Current Title 31 Compliance Issues

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July 22, 2014

Theresa Kain, Director
Kim McCabe, Director
National Gaming and Hospitality Practice
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- NASBA will not issue credit if all criteria are not met, without exceptions
Current Title 31 Compliance Issues

July 22, 2014

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Kim McCabe, Director
National Gaming and Hospitality Practice
Today’s presenters

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Agenda

- Overview of current industry issues for Title 31 / AML compliance
- Source of funds
  - “FinCEN expects that casinos, like other financial institutions, to inquire about source of funds as appropriate under a risk-based approach.” *

* FinCEN director Jennifer Shasky Calvery, 2014 Bank Secrecy Act Conference, June 12, 2014
Agenda

- Overview of current industry issues for Title 31 / AML compliance
- Source of funds
- Review for patterns of suspicious activity
  - “Casinos invest heavily in sophisticated monitoring tools to track a wide range of customer activities and to understand their customers’ preferences. These same kinds of monitoring and customer service capabilities can and should be leveraged for AML purposes.”

* FinCEN director Jennifer Shasky Calvery, 2014 Bank Secrecy Act Conference, June 12, 2014
Agenda

- Overview of current industry issues for Title 31 / AML compliance
- Source of funds
- Review for patterns of suspicious activity
- Title 31 risks assessments
  - “So every financial institution needs to consider its own products and practices and assess its own risks, to develop a program that works best for that financial institution to mitigate its particular risks.” *

Overview of current industry issues for Title 31 / AML compliance
Increasing expectations

- FinCEN director presentation at G2E
  - Casinos and other financial institutions play an important role in countering the threats.
  - Casinos are the eyes and ears in the fight against terrorists and other bad guys, and your AML programs are the first line of defense.
  - The BSA provides FinCEN with broad authority to obtain injunctions against institutions and individuals it believes are involved in violations of the BSA.
  - FinCEN to impose civil penalties not only against domestic financial institutions, but also partners, directors, officers and employees of such entities who themselves willfully participate in misconduct. We will employ all of the tools at our disposal and hold accountable those institutions and individuals who allow our financial institutions to be vulnerable to terrorist financing, money laundering proliferation finance, and other illicit financial activity.
Increasing expectations

- FinCEN director presentation at the 2014 BSA conference in June 2014
  - Under existing regulations, casinos are required to develop and maintain a robust risk-based anti-money laundering program.
  - No one-size-fits-all approach to AML; every financial institution needs to consider its own products and practices and assess its own risks, to develop a program that works best to mitigate its particular risks.
  - Casinos are required to be aware of customer’s source of funds under current AML requirements
  - AML controls should address:
    • Source of funds
    • Customer due diligence
    • International money transfers
    • Pass-through activity
    • Dormant accounts
  - Casinos are required to implement risk-based procedures for ensuring compliance.
  - Information sharing under 314(b)
Recent enforcement actions

- **JP Morgan Bank**
  - Admitted failing to report suspicious activity regarding the Madoff Ponzi scheme
  - Considered a lost opportunity to stop fraud with catastrophic consequences
    - Multiple SARs were filed in the United Kingdom
    - No SARs were filed with FinCEN
  - JPMorgan failed to report the potential fraud activity to the correct law enforcement (potentially saving fraud victims)
Enforcement action (continued)

- **Las Vegas Sands**
  - Agreed to pay $47 million to Department of Justice
  - Failed to identify the source of funds for wire transfers
    - Reported cases stated high rollers received in excess of $100,000,000
    - Casino personnel allowed funds to be wired in incrementally as opposed to in large sums to avoid reporting requirements
  - Failed to fully track and report suspicious activity to FinCEN

- **Caesars Entertainment under DOJ investigations** – results to be determined

- **Jackpot Junction Casino Hotel (April 2011)**
  - Fined $250,000

- **Other casino investigations on-going right now**
Source of funds
Media coverage

“Exclusive: U.S. to require casinos to vet high rollers’ funds…”
Mar 26, 2014 - LOUIS (Reuters)

“Needs of high-rollers, government leave casinos in a bind”

“Feds may enlist casinos to vet high-rollers’ funds”
Fox News Channel Apr 1, 2014
Source of funds

- Higher expectations for knowledge of customers’ source of funds
  - High rollers
  - Large cash transactions
  - A sudden change in patron’s gaming activity
  - Gaming activity inconsistent with patron’s financial situation or financial profile
  - Checks drawn on trust accounts, charities, businesses, etc.
  - Third-party funding
Know your customer due diligence

- **Customer research:**
  - Source of income / validity of business
  - Adverse media

- **Cross check against available lists:**
  - SDN list (OFAC)
  - Government watch lists
  - Politically Exposed Person check
  - Subpoena check

- **Internal casino evaluation:**
  - Internal incident reports
  - Previous SAR filings
Review for patterns of suspicious activity
Suspicious activity evaluation

- Audit / compliance review of patterns of suspicious activity
  - Structuring over the gaming day or multiple days
  - Chip walks
  - Kiosk redemptions
  - Bill Stuffing
  - Other structuring evaluations
Suspicious activity evaluation

- Audit / compliance review of business purpose, possible suspicious activity
  - Minimal play
  - Wire transfers
  - Front money deposit / withdrawl
  - Safekeeping transactions
  - Ticket (voucher) purchases
  - Checks associated with trusts, charities, businesses, etc.
Suspicious activity evaluation

- Audit / compliance review of possible suspicious activity related to source of funds
  - International money transfers
  - Pass-through activity
  - Dormant accounts
  - Aviation services
Title 31 risk assessments
Risk assessments

- Internal and external testing: scope and frequency to be commensurate with risks of:
  - Money laundering
  - Terrorist financing
  - Products and services provided

- Used to determine if all your compliance program, controls, and training are in place and adequate

- FinCEN provided guidance in June 2010
  - Layout/size and location of facility
  - Types of games offered
  - Customer mix
  - Volume of transactions
Sample risk assessment

<table>
<thead>
<tr>
<th>Casino Overview</th>
<th>Inherent Risk</th>
<th>Inherent Risk Rating</th>
<th>Quantitative Analysis</th>
<th>Mitigating Controls</th>
<th>Residual Risk Rating</th>
<th>Testing Plan</th>
</tr>
</thead>
<tbody>
<tr>
<td>Size, Layout &amp; Multiple Entities</td>
<td>Large, extensive operations make it more difficult to monitor transactions; decentralized transactions facilitate opportunity to structure; multiple properties where cash equivalents (chips, tickets) can be redeemed.</td>
<td>High</td>
<td>-300,000 sq ft facility -10 gaming machine zones - 40 table games - 15 table poker room - 4 main food venues - 4 cashier cages - 100 hotel rooms</td>
<td>Departmental Title 31 P&amp;Ps; communication protocols between divisions, departments; Surveillance required to monitor to and notify of any questionable activity.</td>
<td>3</td>
<td>Quarterly; Communication protocols between the departments; Continue with review of P&amp;Ps according to the gaming regulations.</td>
</tr>
</tbody>
</table>
Risk assessment process

Planning → Analysis → Risk Rating → Action Items
### Risk assessment process

#### Key Areas

<table>
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<td>Casino Overview</td>
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<tr>
<td>Products &amp; Services</td>
<td></td>
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<td></td>
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<tr>
<td>Customers</td>
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Inherent risks

Inherent risk defined:

“The risk without considering internal controls" or alternatively, "a raw risk that has no mitigation factors or treatments applied to it”

Source – Protecht.com

- Inherent risks are typically consistent across casinos.

- Focus: inherent risk of money laundering and terrorist financing activities occurring in the operation
  - Identification and analysis of risk to achievement of specific objectives:
    • T31 compliance
    • Establishment and confirmation of controls
    • Refinement of processes and development of controls
## Sample risk assessment: planning

<table>
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<tr>
<th>Products &amp; Services</th>
<th>Inherent Risk</th>
<th>Inherent Risk Rating</th>
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<th>Residual Risk Rating</th>
<th>Testing Plan</th>
</tr>
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<tbody>
<tr>
<td>Slot Machines</td>
<td>True identity of customer not identified; False documentation; Unknown source of funds; Large number of transactions; Large amounts of transactions; Short term regularity or duration of relationship; Activity not consistent with casino play; Structuring; Failure to report (CTR) transaction; Failure to aggregate cash transactions from different times, machines and/or other products &amp; services; Failure to file SAR for suspicious activity.</td>
<td>High</td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>
Summarize the results of assessments into a reportable matrix describing the critical control processes and the corresponding risk ratings.
## Sample risk assessment: slots

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<th>Residual Risk Rating</th>
</tr>
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<tr>
<td>Slots</td>
<td>True identity of customer not identified; False documentation; Unknown source of funds; Large number of transactions; Large amounts of transactions; Short term regularity or duration of relationship; Activity not consistent with casino play; Structuring; Failure to report (CTR) transaction; Failure to aggregate cash transactions from different times, machines and/or other products &amp; services; Failure to file SAR for suspicious activity.</td>
<td>High</td>
<td>-2,000 gaming machines -300 gaming machines in High Limit Room -70% carded play</td>
<td>-Dept. specific procedures in AML Program and dept. training; -Communication protocols, -Surveillance monitors &amp; notifies of any questionable activity -Machines lock up at $1,200 -MTL $3,000 -Casino audit monitoring in place: -Bill-in reviewed daily -Ticket redemptions reviewed daily -Minimal play reports reviewed daily</td>
<td>Moderate</td>
</tr>
</tbody>
</table>
# Sample Risk Assessment: Non-Resident Aliens

<table>
<thead>
<tr>
<th>Customer Type</th>
<th>Inherent Risk</th>
<th>Inherent Risk Rating</th>
<th>Quantitative Analysis</th>
<th>Mitigating Controls</th>
<th>Residual Rating</th>
</tr>
</thead>
</table>
| Non-resident alien (NRA) / foreign patrons | Difficult to verify and authenticate an NRA's identification; False documentation; Unknown source of funds/wealth; Home country may be high risk; cash transactions; Short term regularity or duration of relationship; Failure to identify suspicious activity; Failure to file a CTR. | High | -9,000 Forms 1042-S filed per year  
-80% of patrons are from within 30 miles  
-70% carded play  
-5% of foreign patrons have credit files | Procedures specific to NRA patrons in AML Program  
Compliance performs:  
- monthly review of high risk patrons  
- OFAC/PEP checks prior to transactions greater than $X  
- Google/news checks for transactions greater than $X  
- annual testing of systems  
- background checks for credit customers  
- TIN checks for reportable thresholds and credit patrons | Moderate |
Risk assessment process

- **Action items**
  - Develop testing plan
  - Develop / update controls and AML program
Keys to planning and execution

- Effective planning
  - Scope
  - Documentation expectations
- Possible AML program changes
- Communications
  - Within departments
  - Between entities – casino, audit committee, board, tribal gaming commission
  - Timing of communications
  - Reporting
Questions for today’s presenters?

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