

Financial Transaction Providers Needn't Worry Too Much about Complying with UIGEA Rules

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THE UNLAWFUL INTERNET GAMBLING ENFORCEMENT ACT of 2006 (UIGEA),¹ which was attached to an unrelated antiterrorism bill on Sept. 30, 2006, and read by hardly any members of Congress, was ultimately passed and signed into law by President George Bush on Oct. 13, 2006. The major rationale of UIGEA was that if the government could prevent or otherwise block the flow of money from U.S. customers to online gambling operators, then the online gambling businesses would withdraw from the U.S. market because of lack of a viable payment process.

UIGEA required the U.S. Department of the Treasury and the Board of Governors of the Federal Reserve System (the agencies) to adopt regulations to implement the relevant statutory provisions.² On Oct. 4, 2007, the agencies issued proposed regulations, opening a period of public comment. After reviewing about 225 comments, the agencies issued a final rule on Nov. 13, 2008, which became effective on Jan. 19, 2009, the day before President Obama took office. Compliance by financial transaction providers is not required, however, until Dec. 1, 2009.³

Financial transaction providers are unlikely to be overly burdened by these new requirements. The statute and the new rules, while hardly serving as a lawyers' relief act, should provide some opportunity for legal opinions as counsel are asked to identify which sorts of Internet gambling are permissible.

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INTERNET GAMBLING LAW PRIOR TO UIGEA

Despite the enactment of the UIGEA, the most important federal anti-gambling statute is still the Wire Act.⁴ This 1961 statute prohibits anyone "in the business of betting or wagering" from "us[ing] a wire communication or facility" for the following transmissions in interstate or foreign commerce: 1.) bets or wagers, 2.) information assisting in the placing of bets or wagers on any sporting event or contest, 3.) a communication that entitles the recipient to receive money or credit as a result of bets or wagers, or 4.) information assisting in the placing of bets or wagers. Although the Wire Act dates from 1961, it has been held to be fully applicable not only to telephonic communications, but also to newer technologies such as the Internet.⁵

Jay Cohen, who was a partner in World Sports Exchange, a sports gaming operation licensed by Antigua, returned from Antigua to contest a criminal complaint alleging a conspiracy to violate the Wire Act. He was found guilty by a jury and sentenced to 21 months imprisonment. While *United States v. Cohen* established the prohibition of Internet sports betting, the applicability of the Wire Act

¹ Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. §§ 5361–5367.

² 31 U.S.C. § 5364.

³ Prohibition on Funding of Unlawful Internet Gambling, 73 Fed. Reg. 69,382 (Nov. 18, 2008) (to be codified at 12 C.F.R. pt. 233 and 31 C.F.R. pt. 132). The Reasonable Prudence in Regulation Act, H.R. 2266, 111th Cong. (2009), introduced by Rep. Barney Frank (D. Mass.) on May 6, 2009, would extend the deadline to Dec. 1, 2010.

⁴ 18 U.S.C. § 1084.

⁵ See, e.g., *United States v. Cohen*, 260 F.3d 68 (2d Cir. 2001), cert. denied, 536 U.S. 922 (2002).

to other forms of gambling, such as casino-style games, remains unclear.⁶ One federal appellate court has held that the Wire Act does not prohibit nonsports Internet gambling.⁷ The federal government, however, was not a party to that case and is not bound by its holding. Other courts have reached the opposite conclusion.⁸

Although the U.S. Department of Justice (DOJ) has consistently expressed the position that “federal law prohibits gambling over the Internet, including casino-style gambling,”⁹ the DOJ has never completed a successful contested Wire Act prosecution against a nonsports Internet wagering operator, and all highly publicized extraditions and/or arrests of individuals to or in the United States were directly related to sports-betting prosecutions.¹⁰

Most experts have concluded that other pre-UIGEA anti-Internet gambling laws, such as the Illegal Gambling Business Act¹¹ and the Travel Act,¹² would not result in successful Internet gambling prosecutions. In fact, in the one occasion where the DOJ prosecuted an offshore gambling entity on a non-Wire Act prosecution, the results bordered on the farcical.¹³ The DOJ may also file a Racketeer Influenced and Corrupt Organizations Act (RICO) allegation.¹⁴

The DOJ believes all Internet gambling is illegal, including state-licensed interstate wagering such as interactive poker. Moreover, the DOJ alone continues to publically express the position that in-home pari-mutuel interstate wagering violates the Wire Act, despite the seemingly contrary language of the Interstate Horseracing Act, as amended in December 2000.¹⁵ However, in litigation brought by Antigua before the World Trade Organization (WTO), the WTO found the United States to be in violation of the General Agreement on Trade in Services (GATS), specifically because the United States allows domestic interstate interactive horse race wagering while excluding foreign operators.¹⁶

THE STATUS OF ONLINE PAYMENT PROCESSES BEFORE THE UIGEA

Prior to the enactment of UIGEA, almost every major payment processor had taken measures to eliminate or minimize transactions by online gambling operators with U.S. customers. One major statute used by the U.S. government is the anti-money laundering law,¹⁷ as amended by the Patriot Act.¹⁸ This statute was used by the United States to

arrest two Canadian cofounders of Neteller who were in the United States. Neteller had derived approximately two-thirds of its business from transactions with online gambling companies. In January 2007, the cofounders were charged with conspiracy to violate the anti-money laundering statute. The company settled with the United States in July 2007, and agreed to pay \$136 million pursuant to a deferred prosecution agreement.¹⁹ The two cofounders pleaded guilty to a money laundering conspiracy with the understanding that charges would eventually be dropped.²⁰

In July 2003, PayPal also reached a civil settlement with the United States under which it agreed to forfeit \$10 million, representing proceeds from illegal gambling transactions.²¹ PayPal, along with

⁶ See generally, *United States v. Cohen*, 260 F.3d 68.

⁷ *In re Mastercard Int'l Inc. Internet Gambling Litig.*, 313 F.3d 257 (5th Cir. 2002).

⁸ *United States v. Lombardo*, No. 2:07-CR-286 TS, 2007 U.S. Dist. LEXIS 91696 (D. Utah Dec. 13, 2007); *People ex rel. Vacco v. World Interactive Gaming Corp.*, 714 N.Y.S.2d 844 (Sup. Ct. 1999).

⁹ See, e.g., Letter from Laura Parsky, U.S. Deputy Assistant Attorney General, DOJ, to Wayne Stenehjem, North Dakota Attorney General (Mar. 7, 2005), where the Justice Department said interstate state-licensed online poker would be illegal.

¹⁰ For example, Gary Kaplan, an executive of BetonSports, was extradited from the Dominican Republic. David Carruthers, also a BetonSports executive, was arrested when his plane from Great Britain stopped in the United States on its way to Costa Rica. Carruthers pleaded guilty to racketeering conspiracy charges. Peter Dicks was a former non-executive director of Sportingbet and was arrested when he arrived in the US pursuant to a Louisiana extradition warrant that Gov. Pataki refused to enforce. In March 2007, Sportingbet resolved its dispute with Louisiana. *Sportingbet Reaches 'Amicable' Resolution with Louisiana DA*, IGAMINGNEWS, Mar. 21, 2007, <<http://www.igamingnews.com>>.

¹¹ 18 U.S.C. § 1955.

¹² 18 U.S.C. § 1952.

¹³ *United States v. Truesdale*, 152 F.3d 443 (5th Cir. 1998) (reversing appellants' convictions because the prosecutor utilized the wrong statute).

¹⁴ 18 U.S.C. §§ 1961–1968.

¹⁵ 15 U.S.C. §§ 3001–3007.

¹⁶ Report of the Appellate Body, *United States—Measures Affecting the Cross-Border Supply of Gambling and Betting Services* ¶ 373, WT/DS285/AB/R (Apr. 7, 2005).

¹⁷ 18 U.S.C. § 1956, “Laundering of Monetary Instruments.”

¹⁸ 18 U.S.C. § 1956(b)(2), “Jurisdiction over Foreign Persons.”

¹⁹ U.S. DOJ, Neteller plc., Deferred Prosecution Agreement (July 17, 2007).

²⁰ The two pleaded guilty to conspiracy to promote gambling on July 10, 2007.

²¹ PayPal paid \$10 million to the United States pursuant to an admission it had violated the Wire Act. Kevin Smith, *PayPal, DOJ Reach \$10 Million Settlement*, IGAMINGNEWS, July 25, 2003, <<http://www.igamingnews.com>>.

Citibank, had earlier reached a \$200,000 deferred prosecution agreement with New York state, and promised not to accept New York customers.²² In June 2008, Citadel, an electronic payment processor, also agreed to pay \$9.1 million to settle conspiracy charges.²³

Existing money laundering legislation was also used to seize funds of online gaming operators. Bodog, for example, had funds of approximately \$24 million seized in a civil forfeiture.²⁴ Bill Scott, who along with Jay Cohen was one of the 21 individuals indicted in 1998, also had funds seized pursuant to the Fugitive Disentitlement Statute,²⁵ whereby funds could be seized from someone who was avoiding prosecution by remaining outside the United States and was engaged in a money laundering scheme through an unlawful Internet gambling enterprise. In a civil proceeding, the federal district court granted summary judgment to the United States, which was reversed on appeal because the United States could not show Scott remained outside the United States in order to avoid the criminal charge.²⁶

Although the major credit facilities have been eliminated from the U.S. market, it is doubtful whether that has had an impact on U.S. players' ability to wager online. According to a *Washington Post/60 Minutes* investigation: "When Neteller retreated from the US market, Internet poker pro Serge Ravitch simply switched to another firm to handle his account. 'It took two minutes,' . . . Online poker players pay for their bets in a variety of ways, including prepaid debt cards, electronic transfers and bank wires."²⁷

WHAT EXACTLY DID UIGEA PROHIBIT AND LEGALIZE?

It is uncertain whether UIGEA made anything unlawful that was not already illegal. For example, Benham Dayanim, in "Internet Gambling Under Siege,"²⁸ concluded that UIGEA has significantly expanded criminal liability, while I. Nelson Rose, in "Congress Makes Sausages,"²⁹ reached the opposite conclusion. One major issue is whether UIGEA has "federalized" state Internet anti-gambling statutes. Some of these state restrictions might be unconstitutional. One commentator, Mark Dubnoff, persuasively suggests that state anti-Internet gambling laws that criminalize interstate or inter-

national online gambling or wagering "probably violate the constitution's so-called 'dormant commerce clause.'"³⁰

Under UIGEA, 31 U.S.C. § 5363, "No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful internet gambling" any financial transactions. Section 5366 provides criminal penalties "not more than five years" imprisonment for anyone who violates § 5363. A financial transaction provider, pursuant to § 5367, is not liable unless it either operates or owns an Internet gambling site. However, a financial transaction provider that transmits prohibited revenues to unlawful Internet gambling sites might be charged with aiding and abetting.

There are certain specified exemptions in UIGEA. First, a fantasy or simulated sports game or contest is exempt if it does not involve an actual team or individual athletes and the prize is established before the game.³¹ The exemption is still subject to state prohibition in six to 10 states.³² Second, UIGEA prohibits a game that is "subject to chance," which means that skill gambling would not be prohibited at the federal

²² In an "Assurance of Discontinuance," Aug. 11, 2002, PayPal agreed to pay \$200,000 and cease any gaming transactions with New York customers and report any violations of New York and U.S. law. In an "Assurance of Discontinuance," Citibank on June 21, 2002, agreed to stop all U.S. Internet gambling and pay \$100,000 in costs and \$400,000 to compulsive gambling consulting groups.

²³ *ESI Entertainment (part of Citadel) settled with the US Justice Department for \$9.1 million*, IGN, June 9, 2008, <<http://www.igamingnews.com>>.

²⁴ *United States v. \$24,200,195.73 U.S. Currency (JBL Services)*, No. CCB-08-661 (D. Md. verified complaint for forfeiture filed Mar. 4, 2008). The United States also confiscated \$9.9 million from Zip Payments, a Nevada entity. E-Gold also introduced technology to block U.S. players. *Nambling Notes*, IGAMINGNEWS, Feb. 23, 2007, <<http://www.igamingnews.com>>.

²⁵ 28 U.S.C. § 2466.

²⁶ *United States v. \$6,976,934.65 plus interest*, No. 07-5383, 2009 US App. LEXIS 1312 at *24-25 (D. C. Cir. Jan. 27, 2009).

²⁷ Gilbert Gaul, *Prohibition vs. Regulation Debated As US Bettors Use Foreign Sites*, WASH. POST, Dec. 1, 2008, at A1.

²⁸ Behnam Dayanim, *Internet Gambling Under Siege*, 11 GAMING L. REV. 536-50 (2007).

²⁹ I. Nelson Rose, *Congress Makes Sausages*, 11 GAMING L. REV. 1-3 (2007).

³⁰ Mark B. Dubnoff, *State Bans on Internet Gambling May Be Unconstitutional*, 12 GAMING L. REV. & ECON. 207-19, at 207 (2008).

³¹ 31 U.S.C. § 5362(1)(ix).

³² See Joseph M. Kelly, *Living in a Fantasy*, 12 GAMING LAW REV. & ECON. 310-17, at 316 (2008).

level.³³ Third, certain Native American licensed gambling is exempt if it is operated pursuant to the Indian Gaming Regulatory Act (IGRA) requirements for Class II and Class III gaming.³⁴ A Class II nonbanked interactive poker game, such as Texas Hold 'Em, might not need a tribal state compact to be offered as a Class II game under IGRA depending on individual state law on card games. Some states would allow such play only pursuant to a tribal-state compact. Other card games, e.g., Caribbean stud poker, would require state approval since it is Class III gaming under IGRA because it is house banked. Age and location verification are mandated.³⁵ Caselaw may allow intertribal interactive gambling as long as the game is operated consistent with IGRA and a tribal-state compact for Class III gambling.³⁶ Fourth, a prohibited bet or wager “includes the purchase of a chance or opportunity to win a lottery or other prize (which opportunity to win is predominately subject to chance).”³⁷ This undoubtedly will result in creative lawyering and structuring to develop a lottery or prize game where skill predominates over chance.

Fifth, UIGEA is a masterpiece of doublespeak in explaining the legal status of interactive interstate horse race wagering. This particular wagering is licensed by several states, and includes players from many states. The DOJ has asserted that interstate horse race wagering is illegal, and the present practice was found to be in violation of the GATS. Prior to UIGEA, opponents of prohibition often ensured the failure of an anti-online gambling bill by eliminating the horse race wagering exemption. In UIGEA, the final relevant language was pure doublespeak. “Sense of Congress.—It is the sense of Congress that this subchapter shall not change which activities related to horse racing may or may not be allowed under Federal law.”³⁸ This language was largely the work of the strongly anti-gambling Rep. Bob Goodlatte (R) of Virginia, who “said he ‘mediated’ between the Justice Department and horse-racing industry to come up with language about horse racing in the 2006 gambling bill . . . he said the wording ‘simply maintains the status quo in the dispute.’ In other words: a stalemate that apparently leaves a loophole for online horse-racing bets.”³⁹

Finally, what is not exempt is a free game that requires no payment but awards cash or expensive prizes. Traditional gambling requires prize, chance, and consideration, such as payment. Under UIGEA, a game where a player risks nothing can award only

“points and credits that the sponsor of the game or contest provides to participants free of charge and that can be used or redeemed only for participation in games or contests offered by the sponsor.”⁴⁰ This might prohibit online “free” poker games that award cash and are profitable because of advertisements. It will have no impact under UIGEA since no money will be transmitted by the player to the online gaming operation.

REGULATORY REQUIREMENTS

A financial transaction provider would have to follow Treasury/Federal Reserve regulations to block nonexempt transactions to unlawful Internet gambling.⁴¹ One major difficulty in enacting regulations was the lack of any definition of illegal gambling. As explained by the drafters, “After consulting with the Department of Justice and representatives from the offices of several State attorneys general regarding this issue, the agencies have determined that a single, regulatory definition of ‘unlawful Internet gambling’ would not be practical.”⁴² The agencies also decided that, unlike Italy, they would not establish a list of unlawful Internet gambling businesses, partly because these businesses could easily change their names.⁴³ Furthermore, the final rule imposes no penalties or fines for failure to comply with the regulations.

The agencies simplified the task drastically by including restricted transactions as payments going only to an online gambling operator.

§ 5363 provides that “[n]o person engaged in the business of betting or wagering may know-

³³ According to 73 Fed. Reg. 69,386, a skill game would be one where chance was not a “significant factor.”

³⁴ 31 U.S.C. § 5362(10)(C)(1)(2).

³⁵ 31 U.S.C. § 5362(10)(C) (ii)(3).

³⁶ In *AT&T Corp. v. Coeur d’Alene Tribe*, 295 F.3d 899 (9th Cir. 2002), the 9th U.S. Circuit Court of Appeals reversed a district court decision that prohibited the tribe from using a toll-free number for out-of-state lottery customers.

³⁷ 31 U.S.C. § 5362(1)(B).

³⁸ 31 U.S.C. § 5362(10)(D)(iii).

³⁹ Gaul, *supra* note 27.

⁴⁰ 31 U.S.C. § 5362(1)(E)(viii)(II).

⁴¹ 31 U.S.C. § 5364(b).

⁴² Prohibition on Funding of Unlawful Internet Gambling, 73 Fed. Reg. at 69,384.

⁴³ *Id.* at 69,383.

ingly accept” a payment “in connection with the participation of another person in unlawful Internet gambling.” Under the final rule, the term “restricted transaction” would not include funds going to a gambler, and would only include funds going to an Internet gambling business.⁴⁴

The regulations require all non-exempt participants in designated payment systems “to establish and implement written policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions.”⁴⁵ Basically, the emphasis of the regulations is on the opening of new accounts by nonexempt financial transaction providers with a “commercial customer.”⁴⁶ Specifically, “the agencies are suggesting that the efforts of participants in designated payment systems be focused on preventing restricted transactions primarily through due diligence on commercial customers.”⁴⁷ If a financial transaction provider is contracting with a new commercial customer, the financial transaction provider is expected to conduct “due diligence of a commercial customer and its activities commensurate with the participant’s judgment of the risk of restricted transaction presented by the customer’s business.”⁴⁸ Should the financial transaction provider determine there is a minimal risk of the commercial customer engaging in Internet gambling, the inquiry is then complete. If the financial transaction provider is unable to determine whether the commercial customer presents a minimal risk, then it may require: “(A) Certification from the commercial customer that it does not engage in an Internet gambling business.”⁴⁹ Should the customer engage in an Internet gambling business, the customer must then show either a state or tribal gambling license. Should the commercial customer show a tribal license for Class II poker, there may be no need for further inquiry. If the customer does not have a license because it is in an unregulated area such as fantasy sports, a skill game, or a lottery or prize that is predominately a skill game, then the customer must submit “a reasoned legal opinion that demonstrates that the commercial customer’s Internet gambling business does not involve restricted transactions.”⁵⁰

A gambling lawyer would have no difficulty in submitting a legal opinion that fantasy sports and skill games do not involve a restricted transaction. However, while it is legally uncertain whether non-sports wagering and gambling are prohibited by fed-

eral law either prior to after UIGEA, no financial transaction provider would be satisfied with a customer’s legal opinion that concluded the above gaming was probably not illegal and that only the DOJ believed the above was in violation of federal law. Even established U.S. interstate horse race wagering, which is already state licensed for intrastate purposes, is considered illegal by the DOJ. Furthermore, if a financial transaction provider has questions concerning the “reasoned legal opinion,” “it should verify (or have the commercial customer verify) the conclusions presented in the reasoned legal opinion with the appropriate licensing authority.”⁵¹

Concerning an established commercial customer, the burden on the financial transaction provider is very light—“a simple notice” sent to the customer⁵² that “restricted transactions are prohibited from being processed through the account or relationship.”⁵³ Should the financial transaction provider have actual knowledge that the existing customer is engaged in an Internet gambling business, it should conduct due diligence procedures similar to that of a new customer.⁵⁴ If the transaction is cross-border, the agencies considered but rejected a “requirement that the foreign counterparty have reasonably designed policies and procedures in place to ensure that the commercial relationship would not be used

⁴⁴ *Id.* at 69,387.

⁴⁵ *Id.* at 69,401.

⁴⁶ “(i) *Commercial customer* means a person that is not a consumer and that contracts with a non-exempt participant in a designated payment system to receive, or otherwise accesses, payment transaction services through that non-exempt participant.” 31 C.F.R. § 132.2(1). If the customer is an individual, no further action is required; see American Bankers Association, Unlawful Internet Gambling Enforcement Act (UIGEA), Final Rule, Frequently Asked Questions, at 3, <www.aba.com/members+only>.

⁴⁷ 73 Fed. Reg. at 69,387.

⁴⁸ 31 C.F.R. § 132.6(b)(1).

⁴⁹ 31 C.F.R. § 132.6(b)(2)(ii)(A). There is also the requirement that the customer notify the financial transaction provider “of any changes in its legal authority to engage in its Internet gambling business.” 31 C.F.R. § 132.6(b)(2)(iii). There may also be a “third-party certification that the commercial customer’s systems for engaging in the Internet gambling business are reasonably designed to ensure that the commercial customer’s Internet gambling business will remain within the licensed or otherwise lawful limits, including with respect to age and location verification.” 31 C.F.R. § 132.6(b)(2)(ii)(B)(2).

⁵⁰ 31 C.F.R. § 132.6(b)(2).

⁵¹ 73 Fed. Reg. at 69,387.

⁵² *Id.* at 69,393.

⁵³ 31 C.F.R. § 132.6(b)(3).

⁵⁴ 73 Fed. Reg. at 69,402–403.

to process restricted transactions.”⁵⁵ There is also no requirement “to conduct due diligence on its foreign respondent’s commercial customers.”⁵⁶ Should the U.S. participant be informed by the U.S. government that the foreign customer has processed illegal gambling transactions, then it should send a notice to the foreign customer pursuant to Appendix A to the regulations.⁵⁷

Financial transaction providers must also establish a compliance program to monitor commercial transactions. Remedial action is required only if the financial transaction provider has “actual knowledge” of a restricted transaction “that is known or brought to the attention of compliance personnel of the participant responsible for that transaction or customer (which may be below officer level) or any officer of the participant.”⁵⁸ This actual knowledge requirement is less of a burden than the “should have known” or “reason to know” requirements to establish mere negligence.

The regulations do not mandate specific remedial action, and defer to the “business judgment” of the financial transaction provider.⁵⁹ One alternative might be to “block” a prohibited transaction. The rules define blocking as rejecting but not “freezing or otherwise prohibiting subsequent transfers . . .”⁶⁰ Another alternative might be to utilize business judgment either to deny a commercial customer access to a payment system or close the account for processing a restricted transaction.⁶¹ The rules provide the financial transaction provider protection from liability, as long as the termination or response is based on a reasonable belief that the transaction is restricted.⁶² There is no liability if the financial transaction provider chooses for business reasons to refuse all online gambling transactions.⁶³

The regulations also exempt many of the designated payment systems, such as automated clearing houses, check collection systems, and wire transfer systems, unless they have a “customer relationship with the Internet gambling business,”⁶⁴ which is extremely unlikely, or in certain other limited circumstances. Money transmitting businesses are exempt unless they permit transmission of funds “remotely other than a physical office of the money transmitting business.”⁶⁵ Thus, money transmitting businesses, such as check cashiers and currency exchanges, could be included only if they transmit funds by remote means.⁶⁶ Credit card companies probably block all gambling pursuant to utilization

of the Merchant Code 7995. They might now create a new code for legal online gambling.⁶⁷

The regulations stress that policies to prevent restricted transactions are with respect to commercial customers only.⁶⁸ The American Bankers Association summarized the responsibility to the individual customer: “In other words, if your customer is the gambler, you do not have to block gambling transactions except for debit and credit card transactions. In those cases, you may rely on the network policies and procedures and merchant codes.”⁶⁹

WHAT DOES THIS MEAN FOR LAWYERS AND FINANCIAL TRANSACTION PROVIDERS?

The impact of UIGEA and the final rule, except for recordkeeping, should be minimal. The agencies note “that most Internet gambling businesses that use card systems for funding do so through non-U.S. merchant acquirers that are not subject to the Act or the Final Rule”⁷⁰ Gaming lawyers, however, may rejoice at the prospect of drafting numerous “reasoned legal opinions” on what Internet gambling is either lawful or unlawful. The agencies also estimate that the recordkeeping burden for regulated entities should be approximately one million hours.⁷¹ Should the DOJ initiate prosecution of a financial transaction provider, it may utilize UIGEA as the last count in a laundry list in a criminal proceeding.

⁵⁵ *Id.* at 69,394.

⁵⁶ *Id.* at 69,392.

⁵⁷ 31 C.F.R. § 132.6, App. A.

⁵⁸ 31 C.F.R. § 132.2(A).

⁵⁹ 73 Fed. Reg. at 69,395.

⁶⁰ 31 C.F.R. § 132.2(d).

⁶¹ 73 Fed. Reg. 69,395.

⁶² 31 C.F.R. § 132.5(d)(2).

⁶³ See American Bankers Association, *supra* note 45 at 3.

⁶⁴ 73 Fed. Reg. at 69,382.

⁶⁵ *Id.* at 69,388.

⁶⁶ *Id.* The agencies believe the change reduced the affected money transmitting businesses from 253,208 to 16. *Id.* at 69,396.

⁶⁷ *Id.* at 69,389.

⁶⁸ *Id.* at 69,388.

⁶⁹ American Bankers Association, *supra* note 46, at 2.

⁷⁰ 73 Fed. Reg. at 69,394.

⁷¹ *Id.* at 69,397.