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Proposal: Prohibition on Funding of Unlawful Internet Gambling

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Comments:

Positive guidance is sorely needed and almost completely lacking. The United Kingdom, pursuant to its new Gaming Act, has published a "white list" of jurisdictions which are cleared to participate in and advertise I-gaming in the UK. I think the FRB should profit by this example and create its own "white list" - this time, giving instances and models of gaming transactions which are acceptable under these proposed regulations. This is especially important because of the broad discretion which the proposed regulations give to individual actors and institutions, in determining what transactions should or should not be blocked as "illegal Internet gambling". Otherwise, the definition in the UIGEA itself is hopelessly vague. Section 5362 (10) (A) speaks of "... any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made." How are individual compliance officers, clerks, or tellers supposed to sort that out? And not take a week to do it? Clearly, the quickest, easiest and safest route for them is to deny all transactions which have anything to do with gaming on any level. But this would damage legal gaming in this country, for the Internet is already being used by a number of states to handle horse bets and lottery ticket sales. Unfortunately, this process of total avoidance has already begun. Perfectly lawful skill-game charges are being refused by financial institutions whose only thought is to play safe. Further, since financial service providers are screened from liability under Section 5362 (2), provided they comply with the rather elastic requirements of Section 5364 (c), there is the distinct possibility that these same actors and institutions, once they see that no particular danger attaches to gaming transactions, will take the other tack and "let it all hang out" with a de facto don't-ask-don't-tell policy. The best thing that could be done is to repeal this law as unfair, unenforceable and unintelligible. But since that is not an option here, I respectfully submit that concrete and

positive guidance should be provided as part of these regulations, in order to prevent confusion, delay, and loss of business for our financial institutions - at least as far as that is possible, given the nebulous language of the underlying statute. Thank you for perusing my opinions. Good luck .