally, the Prohibition should make clear that non-exempt institutions have no duties or liabilities unless they possess actual knowledge of the restricted transaction.

7. Establishment and maintenance of a list of unlawful Internet gambling businesses by the government may be an approach to pursue, but only if certain essential conditions are met.

The Agencies have asked for comment on whether government maintenance of a list of prohibited unlawful Internet gambling businesses is appropriate. As the Agencies indicate in the explanatory language to the Prohibition, establishment and maintenance of a list of unlawful Internet gambling businesses presents several challenges.¹⁸ However, given the alternative of an impossibly vague definition of “unlawful Internet gambling” and the overbroad requirement of intercepting international transactions through correspondent relationships, ABA believes that a government generated list could have some merit, but only if certain essential conditions are met and so long as depository institutions are absolved from other requirements intended to block unlawful gambling transactions.

Of course, ownership and upkeep responsibilities for such a list cannot and must not fall on financial institutions. To place the onus for a list on financial institutions would only exacerbate the Act’s void-for-vagueness delegation flaw, converting it from impossible individual determinations of legality to impossible joint determinations of blacklisting. Actually, there is no way for the industry to generate such a list. Rather, it is the federal government that has the authority and experience in implementing sanction programs as exemplified by the programs collected under the Office of Foreign Assets Control (OFAC).

As part of its consideration of establishing a sanctions list, ABA urges the Agencies to keep in mind the following point: the scope of the list should occupy at least a functionally comprehensive segment of the payments system. For instance a list that leaves to banks an obligation to bar transactions with entities not on the list under additional circumstances would be of very little value. However, for example, a list that comprehensively covers all cross-border wire transfer payments, even if it does not cover other payments systems, is worth considering as a functionally helpful way of

¹⁷ 72 Fed. Reg. at 56698, 56699.

¹⁸ See 72 Fed. Reg. 56690, 56691.

attaining compliance for an identifiable set of restricted transactions within a discrete designated payment system.¹⁹ Of course, such a list must still meet the following essential conditions:

- the listed names are to be searched only against data fields normally recorded in connection with the payment method;
 - non-exempt participants would not have any further identifying or blocking obligations beyond the list with respect to the set of designated payments (e.g., cross-border wire transfers);
 - reasonable policies and procedures for the designated payments would be deemed compliant if limited to checking customers against the list and blocking only transactions with those listed customers; and
 - any list contains only commercial customers (and not individual gamblers.)
8. The description of compliant reasonable policies and procedures can be improved.

Although the Agencies have taken an essential step in accepting as compliant those reasonable policies and procedures limited to commercial customer due diligence, it is important that the final rule underscore the statutory latitude that “permit[s] any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting ...restricted transactions.”²⁰ Comments from many members indicate that the “nonexclusive list” of policies and procedures provided by the Agencies in § ____ .6 of the Prohibition offers too little specificity in determining what the federal banking regulators and their examiners will look for in determining compliance with the Prohibition. Too often, banks have been subject to examiner second-guessing about what are otherwise systemically reasonable procedures based on individual instances of non-detection. ABA is encouraged that the Supplementary Information recognizes that restricted transactions may still come to light after reasonable account opening due diligence.²¹ In other words, finding restricted transactions subsequent to due diligence is not a sign of non-compliance. We urge the Agencies to acknowledge this latitude expressly and to assure that in any future examination procedures the range of permissible institution judgment is underscored.

ABA members are apprehensive about the Agencies’ use of examples of Internet monitoring as possible standards for gauging compliance. Even suggesting that banks should spend their time surfing the Web to identify misuse of payments systems by Internet gambling businesses is prone to establish a *de facto* examination standard. Regulatory compliance must not be based on the technological breadth of the Google search engine. If unlawful Internet gambling businesses are supposed to be identified based on Internet research, ABA proposes that the government conduct that research and translate its findings into a list of identified businesses subject to the conditions previously described.

¹⁹ By describing a hypothetical list tailored to a particular payment system, ABA does not mean that a list covering all payment systems should not be considered or attempted as long as it meets the essential conditions recited above.

²⁰ 31 U.S.C. § 5364(b)(2).

²¹ See, 72 Fed. Reg. 56688-9.

9. Financial Institutions should have a longer period to phase-in the new policies and procedures prior to the effective date.

The Prohibition currently provides for a six month phase-in period before non-exempt payments system participants will be required to “establish policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit transactions in connection with unlawful Internet gambling.”²² Our members believe that this period is much shorter than the time it will reasonably take to develop these policies and procedures. This is especially true given the lack of specificity regarding which policies and procedures are necessary to comply with the Prohibition, as well as the ambiguity regarding their scope due to the uncertainty over which transactions fall within the definition of “unlawful Internet gambling.”

ABA believes that given the uncertainty surrounding several important portions of the Prohibition, the Agencies should provide for a longer phase-in period for the effective date of the Prohibition. ABA believes that a period of no less than 24 months should be provided to comply with the Prohibition’s requirements.

Conclusion

As a general proposition, ABA supports the Agencies in their efforts to define regulations and procedures that would effectively enforce the Act while limiting the burden placed on financial institutions. However, given that there are several points requiring change or clarification, including the essential component -- a definition of what transactions “unlawful Internet gambling” encompasses—several revisions must be made and a new rule proposed for further comment. Even then, major, fundamental flaws must be cured before effective implementation of the UIGEA can even be contemplated.

ABA would be happy to work with the Agencies to modify the proposal. If the Agencies have any questions about these comments, please contact the undersigned at (202) 663-5051 or via e-mail at rriese@aba.com or nfeddis@aba.com .

Sincerely,



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²² Id. at 56680.