



Department of the Treasury Financial Crimes Enforcement Network

Advisory

FIN-2009-A003

Issued: July 1, 2009

Subject: Structuring by Casino Patrons and Personnel

The Financial Crimes Enforcement Network (“FinCEN”) recently received information from law enforcement and regulatory authorities that certain casino personnel may have complied with requests from patrons to evade, or provided instructions to patrons on how to evade, reporting and recordkeeping requirements under the Bank Secrecy Act (“BSA”).¹ It appears that casino patrons and personnel may have engaged in “structuring” certain transactions to evade such requirements.² The BSA prohibits any person, for the purpose of evading the requirement to report currency transactions or evading recordkeeping requirements under the BSA, from causing or attempting to cause a casino not to file a currency transaction report, to file a currency transaction report with material misstatements or omissions, not to maintain records required under the BSA, or to maintain these records in a form that is incomplete or inaccurate.³ FinCEN is issuing this advisory to remind casinos and card clubs that structuring is unlawful, and that such activity can give rise to significant civil and criminal penalties under the BSA.⁴ FinCEN is authorized to impose civil money penalties against casinos violating the BSA, and the U.S. Department of Justice prosecutes criminal violations of the BSA and related money-laundering statutes.⁵

Casinos subject to the BSA are required to develop and implement a compliance program reasonably designed to manage the risk of illicit activity and ensure compliance with the BSA and its implementing regulations.⁶ The BSA requires casinos to file reports, properly identify customers conducting transactions, and maintain appropriate records of transactions. These reports and records are highly useful in criminal, tax, or regulatory investigations or proceedings,

¹ See 31 U.S.C. § 5311 *et seq.* and 31 C.F.R. Part 103.

² Structuring is a money laundering and terrorist financing “placement” technique. Structuring includes, among other activities, the “breaking up” of transactions for the purpose of evading BSA currency transaction reporting requirements. See 31 U.S.C. § 5324 and 31 C.F.R. §§ 103.11(gg) and 103.63.

³ See 31 U.S.C. § 5324.

⁴ See 31 U.S.C. §§ 5321 and 5324.

⁵ See 31 U.S.C. §§ 5321(a)(4) and 5324 and 31 C.F.R. §§ 103.57(e) and 103.63; see also 18 U.S.C. §§ 1956 and 1957 (money laundering violations).

⁶ See 31 C.F.R. §§ 103.64 and 103.120(d).

or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.⁷

Recent accounts from law enforcement and regulatory authorities allege that certain casino patrons may have conspired with casino personnel to structure transactions to evade BSA reporting and/or recordkeeping requirements. The following scenarios are illustrative of the relevant conduct being alleged:⁸

- A premium player induces casino personnel to allow breaking up of a transaction into multiple transactions so as to fall below the \$10,000 BSA currency transaction reporting threshold.
- A patron persuades casino personnel to alter or omit transaction information (*e.g.*, a player rating record) or identification information on casino records.
- A player with chips amounting to more than \$10,000 is told by a cage cashier that reducing the amount of the chip redemption to \$10,000 or below will avoid currency transaction reporting, and the player redeems less than \$10,000.
- A patron obtains assistance from a pit boss to allow the patron to intentionally coordinate buy-ins with the time of day when the casino's business or gaming day is concluded, in order to split cash transactions among different gaming days.

For any of these types of activities, casinos are obligated to file FinCEN Form 102, Suspicious Activity Report by Casinos and Card Clubs ("SARC"). Since structuring or any suspicious activity by casino personnel and patrons, including collusion and/or misuse of position by casino personnel including a casino host, constitutes reportable activity under the SARC provisions, a casino or card club is required to provide full disclosure of the subjects, identifying information and affiliations, business or employee relationships and associations in the applicable reporting items of the SARC, including the narrative part of the form.

Casinos are required also to deter, detect and report structuring by implementing a compliance program reasonably designed to prevent casino personnel and patrons from circumventing BSA requirements. A casino's written anti-money laundering program must be tailored to the risks of its business, and ensure that internal controls, training, independent testing and designated personnel are in place to deter, detect and report structuring.⁹ If structured transactions involve or aggregate to at least \$5,000 in funds or other assets, a casino must file a suspicious activity report.¹⁰

FinCEN is authorized to assess civil money penalties against a casino, card club, or any partner, director, officer, or employee thereof, for willful violations of BSA anti-money laundering program, reporting, and recordkeeping requirements, as follows:

⁷ See 31 U.S.C. § 5311 and 31 C.F.R. §§ 103.12 and 103.31.

⁸ These examples are in addition to those set forth in FinCEN's previous guidance on "Recognizing Suspicious Activity - Red Flags for Casinos and Card Clubs" (FIN-2008-G007, August 1, 2008).

⁹ For additional guidance on BSA compliance programs, see FinCEN's Frequently Asked Questions – Casino Recordkeeping, Reporting and Compliance Program Requirements (FIN-2007-G005, November 14, 2007), questions and answers 21 through 23.

¹⁰ See 31 U.S.C. § 5318(g) and 31 C.F.R. § 103.21(a)(2)(ii).

- A penalty of \$25,000 per day may be assessed for failure to establish and implement an adequate written BSA compliance or anti-money laundering program, including program failures that led to instances of undetected structuring. A separate violation occurs for each day the violation continues.¹¹
- A penalty not to exceed the greater of the amount involved in the transaction (but capped at \$100,000) or \$25,000 may be assessed for each currency transaction or suspicious activity reporting violation.¹²
- A penalty up to the amount of the coins and currency involved in the transaction[s] for structuring, attempting to structure, or assisting in structuring.¹³

FinCEN may also seek injunctive relief against future violations of the BSA.¹⁴

The Internal Revenue Service, Small Business/Self Employed Division (“IRS SB/SE”) examines casinos for compliance with the BSA, under delegated authority from FinCEN.¹⁵ The IRS SB/SE can conduct examinations to address BSA compliance concerns on a singular, regional or national basis. The IRS has been advised of alleged structuring activity by casino patrons and personnel, and will be reviewing the adequacy of casino BSA compliance programs, as appropriate, to promote prevention, detection and reporting of any such activity. If the IRS discovers significant deficiencies, including structuring at a casino or card club, the matter will be referred to FinCEN for disposition, including consideration of civil money penalties or other sanctions.

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Questions or comments regarding the contents of this advisory should be addressed to the FinCEN Regulatory Helpline at (800) 949-2732.

¹¹ See 31 U.S.C. § 5321(a)(1).

¹² See 31 U.S.C. § 5321(a)(1) and 31 C.F.R. § 103.57(f).

¹³ See 31 U.S.C. §§ 5321(a)(4) and 5324 and 31 C.F.R. §§ 103.57(e) and 103.63.

¹⁴ See 31 U.S.C. § 5320.

¹⁵ See 31 C.F.R. § 103.56(b)(8).