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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 3

RIN 3038-AB89

Registration of Intermediaries

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules; correction.

SUMMARY: The Commodity Futures Trading Commission (the "Commission" or "CFTC") published in the *Federal Register* of June 6, 2002, a document concerning final rules relating to the registration of intermediaries. Inadvertently, the Commission cited to an incorrect paragraph designation. This document corrects that error.

EFFECTIVE DATE: Effective on June 17, 2002.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Michael A. Piracci, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418-5430.

SUPPLEMENTARY INFORMATION: The Commission published in the *Federal Register* of June 6, 2002, a document concerning final rules relating to the registration of intermediaries.¹ In that document, the Commission indicated that it was revising paragraph (a)(2)(i) of Rule 3.10. This revision was actually of paragraph (a)(2), because the Commission had previously redesignated paragraph (a)(2)(i) as paragraph (a)(2).² This correction makes that change.

In the final rule document appearing on page 38874 in the issue of Thursday, June 6, 2002, make the following corrections: in § 3.10, in the first column, in the amendatory instruction Number 3, second line, "paragraph (a)(2)(i)" should read "paragraph (a)(2)"; and in § 3.10, in the second column, sixth line, "(2)(i)" should read "(2)".

Dated: June 11, 2002.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 02-15178 Filed 6-14-02; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 502

RIN 3141-AA10

Definitions: Electronic, Computer or Other Technologic Aid; Electronic or Electromechanical Facsimile; Game Similar to Bingo

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Final rule.

SUMMARY: The National Indian Gaming Commission (Commission) amends three key terms in the Indian Gaming Regulatory Act, "electronic, computer or other technologic aid," "electronic or electromechanical facsimile," and "game similar to bingo." The Commission believes these amendments bring stability and predictability to the important task of game classification.

EFFECTIVE DATE: July 17, 2002.

FOR FURTHER INFORMATION CONTACT: Penny Coleman, Deputy General Counsel, National Indian Gaming Commission, Suite 9100, 1441 L Street, NW, Washington, DC 20005. Fax number: 202-632-7066 (not a toll-free number). Telephone number: 202-632-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1988, Congress enacted the Indian Gaming Regulatory Act, 25 U.S.C. 2701-21 (IGRA or Act), creating the National Indian Gaming Commission (NIGC or Commission) and developing a comprehensive framework for the regulation of gaming on Indian lands. The Act establishes three classes of Indian gaming.

"Class I gaming" means social games played solely for prizes of minimal value or traditional forms of Indian gaming played in connection with tribal ceremonies or celebrations. 25 U.S.C. 2703(6). Indian tribes regulate class I gaming exclusively.

"Class II gaming" means the game of chance commonly known as bingo, whether or not electronic, computer, or other technologic aids are used in connection therewith, including, if played in the same location, pull tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and various card games. 25 U.S.C. 2703(7)(A). Class II gaming, however, does not include any banking card games, electronic or electromechanical facsimiles of any game of chance or slot machines of any kind. 25 U.S.C.

2703(7)(B). Class II gaming thus includes high stakes bingo and pull tabs, as well as non-banking card games such as poker. Tribal governments and the NIGC share regulatory authority over class II gaming without the involvement of state government.

Class III gaming, on the other hand, may be conducted lawfully only if the state in which the tribe is located and the tribe reach an agreement called a tribal-state compact. For a compact to be effective, the Secretary of the Interior must approve the terms of the compact. Class III gaming includes all forms of gaming that are not class I gaming or class II gaming. 25 U.S.C. 2703(8). Class III gaming thus includes all other games of chance, including most forms of casino-type gaming, such as slot machines and roulette, pari-mutuel wagering, and banking card games, such as blackjack. While such gaming usually requires a tribal-state compact, a tribe may operate class III gaming under gaming procedures issued by the Secretary of the Interior if a state has refused to negotiate in good faith toward a compact. Because of the compact requirement, both the states and tribes possess regulatory authority over class III gaming, with the NIGC retaining an oversight role. Jurisdiction over criminal violations is vested in the United States Department of Justice, which also assists the Commission by conducting civil litigation on its behalf in federal court.

Because of the varying levels of tribal, state, and federal involvement in the three classes of gaming, the proper classification of games is essential. As a legal matter, Congress defined the parameters for game classification when it enacted IGRA. As a practical matter, however, several key terms were not specifically defined, and thus subject to more than one interpretation.

Issues Unresolved in Congressional Definitions

A recurring question as to the proper scope of class II gaming involves the use of electronics and other technology in conjunction with bingo and other class II games. In IGRA, Congress recognized the right of tribes to use "electronic, computer or other technologic aids" in connection with class II gaming. Congress provided, however, that "electronic or electromechanical facsimiles of any game of chance or slot machines of any kind" constitute class III gaming. Since class III gaming requires an approved tribal-state compact to be lawful (an unattainable plateau for some tribes), definitions articulating the proper distinctions between the two classes are vital to sound execution of the law.

¹ 67 FR 38869 (June 6, 2002).

² See, 66 FR 53510, 53518 (Oct. 23, 2001).