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FinCEN Director Emphasizes AML Priorities for Casinos, Sports Wagering, Mobile Gaming, and Card Clubs in Las Vegas Speech

As underscored in a recent speech by the director of the Financial Crimes Enforcement Network (“FinCEN”), compliance officers should ensure that their anti-money laundering (“AML”) programs are current with FinCEN’s priorities.

On August 13, 2019, FinCEN Director Kenneth A. Blanco delivered remarks at the 12th Annual Las Vegas Anti-Money Laundering Conference highlighting FinCEN’s AML priorities pertaining to casinos and card clubs. The prepared remarks emphasized certain themes, including the renewed focus on data analytics, the use of cryptocurrency, and the assistance that robust AML programs play in detecting criminal conduct.

The overriding theme of the speech was the need for a financial institution’s AML policy to remain current. Blanco warned: “There is a misconception that just because FinCEN has not publicly issued an enforcement action against a casino or card club since last year that FinCEN is not looking at this financial sector. Let me assure you, this is not the case. [N]ot all enforcement actions are public—FinCEN often closes cases with warning letters sent to financial institutions or refers cases to our delegated examiners to conduct additional examinations.”

Blanco explained that casino and card club AML programs must have an “explicit pillar that uses all available information and automatic data processing systems to ensure compliance with the [Bank Secrecy Act (“BSA”).]” He specifically highlighted that sports betting activities and

mobile gaming services operated through a casino must be included in that casino’s AML program, noting: “We expect your [Suspicious Activity Report (“SAR”)] reporting will include cyber-related indicators collected through the use of mobile gaming or betting applications. You must establish and implement procedures for using *all available* information to detect and report suspicious transactions or suspicious patterns of transactions that occur through mobile sports applications.” It is evident that mobile wagering, whether on sports or casino games, will be something that FinCEN will closely review in their ongoing efforts. With this new and rapidly growing sector of the gaming market, it was clear that enforcement will not focus only on traditional land-based casino operations in the future.

Blanco also discussed that casinos that accept convertible virtual currency (“CVC”) have reporting obligations. So-called CVC casinos on the Internet as well as physical casinos and card clubs that accept CVC for gaming may need to register as Money Services Business (“MSB”) under the BSA if they are not otherwise registered as casinos. Blanco reminded these businesses that MSBs have their own BSA obligations, including a requirement to have a robust AML policy.

Although not a new concept for gaming companies, Blanco stressed the need to have a culture of compliance that impacts every aspect of the gaming experience:

This is a national security issue: not something to be taken lightly and we will not take it lightly...We know the kind of significant information that casinos are able to develop on gaming customers. This information is extraordinary and relevant and is already used by casinos for a variety of marketing and other business purposes. The information can and should be used by your compliance personnel as they monitor customers for suspicious activities.

Blanco also referenced prior guidance issued by FinCEN in January 2017 that required casinos to share information on an enterprise-wide level. In essence, the various departments that operate, market, promote, and monitor gaming activity should all be exchanging information.

Blanco provided statistics about trends in SAR filing by casinos in 2018. From 2017 to 2018, the top five SAR filings by state were Nevada, Louisiana, California, New Jersey, and Pennsylvania. While New Jersey experienced a 10 percent increase, possibly tied to sports betting, Nevada (-7 percent), Louisiana (-15 percent), and Pennsylvania (-15 percent) all experienced declines in overall filings, which is symptomatic of the decline in overall industry filings:

In terms of suspicious activity being reported so far in 2019, Minimal Gaming with Large Transactions is the highest reported activity with more than 5,000 SARs reflecting this activity.

Reports of Chip Walking have dramatically increased since this was added to the SAR form in the summer of 2018. Chip Walking is now the second most selected suspicious activity on the SAR form, with more than 4,400 reports being cited this year to date. The other frequently cited suspicious activities include:

- Transaction(s) below CTR Threshold
- Unknown Source of Chips
- Two or More Individuals Working Together
- Alters or Cancels Transaction to Avoid CTR
- Requirement
- Suspicion Concerns Source of Funds

Additional analysis of trends reported by casinos checking the “other” box on the SAR form includes reports of suspicious activity involving sports betting, abandoned jackpot, and bill stuffing.

Blanco explained that this type of information is useful to a number of different law enforcement agencies and that the information is routinely run through federal databases to identify potential criminal activity. Blanco also talked about the use of innovation in AML technologies. He reminded the audience that he emphasized that FinCEN uses “big data to aggregate lots of information to identify financial crime trends, which it can share with law enforcement and [the Office of Foreign Assets Control].” In closing, Blanco said “[w]hat you do saves lives. It is a national security issue.”

Blanco’s speech serves as a stark reminder that casinos and card clubs as well as businesses that operate sports books over the internet must have robust AML policies. The Internal Revenue Service and FinCEN have stressed time and time again that they consider audits of businesses that handle virtual currency to be a high priority. Compliance officers for casinos, sports wagering companies, online gaming operators, and card clubs who have concerns about their AML policy should contact counsel.

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