Client Alert

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November 19, 2008

Federal Agencies Finalize Gambling Regulations

Areas of Interest

White Collar Defense & Compliance

Financial Services Regulatory & Enforcement

United States

On November 12, 2008, the United States Department of the Treasury and the Board of Governors of the Federal Reserve System finalized the long-awaited regulations (the "Regulations") under the Unlawful Internet Gambling Enforcement Act of 2006 (the "UIGEA"). The UIGEA, passed as part of the Safe Ports Act, prohibits any person in the business of gambling from knowingly accepting payments in connection with unlawful internet gambling. The Regulations are set to take effect on January 19, 2009 — the final day of the current Bush Administration.

At a broad level, the Regulations require that participants in various financial payment systems implement due diligence-based procedures to prevent transactions connected with unlawful internet gambling. With the exception of transactions processed through credit card systems that utilize merchant and transaction coding that enable certain types of transactions to be blocked, a financial institution that maintains a direct relationship (as either beneficiary or originating bank, or as the operator of a money transmittal business) with commercial customers that might be unlawful gambling enterprises is required to institute procedures to identify and block potentially restricted transactions made through automated clearing house systems, check collection systems, money transmittal businesses or wire transfer systems. In this regard, the Regulations place primary compliance responsibility on participants in automated payment processing systems as opposed to the systems operators themselves.

The Regulations take effect on January 19, 2009, and require compliance by December 1, 2009. The extent to which the Regulations may be suspended or overturned is subject to ongoing speculation in light of the changing Administration and the convening of a Congress that may disagree with regulating gaming through financial services intermediaries.

If you have questions concerning the Regulations or online gaming, please contact Thomas M. Durkin at +1 312 701 7997 or Amy Marlyse Burgert at +1 713 238 2667. If you have questions concerning the impact of UIGEA on the regulation of financial institutions, please contact Thomas J. Delaney at +1 202 263 3216 or Alex C. Lakatos at +1 202 263 3312.

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