

## LEGISLATION

### Unlawful Internet Gambling Enforcement Act

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FEATURE

*In banking's increased law enforcement role, banks must be prepared to comply with the*

**Unlawful Internet Gambling Enforcement Act ("UIGEA") by December 1, 2009.**

#### What is the UIGEA?

The UIGEA is a federal law designed to prohibit any person engaged in the business of betting or wagering from knowingly accepting payments in connection with the participation of another person in "Unlawful Internet Gambling." Unlawful internet gambling means placing or receiving a bet or wager using the Internet (at least in part) where the bet or wager is unlawful un-

der any applicable federal or state law in the location where the bet or wager is initiated or received.

#### What does the Final Rule require?

The Final Rule, promulgated by the Treasury and the Federal Reserve, requires financial institutions to implement written policies and procedures addressing unlawful internet gambling. According to the Final Rule, financial institutions must perform due diligence when opening commercial accounts for businesses that may operate as illegal Internet gambling entities. It also requires financial institutions to have policies and procedures in place that are reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions.

#### What steps must financial institutions take when opening a new commercial bank account?

1. At the establishment of the new account or relationship, conduct due diligence to determine whether the new customer presents a minimal risk of engaging in an Internet gambling business.
2. If the risk cannot be immediately determined, obtain certification from the customer that it does not engage in an

Internet gambling business.

3. Or, if the customer does engage in an Internet gambling business, obtain evidence of the customer's legal authority to operate such a business and third-party certification that the customer's systems are reasonably designed to remain within the licensed or otherwise lawful limits, including age and location verification.

#### What policies and procedures are considered reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions?

Where a financial institution has actual knowledge that a commercial customer has originated or received restricted transactions such as ACH transactions, deposited checks that are restricted transactions, or received restricted transactions through the wire transfer system, its procedures are deemed to be reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions if they address: (1) the circumstances under which the financial institution will deny ACH, check or wire transfer services to the commercial customer; and (2) the circumstances

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