

## GLOBAL INVESTIGATIONS AND COMPLIANCE

# GAMBLING ON A WINNING COMPLIANCE PROGRAM

## BSA/AML Programs for the Casino Industry

### I. INTRODUCTION

Increasingly, regulators are challenging non-bank financial institutions to ‘step-up their game’ in building Bank Secrecy Act/Anti-Money Laundering (“BSA/AML”) Programs. The casino industry is currently a focus of interest for the Financial Crimes Enforcement Network (“FinCEN”), the Department of Justice (“DOJ”) and the Internal Revenue Service (“IRS”). These regulators and enforcement agencies have imposed fines on a number of well-known casinos for AML violations within the past few years. It is in a casino’s best interest then, not to take any chances by relying on prior BSA/AML Program standards followed in the gaming industry. Instead, casinos may want to look to traditional financial institutions and model their BSA/AML programs against the more robust programs of these established banking organizations.

### II. CASINOS AS FINANCIAL INSTITUTIONS

Casinos have resisted building compliance programs that mirror those of other financial institutions, arguing that their business is entertainment rather than financial services. Gaming establishments provide many “bank-like” services however. They accept and send wire transfers of funds, exchange cash for chips and chips for cash, allow the deposit of funds, and pay out in cash and checks. As a result, casinos are classified as financial institutions in the BSA regulations<sup>1</sup> BSA/AML Program Requirements.

Although casinos present their own unique money laundering risks, their BSA/AML requirements are quite similar to banks, money service business (“MSBs”) and other more “traditional” financial institutions. Casinos must develop and implement written AML programs “reasonably designed to ensure and monitor compliance with the BSA.”<sup>2</sup> A casino is required to establish risk-based internal controls to detect and report suspicious activity for patron and transaction information, and automated data processing systems. Recent enforcement actions have demonstrated that regulators are serious about holding casinos to this standard.

1. 31 U.S. Code § 5312 (a) states: (2) “financial institution” means — (X) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than \$1,000,000 which — (i) is licensed as a casino, gambling casino, or gaming establishment under the laws of any State or any political subdivision of any State; or (ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class I gaming (as defined in section 4(6) of such Act).

2. Title 31 U.S. Code § 1021.210 Anti-Money Laundering Requirements for Casinos



*In March 2015, Trump Taj Mahal Casino Resort entered into a consent order with FinCEN, carrying a \$10 million civil penalty – as of May of this year the largest penalty imposed by FinCEN on a casino, for willful and repeated violations of the BSA. In June 2015, FinCEN far exceeded this previous landmark fine by assessing a \$75 million civil penalty against Hong Kong Entertainment (Overseas) Investments, LTD d/b/a Tinian Dynasty Hotel & Casino (“Tinian Dynasty”).<sup>3</sup> Both of these enforcement actions stem from the casinos’ failure: to implement and maintain an effective AML program; to report suspicious transactions; to properly file required currency transaction reports; and to keep appropriate records as required by the BSA.*

*According to FinCEN, Trump Taj Mahal was given substantial notice to correct these deficiencies as many of the violations were discovered in previous examinations. In addition to the civil money penalty, Trump Taj Mahal is required to conduct periodic external audits to examine its BSA/AML compliance program and provide the audit reports to FinCEN.<sup>4,5</sup> With regard to Tinian Dynasty, FinCEN also contends: no member of the Tinian Dynasty staff was delegated responsibility for BSA; Tinian Dynasty failed to develop BSA policies and procedures; and Tinian Dynasty employees never received training in BSA recordkeeping requirements or in identifying, monitoring and reporting suspicious activity.<sup>6</sup>*

### III. CASINO REPORTING RESPONSIBILITIES

Just like banks, casinos are also required to file both Currency Transaction Reports (“CTRs”) to report large cash transactions by patrons and Suspicious Activity Reports (“SARs”) to report activity that the casino “knows, suspects or has reason to suspect is in connection with a violation of law or regulation.”<sup>7</sup>

*In August 2013, Las Vegas Sands paid a \$47.4 million fine as a result of the company failing to report potentially suspicious financial activity by an alleged Mexican narcotics methamphetamine dealer. Prosecutors noted that the narcotics dealer transferred more than \$45 million to the Venetian casino between 2006 and 2007, when he was the largest all-cash up-front gambler the Venetian had ever had to that point. The narcotics dealer wire transferred money to the casino from banks and money exchange houses in Mexico. Although the Venetian filed a suspicious activity report in April 2007, the report left out key transactions.*

*Las Vegas Sands agreed to the fine as part of a non-prosecution agreement that ended the criminal investigation. As a result of increased regulatory scrutiny, Las Vegas Sands stopped the execution of international money transfers for its high-end patrons and is revamping its compliance procedures.<sup>8,9</sup>*

The gaming industry appears to be responding to increased pressure by regulators, such as the issuance of AML guidance by a national gaming trade group which represents U.S. casinos, with an increase in SARs. Recent SAR filing trends show that from 2012 through 2014, there have been substantial increases in the number of SARs filed. The first three months of 2015 suggest that the trend is continuing.<sup>10</sup>

3. United States of America, Department of Treasury, Financial Crimes Enforcement Network, Assessment of Civil Money Penalty, In the Matter of: Hong Kong Entertainment, Ltd., June 3, 2015 Number 2015-07

4. United States Department of the Treasury. The Financial Crimes Enforcement Network (“FinCEN”). FinCEN Fines Trump Taj Mahal Casino Resort \$10 Million for Significant and Long Standing Anti-Money Laundering Violations. United States Department of the Treasury. 6 Mar. 2015. Web. 6 May 2015.

5. Ensign, Rachel Louise. “FinCEN Hits Trump Taj Mahal With Record AML Penalty.” WSJ Risk and Compliance Journal. Dow Jones & Company, Inc., 11 Feb. 2015. Web. 6 May 2015.

6. United States of America, Department of Treasury, Financial Crimes Enforcement Network, Assessment of Civil Money Penalty, In the Matter of: Hong Kong Entertainment, Ltd., June 3, 2015 Number 2015-07

7. 31 C.F.R. §1021.311 (July 1, 2014); 31 C.F.R. § 1021.320 (July 1, 2014)

8. United States Department of Justice. The United States Attorney’s Office Central District of California. Operator Of Venetian Resort In Las Vegas Agrees To Return Over \$47 Million After Receiving Money Under Suspicious Circumstances. USDOJ: US Attorney’s Office - Central District of California - 110. United States Department of Justice, 27 Aug. 2013. Web. 20 May 2015.

9. O’Keeffe, Kate and Alexandra Berzon. “Sands Bolsters Safeguards Against Money-Laundering.” The Wall Street Journal Business. Dow Jones & Company, Inc., 24 Jan. 2013. Web. 20 May 2015.

10. “InFocus: SAR Stats – Quarterly Update (April 2015).” [fincen.gov](http://fincen.gov). United States Department of the Treasury Financial Crimes Enforcement Network (“FinCEN”), April 2015. Web. 6 May 2015.

## IV. WHY CASINOS ARE VULNERABLE TO SUSPICIOUS ACTIVITY

Financial services offered by a casino are an integral part of casino operations and an area that leaves casinos at risk to money laundering, particularly if the casino has inadequate controls. From the casino chips that carry high value to the accessibility of traditional banking services, the gaming industry is without a doubt highly vulnerable to money laundering. In addition, the high volumes of cash transacted at casinos increase the risk of structuring,<sup>11</sup> cage banking, and infusion of illegally derived funds on the gambling floor.

### A. Structuring

Money launderers often use casinos to structure their illegal gains into smaller amounts to avoid reporting thresholds. Two or more individuals may conspire together to divide large amounts of cash, each purchasing chips with currency in amounts less than \$10,000 (or other triggering amount which would require the patron to provide identity information<sup>12</sup>) and one redeems chips for a casino check, claiming the chips to be winnings. Casino patrons may also reduce the amount of cashed out chips to less than \$10,000 (or other reportable amount) when asked for identification. Furthermore, a patron may pay down debt in multiple increments of less than \$10,000 (or other reportable amount) to evade reporting.

*In March 2013, a professional gambler was arrested for allegedly structuring financial transactions at Ameristar Casino in Kansas City, Missouri to avoid federal reporting requirements. The individual allegedly purchased at least \$166,380 in chips with cash in 11 structured transactions at Ameristar, and subsequently cashed in chips for \$315,075 in 32 separate structured transactions for over a year.<sup>13</sup>*

### B. Cage Banking

Cage Banking occurs when a patron uses the financial services offered by the casino to execute transactions that are more consistent with services offered by a traditional bank. Money laundering via cage banking typically includes wiring funds derived from non-gambling, potentially illegal, activities to or through a financial institution located in a country in which the patron does not reside; and/or use of a casino account primarily as a repository for funds by making multiple deposits in a short period of time and requesting money transfers to domestic or foreign bank accounts.

*A Cleveland man was sentenced to 16 1/2 years in prison for cocaine distribution and money laundering in Northeast Ohio. The subject laundered approximately \$72,730 in drug proceeds at the Horseshoe Cleveland Casino in July and November 2012. He did this by using cash from drug proceeds to purchase casino chips, later cashing in the chips at the casino cage.<sup>14</sup>*

### C. Infusion of Illegal Funds

Casino patrons may conduct large transactions on the casino floor with little or no gambling activity, in an attempt to legitimize proceeds derived from illegal activity. For example, patrons may purchase a large amount of chips with currency at a table and redeem the chips with little gambling or deposit currency in small denominations, later withdrawing the funds in chips and cashing them in for larger bills. Money launderers also draw markers, using the markers to purchase chips with little or no gambling and subsequently paying back the markers in currency and cashing in the chips for a check. In another attempt to infuse dirty cash on the casino floor, money launderers load slot machines with currency just under reporting amounts, generating tickets that are redeemed for a casino check or cash in large denominations.<sup>15</sup>

11. Structuring is an attempt to evade reporting requirements by breaking transactions into smaller amounts below reporting thresholds.

12. According to the Internal Revenue Manual ([http://www.irs.gov/irm/part4/irm\\_04-026-012.html](http://www.irs.gov/irm/part4/irm_04-026-012.html)), transactions (typically at the \$3,000 threshold) occurring at the gaming tables may be identified through casino Player Rating Systems and/or Multiple Transaction Logs ("MTLs"), while transactions occurring at the cage may be identified through casino Credit Management Systems and other cage records.

13. United States Department of Justice. The United States Attorney's Office Western District of Missouri. Professional Gambler Charged with over \$481,000 in Illegal Financial Transactions at Ameristar Casino. USDOJ: US Attorney's Office - Western District of Missouri - News. United States Department of Justice, 29 Mar. 2013. Web. 20 May 2015.

14. The Federal Bureau of Investigation, Cleveland Division. Willoughby Hills Man Sentenced to More Than 16 Years in Prison for Cocaine Trafficking, Money Laundering, and Firearms Possession. The Federal Bureau of Investigation, United States Department of Justice, 20 Feb. 2015. Web. 20 May 2015.

15. United States Department of the Treasury. The Financial Crimes Enforcement Network ("FinCEN"). Guidance FIN-20018-G007: Recognizing Suspicious Activity - Red Flags for Casinos and Card Clubs. 1 Aug. 2008. Web. 6 Mar. 2015.



*In April 2015, an individual pleaded guilty to conspiracy to commit money laundering at the Hollywood Casino in Kansas City, Kansas. The individual admitted he and other conspirators inserted more than \$470,000 in illegal drug proceeds into slot machines and subsequently cashed out at a casino ATM machine without playing in an effort to convert small denomination bills into large denomination bills.<sup>16</sup>*

## V. INDUSTRY CHALLENGES

One of the most significant challenges for casinos in building an effective AML program is overcoming its own culture and image, both internally and externally. Casino management and employees have long identified with the hospitality industry, running entertainment venues where patrons are showered with glitz and glamour and the collection of a patron's personal information is unnecessary. Casino patrons have come to expect privacy and even anonymity, losing themselves in the indulging embrace of the casino environment while never fully divulging their identity. Even those patrons who do become identified to the casino through frequent visitor incentive programs ("player clubs") or through financial transactions, may see no reason to disclose to casino employees their business or professional activities. Needless to say, these mindsets contradict the patron identification and validation ("PIV") requirements of casinos and increasing expectations by regulators to know a patron's source of wealth. In the past, casino management officials have risked their own reputations in attempting to please and provide VIP treatment rather than performing PIV on 'high-rollers'.

*Prior to assessing the \$75 million civil penalty against Tinian Dynasty this June, in August 2014, FinCEN reached an agreement with the former VIP Services Manager at the Tinian Dynasty in the Northern Mariana Islands in which he admitted that his conduct violated the BSA by helping high-end gamblers avoid detection of large cash transactions that required reporting under the BSA. The agreement permanently bars him from working with financial institutions transacting with or in the United States as a result of his willful violations. The agreement also assesses a civil monetary penalty of \$5,000 for these violations.<sup>17</sup>*

Money launderers may employ sophisticated methods to introduce large amounts of currency into the financial system that may be difficult to detect. Conversely, BSA/AML Programs and controls at casinos may not be fully matured. Casinos do not typically maintain customer accounts for their patrons, which make them prime targets for money launderers. While player club membership may assist in analyzing a patron's transaction patterns, player club members are not required to gamble and money launderers are free to travel between casinos to conduct their business. Additionally, the very nature of certain casino games makes money laundering activity difficult to monitor and identify. Casinos' failure to employ robust mechanisms to capture and analyze gambling patterns has drawn the attention of criminal enforcement agencies.

16. United States Department of Justice. The United States Attorney's Office District of Kansas. Olathe Man Pleads Guilty To Casino Money Laundering, Drug Trafficking. USDJ: US Attorney's Office - District of Kansas - News. United States Department of Justice, 13 Apr. 2015. Web. 20 May 2015.

17. United States Department of the Treasury. The Financial Crimes Enforcement Network ("FinCEN"). FinCEN Bars Casino Official from the Financial Industry. United States Department of the Treasury. 6 Mar. 2015. Web. 6 Mar. 2015.

In August 2014, a letter from the IRS criminal investigation division was sent to Wynn's legal counsel requesting information on Wynn's highest-rolling U.S. and foreign patrons, its domestic and overseas marketing offices, and its safeguards against money laundering. Investigators are trying to determine whether any of these patrons laundered the proceeds of drug-trafficking through the company's casinos. Investigators are also trying to determine whether Wynn violated the law through its handling of sports-betting activities.<sup>18</sup>

## VI. HOW CASINOS CAN GUARD AGAINST MONEY LAUNDERING

Casinos are now reducing the odds of money laundering by mimicking the moves of traditional financial institutions in conducting AML risk assessments, building strong BSA/AML Compliance Programs and tailoring controls to meet their risks.

### A. The BSA/AML Risk Assessment

In response to growing concern over the susceptibility to money laundering and increasing regulatory scrutiny, the American Gaming Association (“AGA”) published “Best Practices for Anti-Money Laundering Compliance” in December 2014 as a resource for the gaming industry and law enforcement to protect the industry and the financial system from money laundering and other illegal activity. Chief among the recommendations made by the AGA is conducting a BSA/AML risk assessment.

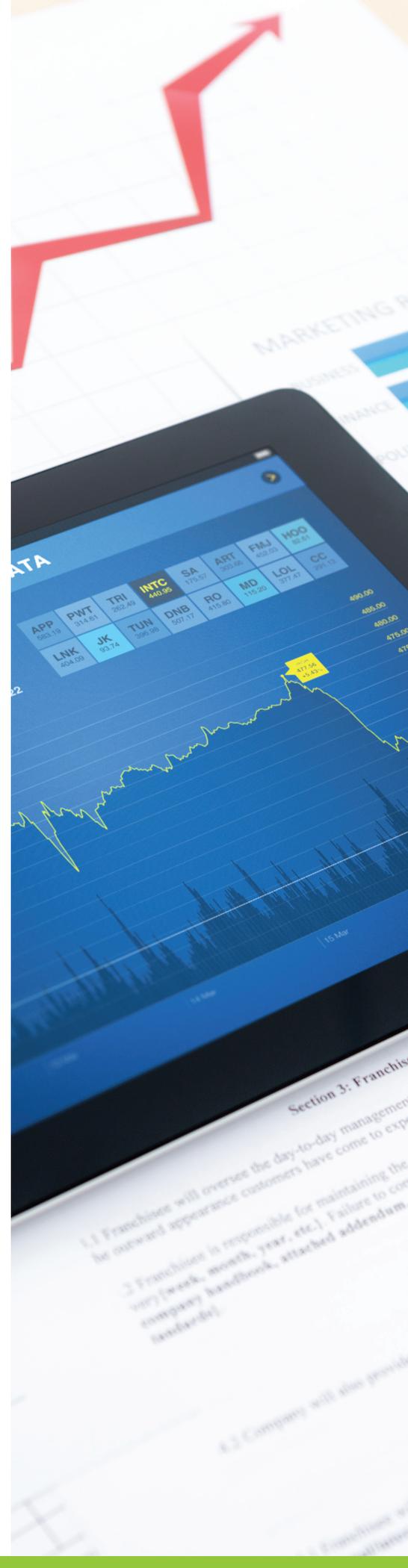
Similar to traditional financial institutions, a casino's BSA/AML risk assessment is a key resource in determining the level of patron due diligence and transaction monitoring a casino should perform, as well as a useful tool in identifying specific controls warranted for particular games, customers and services offered at gambling establishments. Casinos should identify and assess their exposure to money laundering or other illegal activity given the specific risk that each individual casino faces and performing an AML risk assessment across its key processes and operations is the best way to do that.

In performing the BSA/AML risk assessment, each casino should exercise judgment based on its own experience and specific knowledge of its patrons' transaction activity to assess the risk that a casino transaction will involve the proceeds of illegal activity or involve money laundering. Characteristics a casino should consider in its risk assessment include:

#### 1. Gaming Volume and Character

Larger casinos with higher value gaming activities may be more susceptible to money laundering. Since money laundering activity often involves large amounts of currency, money launderers may use large casinos where they may be more likely to go unnoticed due to the frequency of high value transactions, and where the casino's surveillance systems have a larger area to cover. Accordingly, larger gaming venues will likely need more robust BSA/AML compliance procedures.

18. Ensign, Rachel Louise and Christopher M. Matthews. “Wynn Resorts Probed on Money-Laundering Controls.” The Wall Street Journal Business. Dow Jones & Company, Inc., 21 Nov. 2014. Web. 6 May 2015.





## 2. Range and Volume of Financial Services

Casinos that offer more financial services typically provide a greater opportunity for money launderers to exploit several different services for illicit purposes. For instance, casinos that provide international transfers are of much greater risk. Furthermore, casinos that provide services to their patrons such as high dollar transactions with high frequency are of higher risk than casinos that do not provide these services.

## 3. Characteristics of Certain Games

The rules of certain games may make money laundering more likely, such as games that allow patrons to bet both sides (e.g., baccarat, craps, roulette), games where one person places a bet and another collects any winnings (e.g., sports betting) and transactions that occur between patrons (e.g., poker). As such, the casino may be less likely to detect suspicious activity because it may not track wins and losses and because redemptions may not be as frequent. Similarly, games that offer patron anonymity and high dollar play are of higher risk.

## 4. Patron Risk

Foreign nationals or non-resident aliens from geographies deemed to be jurisdictions of concern for money laundering, corruption or other illicit activity may present an increased risk of money laundering. Patrons with certain attributes such as politically exposed persons (“PEPs”), criminal history and industry association may present higher risks to casinos.

## 5. Geography

Several larger casinos operate in multiple jurisdictions including some high risk jurisdictions. It is important that the risk assessment consider all locations of operations as well as the primary locations of their customer base.

## 6. Intermediary Risk

Casinos often use junkets<sup>19</sup> to recruit high-rollers to their gaming establishments. In addition to offering a degree of insulation and anonymity, junkets can act like banks in some ways—taking deposits and lending out their cash. They have agents who both provide capital for the business and bring in customers. As such, junkets can introduce AML risk to casinos.

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19. Gaming Junket is an arrangement whereby a person or a group of persons is introduced to a casino operator by a junket promoter who receives a commission or other payment from the casino operator. Junket rooms are rented out to private vendors who run tour groups through them and give a portion of the proceeds to the main casino.

## B. BSA/AML Program

As previously mentioned, FinCEN regulations require casinos to have a written “risk-based” BSA/AML Program. The most effective program design for any particular casino will depend on the variations in risk because of patron mix, games offered, volume of gaming and many other factors. The BSA mandates certain compliance program requirements, others are necessary for a casino to address its money laundering risk. Generally, a casino BSA/AML Program will typically include the components indicated below, most of which are specifically required by BSA:

### 1. BSA/AML Officer

The BSA requires that a casino appoint an AML compliance officer with day-to-day responsibility for the program. The AML compliance officer should be knowledgeable of the casino’s products, services, patrons, entities, and geographic locations, and the potential money laundering and terrorist financing risks associated with those factors. The AML compliance officer must be designated as responsible for compliance with BSA/AML requirements, policies and training. The BSA/AML Officer should be available to other employees to consult on related questions as they arise. The BSA/AML Officer, along with the AML compliance function more broadly, should be provided with the authority and resources to implement the AML program and assist the casino in managing risk.

### 2. Culture

It is also important that casinos have a compliance culture than is embraced by all members of the company, especially senior management who set the tone at the top by actively supporting compliance efforts and allocating adequate resources. *FinCEN’s Guidance to Financial Institutions included in its Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance*<sup>20</sup> fixes responsibility for BSA/AML compliance with leadership. A successful BSA/AML compliance program has the visible support of the leadership. Casino leaders should be trained in their responsibilities and be informed as to the state of the BSA/AML program because an appropriate understanding of BSA/AML obligations and compliance will help the casino’s leadership make informed decisions with regard to the allocation of resources to the BSA/AML function.

20. United States Department of the Treasury, The Financial Crimes Enforcement Network (“FinCEN”). FIN-2014-A007: Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance. United States Department of the Treasury, 11 Aug. 2015. Web. 20 May 2015.





### 3. Employee Training

The BSA requires the casino to provide annual training on AML procedures and BSA compliance requirements should be provided to employees who have direct interaction with patrons or who handle or review patron transactions.<sup>21</sup> The training should be tailored to the responsibilities of the employee, but should address CTR and SAR reporting and the casino's AML Program. The casino should update training materials regularly to reflect regulatory and enforcement developments. The casino should also require employees to pass a test and sign an acknowledgement form agreeing to comply with company BSA/AML policies. AML compliance should be a factor in determining compensation and bonuses for responsible individuals.

### 4. A System of Internal Controls

To assure ongoing compliance with the BSA, casino management must develop written policies, procedures and internal controls tailored to its specific business and risks. AML procedures, prescribing AML specific controls, should address communications, recordkeeping and coordination between departments. Customized, explicit procedures are needed for the identification, reporting and gathering of information on suspicious activity.

### 5. Audit Procedures

The BSA requires casinos to conduct and independently test their AML compliance program.<sup>22</sup> The test can be conducted by the casino's independent auditors or by a competent outside party. The independent auditors must test the efficacy and implementation of the casino's overall BSA/AML program and specific compliance functions. The auditors should report their findings to senior management officials with the authority to implement corrective actions warranted by the independent testing's findings.

The casino should maintain a detailed audit program to document all audit procedures performed by independent auditors. The independent testing should cover a review of currency transaction activity, activity identified as potentially suspicious and the casino's negotiable/monetary instrument log. The reviews should test for the completeness of investigation processes and documentation. The independent testing also should test the casino's monitoring systems and how the system fits into the casino's overall risk profile, volume of transactions and staffing.

21. Title 31 U.S. Code § 1021.210 (b) (2) (iii) Anti-Money Laundering Requirements for Casinos includes the following requirement: "Training of casino personnel, including training in the identification of unusual or suspicious transactions, to the extent that the reporting of such transactions is required by BSA, by other applicable law or regulation, or by the casino's own administrative and compliance policies."

22. Title 31 U.S. Code § 1021.210 (b) (2) (ii) Anti-Money Laundering Requirements for Casinos

## 6. Procedures that Use All Available Information to Identify and Validate a Person's Identity

The BSA requires casinos to establish procedures for using all available information to determine identifying information (where applicable), the occurrence of any transactions or patterns of transactions required to be reported in CTRs or SARs, and recordkeeping requirements. A risk-based approach uses the AML risk assessment to identify those patrons and transactions that pose the greatest risk of money laundering so the casino can apply elevated levels of scrutiny to those. A casino can then implement appropriate controls to mitigate the different levels of risk of different patrons. Customer Due Diligence ("CDD") controls may include:

### a. Patron Identification and Verification

No front money, marker limit, credit account or safety deposit box agreement or transaction will be executed unless the patron provides a full name and a permanent address and for US citizens, a social security number. For all transactions reportable under BSA/AML procedures, the patron must provide valid, current, acceptable Government-issued photo identification and a permanent residence address (i.e., no PO Box). Although separate from BSA/AML requirements, casinos should check whether patrons and related entities appear on the Specially Designated Nationals list maintained by The Office of Foreign Assets Control ("OFAC").

### b. Ongoing Due Diligence

Casinos should increase scrutiny of patron play and background in situations that pose greater risk of money laundering. For high volume patrons or transactions identified as higher risk for money laundering activity, the casino may need to perform additional due diligence, including public records and third party database searches to determine whether additional money laundering risks exist related to the patron and identifying the source of funds.

## 7. Transaction Monitoring

Compliance personnel should review transactions above thresholds specific to the casino determined by its risk assessment. If a transaction is flagged by the review, the casino should consider performing additional research to determine the patron's background, source of funds and any other information that will assist the casino to determine whether there is a reasonable explanation for the patron's transactions. Using this information, the casino can decide whether or not to file a SAR and/or terminate the relationship.





#### 8. Suspicious Activity Reporting

The BSA requires casinos to file SARs if the casino knows, suspects or has reason to suspect that a transaction or attempted transaction aggregating to at least \$5,000 (i) involves funds derived from illegal activity; (ii) is intended to disguise funds or assets derived from illegal activity; (iii) is designed to avoid BSA reporting or recordkeeping requirements; (iv) involves the use of the casino to facilitate criminal activity; (v) has no business or apparent lawful purpose; or (vi) is not within the expected range of transaction activity for the patron, and the casino knows of no reasonable explanation for such transaction. Given that SAR filing rules encompass attempted transactions, casinos should ensure that they monitor both attempted and completed transactions for potential SAR filing.

#### 9. Suspicious Activity Report Review Procedures

A casino should review its filed SARs for the prior year to analyze patterns of suspicious activity and develop guidelines for employees to apply going forward. This review and analysis should be conducted on an annual basis and as part of its ongoing risk assessment. Casinos should also have a policy to consider the relationships of patrons who are the subjects of multiple SARs to terminate relationships where warranted and barring those patrons where appropriate.

#### 10. Recordkeeping and Retention

The casino should adopt a recordkeeping system to preserve records for each patron who is subjected to CDD procedures, including a record of specific procedures performed to analyze the patron's gaming patterns and financial transactions, due diligence reports; any risk determination; and any action taken as a result of the patron due diligence procedures performed, including additional patron monitoring, regulatory reporting and/or changes in casino services available to the patron. Records should be maintained for 5 years, including SARs and CTRs and supporting documentation.<sup>23</sup>

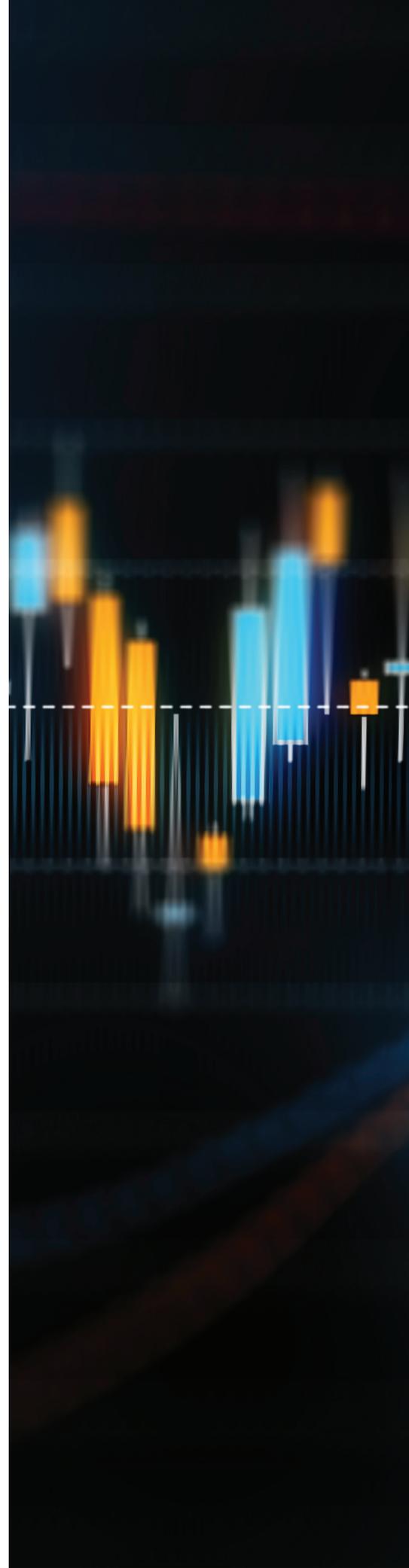
<sup>23</sup> American Gaming Association. American Gaming Association Best Practices for Anti-Money Laundering Compliance. Dec. 2014. Web. 6 May 2015

### C. Preventive and Detective Controls

After identifying its high risk vulnerabilities presented by its gaming volume, financial services, games and patrons, a casino will want to identify and assess the controls it has in place to guard against these risks. Preventive measures are those controls that stop money laundering prior to it occurring. Detective controls are those that identify suspicious activity soon after it occurs. Some examples of preventive and detective controls by informed casinos may include:

1. Imposing maximum “ticket-in/ticket out” redemption limits at slot machine kiosks;
2. Barring cash for cash exchanges above a specified threshold without a reasonable business purpose, while permitting a senior cage official to approve such exchanges above that threshold for legitimate business purposes;
3. Declining to accept cash to purchase a casino check or other monetary instrument or to initiate a wire transfer without a legitimate business purpose;
4. Suspending a patron’s player club account, temporarily or permanently barring the patron from the casino and/or filing a SAR if the patron’s lack of cooperation in providing necessary information has resulted in an incomplete CTR filing;
5. Automating MTLs that aggregate transactions from various parts of the casino and in different games;
6. Enhancing and implementing transaction monitoring systems that include scenarios tailored to the casino’s operations, generating alerts of potentially suspicious activity;
7. Using patron information gathered from other parts of the casino (e.g., marketing, customer service, club accounts and rewards programs) to identify patrons and monitor for suspicious activity;
8. Directing international branch offices of the casino to adhere to the same recordkeeping and reporting requirements under the BSA; and
9. Requiring all traveling marketing executives to be trained on the laws that relate to gaming and marketing for the specific jurisdiction(s) they are visiting prior to travel outside the U.S.<sup>24</sup>

24. American Gaming Association. American Gaming Association Best Practices for Anti-Money Laundering Compliance. Dec. 2014. Web. 6 May 2015



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## VII. CONCLUSION

BSA/AML requirements for casinos are remarkably similar to those of traditional banking institutions. While the specific BSA/AML program and money laundering risks may vary, regulators expect the same AML compliance and vigilance from casinos as they do traditional banks. Recent punitive actions by FinCEN and the DOJ against gaming institutions are evidence that regulators are cracking down on the industry.

Regulators are looking for the gaming industry to respond to the increased scrutiny. The gaming industry can look to traditional financial institutions for general guidance, but each gaming institution must tailor its AML program to mitigate its unique set of risks. A gaming institution must develop AML controls that are designed to mitigate the specific risks that an institution faces, such as jurisdictional, patron, product and gaming risk. Each institution must perform a robust risk assessment in order to develop an effective AML program acceptable to regulators. In short, casinos should use sound judgment, a critical eye and perform an unbiased assessment of their money laundering risks in developing and executing their BSA/AML programs.

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