



Financial Crimes Enforcement Network Department of the Treasury

FinCEN Ruling 2005-5 – Definition of Money Services Business (Casinos as Money Services Businesses)

July 6, 2005

Dear []:

I write in response to your letter of June 6, 2005 to the Financial Crimes Enforcement Network, in which you request guidance on whether casinos must comply with rules under the Bank Secrecy Act specific to money services businesses. Casinos and card clubs, as defined in our regulations, are *not* required to comply with rules specific to money services businesses.¹ Instead, casinos and card clubs must comply with Bank Secrecy Act requirements designed specifically for these industries.² I address below additional issues potentially implicated by your question.

Rules applicable to money services businesses could apply to a gaming establishment that does not fall within the definition of a casino or card club under our regulations. For example, a gaming establishment with gross gaming revenue of \$1 million or less does not fall under the definition of a casino, and therefore is not required to comply with the Bank Secrecy Act regulations applicable to casinos. However, if that gaming establishment otherwise provides services that fall within the definition of a money services business, the gaming establishment would be considered a money services business and must comply with Bank Secrecy Act rules specific to that industry.

There are certain reporting, recordkeeping, and other requirements under the Bank Secrecy Act that apply to all financial institutions, including casinos and card clubs. Such requirements include: (i) the requirement to report the transportation of currency or monetary

¹ Casinos and card clubs are defined in 31 C.F.R. §§ 103.11(n)(5) and (n)(6).

² The following are rules under the Bank Secrecy Act specific to casinos: (i) 31 C.F.R. § 103.21, which requires casinos to report suspicious transactions³; (ii) 31 C.F.R. §§ 103.22(b)(2) and (c)(3), which require casinos to report transactions in currency; (iii) 31 C.F.R. § 103.36, which imposes recordkeeping requirements on casinos; and (iv) 31 C.F.R. §§ 103.64(a) and 103.120(d), which require casinos to implement written BSA compliance or anti-money laundering programs. Generally, card clubs are subject to the same rules as casinos, unless a different treatment is explicitly stated in 31 C.F.R. Part 103.

³ However, activities described in 31 C.F.R. 103.11(uu), which defines the term “money services business” for purposes of regulations under the Bank Secrecy Act, may qualify as suspicious transactions that a casino or card club must report. For example, Items 26k and 26m of FinCEN Form 102, Suspicious Activity Report by Casinos and Card Clubs, refer to negotiable instruments and funds transfers.

instruments into or out of the United States;⁴ (ii) the requirement to report foreign financial accounts;⁵ (iii) the requirement to file complete currency transaction reports within a specified period of time;⁶ (iv) the requirement to identify persons involved in currency transactions;⁷ (v) the requirement to maintain records relating to foreign financial accounts;⁸ (vi) the requirement to maintain records relating to funds transfers and other specified transactions;⁹ (vii) requirements relating to the form records must take, and the retention period for records;¹⁰ and (viii) the requirement not to structure, attempt to structure, or assist in structuring transactions.¹¹

In addition, the mere use by a third party of space in a casino or card club would have no effect on whether the third party must comply with rules under the Bank Secrecy Act specific to money services businesses. For example, if a tribal casino leases space within the establishment to a person that provides money services, such as the cashing of checks or funds transfers, that person must comply with rules under the Bank Secrecy Act specific to money services businesses, provided that the person's activities meets the definition of a money services business in our regulation.¹²

We appreciate this opportunity to highlight the Bank Secrecy Act's regulatory requirements for the casino and card club industries. Please do not hesitate to contact Leonard Senia of my staff at (202) 354-6412 should you have any questions about this letter or our casino regulatory requirements.

Sincerely,

//signed//

William D. Langford, Jr.
Associate Director
Regulatory Policy and Programs Division

⁴ 31 C.F.R. § 103.23.

⁵ 31 C.F.R. § 103.24.

⁶ 31 C.F.R. § 103.27.

⁷ 31 C.F.R. § 103.28.

⁸ 31 C.F.R. § 103.32.

⁹ 31 C.F.R. §§ 103.33(f) and (g).

¹⁰ 31 C.F.R. § 103.38.

¹¹ 31 C.F.R. § 103.63.

¹² 31 C.F.R. §§ 103.11(uu)(2) and (5).