



AMERICAN
GAMING
ASSOCIATION

BEST PRACTICES FOR
ANTI-MONEY LAUNDERING
COMPLIANCE
- 2017 -

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ABOUT AMERICAN GAMING ASSOCIATION

The American Gaming Association is the premier national trade group representing the \$240 billion U.S. casino industry, which supports 1.7 million jobs in 40 states.

AGA members include commercial and tribal casino operators, suppliers and other entities affiliated with the gaming industry. It is the mission of the AGA to be the single most effective champion of the industry, relentlessly protecting against harmful and often misinformed public policies, and paving a path for growth, innovation and reinvestment.



INTRODUCTION

The U.S. gaming industry is one of the most heavily regulated and controlled business sectors across the globe. In addition to comprehensive and stringent state gaming regulations, U.S. gaming operations are subject to federal anti-money laundering (AML) requirements.

The modern casino is an entertainment venue that offers its patrons highly regulated gaming, often combined with hotels, multiple dining options and live entertainment. To facilitate gaming activity, casinos ordinarily provide some financial services to their patrons. Although the vast majority of patrons visit casinos for entertainment, leisure and diversion, those engaged in illegal activity may attempt to use the casino's financial services to conceal or transfer illicit wealth.

To discourage such behavior and safeguard the integrity of the casino industry and the U.S. financial system, casino companies have developed effective risk-based programs in an effort to ensure compliance with the legal requirements of the federal Bank Secrecy Act (BSA) and associated anti-money laundering (AML) statutes and regulations.

This document is an attempt to distill the practices that a wide range of casinos and Internet gaming sites have adopted to meet these challenges. This document uses the term "casino" to cover both in-person and lawful Internet gaming operations, because the BSA/AML compliance effort applies to both.

This document is not intended to be a checklist of actions required of every casino and should not be applied arbitrarily to any individual situation, or on a blanket basis. In some instances, industry practices may go beyond a legal requirement established by statute or regulation, so this document should not be considered a guide to those legal requirements.

In addition, because AML programs are risk based and casinos have different risk profiles, individual casinos will have good reasons for departing from or modifying a procedure in this document, or for developing supplemental or alternative procedures, including appropriate approvals and documentation of decision-making.

The goal of this document is to provide a resource for industry and law enforcement to help guide their efforts to protect the gaming industry and the broader financial system from money launderers and others involved in illegal activity.

BACKGROUND

Since 1985, commercial casinos have been defined as “financial institutions” under the Bank Secrecy Act (BSA). Accordingly, they must file currency transaction reports (CTRs) when a patron either provides to the casino or takes away from the casino more than \$10,000 in currency during a casino’s defined 24-hour gaming day.

Casinos also must file suspicious activity reports (SARs) when a casino knows, suspects, or has reason to suspect that a transaction aggregating at least \$5,000:

- Involves funds derived from illegal activity;
- Is intended to disguise funds or assets derived from illegal activity;
- Is designed to avoid BSA reporting or recordkeeping requirements;
- Uses the casino to facilitate criminal activity;
- Has no economic, business or apparent lawful purpose; or
- Is not the sort of transaction in which the particular patron would be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts.

More broadly, the BSA also requires casinos to design and implement risk-based AML programs that include, at a minimum, a system of internal controls, policies, and procedures to assure ongoing compliance, which should include procedures for using all reasonably available information to determine:

- When required by BSA regulations, the name, permanent address, Social Security number, and other information, and verification of the same, of a person;
- Whether SARs need to be filed;
- Whether any other record required under the BSA must be made and retained;
- Internal and/or external independent testing for compliance;
- Appropriate, ongoing training of casino personnel;
- An individual or individuals charged with assuring day-to-day compliance (the “AML officer”); and
- Lastly, to assure compliance by integrating and sharing data as appropriate and feasible among different parts of the casino enterprise.

In the interest of maintaining the integrity of gaming, each casino company implements a comprehensive and robust anti-money laundering compliance program that identifies and mitigates its risks and also ensures that it submits appropriate CTRs and SARs as required.

A discussion of criteria for casino compliance programs appears at the website of the Financial Crimes Enforcement Network of the U.S. Department of the Treasury (FinCEN).

This risk-based compliance effort involves many complexities. For our patrons, casinos are generally not viewed as financial institutions, but rather entertainment venues they enter and leave as it suits them. Many patrons are not, and never will be, personally known to casino employees.

Even those patrons who become identified to the casino, because they are frequent visitors or because they require assistance with financial transactions, ordinarily have no reason to disclose to casino employees their business or professional activities. Most are, after all, at the casino to pursue entertainment.

Some, for legitimate personal reasons, may not care to have their gambling activities known. In addition, the relatively small number of patrons who may attempt to launder funds through casinos take considerable pains to conceal that purpose from the casino.



To help address money laundering risks, casinos have developed comprehensive risk-based programs to identify patrons whose gaming activity approaches the CTR reporting threshold. That requires the aggregation of currency transactions from several different parts of the casino: the gaming tables, electronic gaming machines, and casino cage activity, including credit (or marker limit) and front-money transactions.

To detect and report suspicious activity, casino employees and supervisors must make complex, nuanced judgments based on available information about a patron's activities. The legal standard for filing a SAR is a subjective one, applying to situations where the casino "knows, suspects, or has reason to suspect" reportable activity.

Moreover, as stressed in the National Money Laundering Risk Assessment issued by the U.S. Department of the Treasury in June 2015, "most often criminals who use casinos to launder illicit proceeds do it through gambling and spending on entertainment"¹ – the exact same activities that the casino's other patrons are pursuing. Consequently, there is often little observable basis for distinguishing between those patrons laundering funds in the casino and all other casino patrons.

In some situations, suspicions can be confirmed or disproved only with information that is ordinarily unavailable to the casino, or by making inquiries of the patron – for example, concerning the source of the patron's funds. Senior managers – rather than front-line employees – may be best suited to determine whether to make such an inquiry and to conduct the inquiry.

For instance, the matter may involve issues that the casino ordinarily would have no business reason to investigate, and some patrons may have little or no incentive to review those issues with the casino. The involvement of senior managers may facilitate the interaction with the patron, as well as signal the importance of the inquiry.

¹National Money Laundering Risk Assessment, www.treasury.gov/resource-center/terrorist-illicit-finance/Documents/National%20Money%20Laundering%20Risk%20Assessment%20E2%80%932006-12-2015.pdf, page 75, (June 2015).

CASINOS' CULTURE OF COMPLIANCE

Risk-based AML compliance efforts and a strong culture of compliance are essential to the casino industry.²

To promote and foster a culture of compliance, casinos should allocate substantial employee time to AML compliance, which includes:

- Establishing a system of internal controls and policies and procedures to assure ongoing compliance with AML requirements;
- Ensuring independent testing of AML compliance, of a scope and frequency that matches the money laundering and terrorist financing risks present;
- Training casino personnel, as warranted for individual jobs, in the identification of unusual financial transactions or suspicious activities, in the recording and aggregation of currency transactions, and all legal requirements and the casino's compliance policies and procedures; and
- Designating an individual or individuals responsible for assuring day-to-day AML compliance at all venues.

Casinos also should consult with FIN-2014-A007³, which discusses "Promoting a Culture of Compliance."

Forging effective working partnerships with law enforcement agencies is another important way to nurture a culture of compliance, ensuring that employees understand how BSA-required reports are used to achieve national policy goals that may override business concerns.⁴

Casinos also have found it useful to participate in the voluntary information-sharing program with other entities defined as financial institutions under Section 314(b) of the USA PATRIOT Act.

There is no more effective way to foster a positive culture than to have the casino's senior leadership and Board of Directors (whether directly or through the Board's Audit or Compliance Committee) engaged in the AML compliance effort, receiving periodic updates on regulatory developments, changes to the program, resources, and audit findings by regulators and by other independent compliance reviews.

²A good compliance culture is one where doing the right thing is rewarded, and where 'looking the other way' has consequences." Please see Treasury Blog Note by Acting Director of FinCEN, Jamal El-Hindi, Culture of Compliance and Casinos, www.treasury.gov/connect/blog/Pages/Culture-of-Compliance-and-Casinos.aspx (finding that "casinos appear to be steadily improving their anti-money laundering efforts.").

³See also, Advisory to U.S. Financial Institutions on Promoting a Culture of Compliance, FIN-2014-A007 (Aug. 11, 2014), www.fincen.gov/resources/advisories/fincen-advisory-fin-2014-a007.

⁴A recent study by Ernst & Young for the American Gaming Association surveyed officials from twenty-three law enforcement and gaming regulatory agencies and found that the casino industry has made concerted efforts to enhance AML compliance and reporting. Investing in America's Financial Security: Casinos' Commitment to Anti-Money Laundering Compliance, p. 27. www.americangaming.org/sites/default/files/AGA%20AML%20Research%20Report%20Final%20011916.pdf



RISK ASSESSMENT

Because every financial institution is potentially at risk of being used for illegal purposes or accepting funds that were obtained illegally, casinos should identify and assess their money laundering risks and adopt effective measures to mitigate those risks.

The risk assessment should be tailored to each specific casino venue and the nature and characteristics of its location, enterprise and customers. Many factors may be relevant to the risk assessment for a specific casino, but the risk assessment process begins with asking basic questions:

- First, what are the entry and exit points at the casino for patron funds that may come from illicit sources?
- Second, what casino departments or employees are best positioned to detect the entry and exit of such funds?
- Finally, what are characteristics of transactions that may involve illicit funds, or of patrons who are more likely to engage in suspicious activity?

In answering these questions, a casino will assess the BSA-related risks present at different parts of its business. Regulators, independent auditors, and law enforcement officials may also provide important guidance concerning risks that are arising in the financial system generally, and in the gaming industry specifically.

There is no substitute for the exercise of judgment based on experience with casino transactions. Nevertheless, some basic characteristics of a casino's business can guide the assessment of the risk that a casino transaction may involve the proceeds of illegal activity or involve money laundering.

State Regulatory Requirements

Every state that grants casino licenses also imposes exacting regulation on casino operations, though specific requirements vary from state to state. State regulations define the games that can be offered and the rules of each game; they also establish what financial services can be offered and the procedures casinos must follow in providing them. State regulation also will extend to the nature of the surveillance and security measures employed at the casino.

Gaming Volume and Character

Different gaming venues may have differing risks based on their unique product mix and customer pool, while risks may evolve over time as a venue's business model changes.

Because money launderers often deal with substantial amounts of money, they may be drawn to larger casinos with higher gaming activity, where large-value transactions are more frequent and less likely to draw attention, and where the casino's surveillance systems may have greater capacity.

For the same reasons, money laundering may be more likely to involve patrons bringing large amounts of money to a casino and playing games at higher-dollar values. Accordingly, larger gaming venues will likely need more AML/BSA compliance procedures than smaller dollar volume casinos.

Nevertheless, smaller volume casinos must be alert to a patron's departure from ordinary patterns of play and the suspicious use of the financial services offered by the casino; similarly, the structuring of transactions to avoid reporting requirements can occur at any casino, regardless of business volume.



Range of Financial Services

The broader the array of financial services available at the casino (e.g., front-money deposit accounts, marker limit/credit extensions, wire transfer procedures, the receipt and issuance of negotiable instruments, the offering of safe deposit boxes), the greater the opportunity for a money launderer to exploit several different services for illicit purposes.

Characteristics of Certain Games

The rules of certain games may make money laundering more likely. For example, if a game allows patrons to bet either side of a bet (e.g., baccarat, craps or roulette), confederated patrons might bet both sides in order to launder funds through the game. Similar risks may arise in the case of sports betting when a patron places a bet with a legally operating sports book on behalf of an unidentified third party, concealing the origin and owner of the funds.⁵

Because poker is not a house-banked game, transactions at the poker tables may occur between customers, rather than with the casino. Accordingly, the casino may be less likely to detect potential suspicious activity because poker -- unlike table games, race and sports book wagers, or electronic games -- does not afford the casino the ability to determine verified win/loss. If a casino does not permit cash wagering in poker rooms, the risk of money laundering may be correspondingly reduced.

Country Risk

Some patrons with casino accounts may be deemed to present a higher risk if the casino learns that they are non-resident aliens or foreign nationals or residents of countries that have been defined by the United States as jurisdictions of concern for narcotics trafficking, human trafficking, money laundering, terrorism, or other forms of illicit finance, or if the foreign nation has been identified as non-cooperative by the Financial Action Task Force, or if the foreign nation has been identified by Transparency International or a similar reputable organization as having a high level of public corruption.⁶

Politically Exposed Persons (PEPs)

Also known as Senior Political Figures, Politically Exposed Persons (PEPs) are individuals who have been entrusted with a prominent public function, or individuals who are closely related to such persons. PEPs and their transactions may warrant further inquiry and consideration by the casino, such as investigating their source of wealth or funds. As appropriate, casinos should identify and assess the risks of both foreign and domestic PEPs.

Patron Behaviors

Unusual patterns of patron behavior on the gambling floor may suggest the risk of money laundering. For example, a patron's betting activity or his financial transaction activity may increase significantly without explanation.

Or a patron may appear to be coordinating his gaming with another patron or patrons (e.g., passing chips or cash back and forth) in an attempt to evade notice. Or a patron might abruptly change the methods he uses for bringing money into or out of the casino, or unexpectedly use multiple sources or multiple destinations for funds. A patron also may request multiple monetary instruments for a jackpot or wager win.

All of these behaviors may be entirely legitimate, but casinos should be attentive to the risk that they are not. Many of these considerations are detailed further in later sections of this document.

⁵See FinCEN Correspondence with the American Gaming Association Regarding Sports Betting Conducted on Behalf of Third Parties, www.fincen.gov/statutes_regs/guidance/pdf/01162015.pdf, (Jan. 16, 2015).

⁶For example, see the State Department's annual International Narcotics Control Strategy Report and regulations and guidance issued by FinCEN.

In addition, the U.S. Department of the Treasury noted in its 2015 National Money Laundering Risk Assessment, that money laundering activity at a casino most often involves exactly the same activities – gambling and spending money – that all casino patrons engage in.

That reality may limit the utility of applying data analytics to casino information, given that licit and illicit activity so often look the same to the casino's compliance team. Nevertheless, data analytics may help identify certain specific types of illicit activity, such as "bill stuffing" in slot machines.

Results of Independent Audit and IRS Examination

Independent auditors' evaluations and Internal Revenue Service (IRS) examinations of the casino's AML compliance program should be carefully analyzed and reviewed. The casino should undertake corrective actions in response to issues that arise during an examination or audit, and revise its AML program accordingly or make a determination that no such action is necessary.

Patron Characteristics

In some instances, a casino may learn information about a specific patron which warrants further inquiry or examination of the patron's transactions. Examples of such information include formal actions against the patron by law enforcement agencies, public reports of negative information concerning the patron's integrity, or evidence that the patron is under investigation by law enforcement.

When such reports arise about a patron, casinos may wish to review any previous transactions with the patron that may appear suspicious in light of the newer information. Casinos may also determine to review such patron's future activity, if any, after a prescribed period of time (e.g. 90 days).

In addition, information about the patron's financial situation may be relevant, to the extent known by the casino, including (as examples) the presence of IRS tax liens or personal bankruptcies in recent years.

Because all of these criteria are necessarily general, individual casinos have adopted a range of implementation measures and guidelines that aim to detect, block, and report efforts to present illicit funds at casinos.

The following discussion of available compliance techniques should not be viewed as mandatory for every casino. Variations in patron mix, games offered, volume of gaming, and many other factors may render some steps listed below less applicable to a specific casino, or may warrant measures in that casino that are not identified in this document. A discussion of risk assessment factors for casinos (FIN-2010-G002) appears at the FinCEN website, www.fincen.gov, along with responses to Frequently Asked Questions.



BSA/AML COMPLIANCE OFFICER

As required by federal BSA regulations, at least one employee at a casino must be designated as responsible for compliance with BSA and AML requirements, policies, and training, and should be available to other employees to consult on related questions as they arise. The BSA/AML compliance officer should be fully knowledgeable of the BSA and all related regulations.

The BSA/AML compliance officer should also understand the casino's products, services, customers, entities, and geographic locations, and the potential money laundering and terrorist financing risks associated with those factors, as well as how BSA-required reports are used by law enforcement agencies.

The BSA/AML compliance officer, along with the AML compliance function more broadly, should be vested with appropriate authority and resources to implement the program and assist the casino in managing risk.

EMPLOYEE TRAINING

Ongoing training on AML procedures and BSA compliance requirements should be provided to employees who assist with or review patron transactions that may be subject to the BSA. The extent and intensity of the training should vary according to the responsibilities of the employee, but should address CTR and SAR reporting and the casino's AML Program.

Training materials should be updated regularly to reflect regulatory and enforcement developments under the BSA. If such regulatory developments may warrant a revision in the casino's compliance practices, relevant personnel should receive information on a timely basis about both those developments and any revised casino practice.

The following categories of employees should receive training at least once per year, and more frequently if changes in the law or circumstances require it. Following the training, the employees should be required to pass a test on the subjects covered and to sign an acknowledgement form agreeing to comply with company BSA/AML policies.

Training should extend to the following general categories of employees:

- Those engaged in the operation of casino games (table games, poker, slots, keno and bingo, and sports betting), at least beginning with supervisors and above;
- Casino marketing employees, including domestic and international hosts, branch office employees, and if applicable special events employees;
- Cage employees;
- Surveillance employees;
- Property compliance and AML compliance employees;
- Audit employees, including Internal Audit and Fraud Department employees; and
- Senior gaming management, Board of Directors, Audit Committee or Compliance Committee, as applicable.

Training on BSA and AML policies of the casino also may be incorporated in job training for other casino employees, such as dealers.

The casino's AML compliance performance, as well as the compliance actions of individual employees, should be a factor in performance reviews of those employees involved with BSA compliance, and should be considered in calculating compensation and bonus and in determining any negative personnel action, including performance improvement plans through to termination from employment.



PREVENTATIVE STEPS

Casinos should consider adopting policies and procedures that have the purpose of preventing patrons from attempting transactions that have a higher likelihood of involving BSA violations or other violations of law. Such policies and procedures should be tailored to the casino's specific business profile.

Some examples of such policies and procedures may include:

- Requiring that "ticket-in/ticket-out" (TITO) redemptions at slot machine kiosks be capped at an amount determined by the risk assessment for such transactions at that casino.
- Barring cash for cash exchanges above a threshold consistent with the risk assessment for such transactions at that casino, while permitting senior management to approve such exchanges above that threshold for an appropriate business purpose (e.g., foreign currency exchanges for established patrons at reasonable levels). Such approvals should be documented.
- Declining to accept cash to purchase a casino check or other monetary instrument or to initiate a wire transfer. This would not restrict the cage from issuing a check or funds transfer for documented casino winnings, or from doing so in legitimate circumstances. Such approvals should be documented. Concern would be heightened with respect to checks or wire transfers which originate from a labor union, charitable/non-profit organization or foundation, Interest on Lawyer's Trust Account ("IOLTA") or other type of trust account. A casino may determine to reject and/or reverse such checks and wire transfers.
- Issuing casino checks and wires to a patron only for the amount of his/her winnings, in the absence of legitimate circumstances for such actions (e.g. the remaining funds from a cashier's check which already has been negotiated).
- A check for winnings should be payable only to the patron, and a wire transfer should be made only to the patron's account or, if applicable, to the account from which the originating wire was received.
- Casinos may wish to consider adopting procedures allowing cage management or senior management to approve making checks and/or wires payable to the patron's business or other account, or to someone other than the patron, when an appropriate business purpose for the action is documented, and/or an appropriate connection is documented between the patron and the business.
- Suspending a patron's loyalty club account and/or barring the patron if the patron's activity has generated the filing of an incomplete CTR and the patron has declined to produce the required information, until the missing information is provided. Filing a SAR for the episode should be considered. In such instances, the patron may be prohibited from further gaming and redemption of complimentaries.
- Senior management should have discretion on such matters if the patron is cooperative, the complimentaries were already earned, and the expectation is that acquisition of verifying identification will be facilitated by maintaining the patron relationship.
- Although not required by law, directing International Branch Offices of the casino to adhere to the same recordkeeping and reporting requirements under the BSA that are consistent with the laws of the jurisdiction in which the International Branch Office is located.
- Additionally, all traveling marketing executives, prior to travel outside the U.S. should be trained on the laws that relate to gaming and marketing for the specific jurisdiction(s) they are visiting. If a traveling marketing executive is authorized to conduct a financial transaction in an international location, the casino may also need to report the transaction under the BSA.
- Eliminating cash play at poker tables.



CUSTOMER DUE DILIGENCE

The risk-based approach to BSA compliance is driven by a periodic risk assessment that identifies those customers and transactions that potentially pose the greatest risk of money laundering, so higher levels of scrutiny and evaluation can be applied to those situations, when appropriate.

As noted above, the risk assessment allows casinos to determine and implement proportionate controls to mitigate the different levels of risk present in differing circumstances.

Patron Identification and Verification

No front money or marker limit/credit account or safety deposit box agreement will be opened, nor will any transaction involving such services be conducted, unless the patron provides a full name, a permanent address and (for U.S. citizens) a Social Security number (as required by law or regulation). This requirement does not apply to the establishment or use of player loyalty club accounts.

No transaction(s) known to be reportable under the BSA or AML procedures will be completed unless the individual conducting the transaction(s) provides valid, current, Government-issued photo identification, including Government-issued Real IDs and a permanent address.

If the patron asserts that his only permanent address is a post office box, the casino should confirm this assertion by examining available databases and acquiring the patron's attestation to this fact.

Examples of acceptable government-issued photo identification are:

- Driver's License⁷
- Passport
- Alien Registration Card
- State Issued Identification Card (including Real IDs)⁸

Other than a Driver's Authorization Card, a casino generally may rely on government-issued identification as verification of a customer's identity; however, if a document shows obvious indications of fraud, the casino must consider that factor in determining whether it can form a reasonable belief that it knows the customer's true identity.

In some instances, information in the casino's records will suggest that certain information on the official identification document – most often, the patron's permanent address – is no longer accurate.

In those situations, if the casino is able to verify by reasonable inquiry the more recent information, it may wish to report the more recent information on any CTRs and SARs filed for that patron. The reason for using an address other than one on the customer's government-issued ID should be maintained in the casino's records.

If the patron is a U.S. citizen, or a U.S. resident with a Social Security number, a Social Security number is also required, in certain circumstances. Patrons may verbally provide a Social Security number. If the casino knows or has reason to believe that a previous Social Security number provided by the patron was incorrect, then the patron may be required to complete and sign a W-9 Form before any pending transaction can be completed. Casinos should consider filing a SAR if inconsistencies in identifying information are suspicious.

⁷This does not include "driver authorization" cards or international driver's licenses/permits, which are not an acceptable form of identification.

⁸All state issued IDs that are compliant with the Real ID Act are sufficient for BSA reporting purposes, even those that contain the disclaimer, 'Not for Federal Identification.'



If a patron declines to provide a Social Security number when one is required, the casino should not complete any pending reportable transaction with that patron. If the patron has exceeded the reporting threshold for a CTR without providing a Social Security number, a casino employee will attempt to acquire that information from publicly available information. Declining to provide a Social Security number may warrant completion of a SAR for the incident, although it is not, by itself, automatically and in all circumstances a suspicious activity that should trigger the filing of a SAR.

If the patron does not provide proper identification and/or required information, the casino should consider whether to continue engaging in transactions with that patron and whether the patron should be barred from further gaming activity until satisfactory identification and/or the required information is provided. Documentation of the incident should be added to the patron's account in the management information system.

The same patron identification requirements apply to any person(s) who, acting as an Agent(s) for another person, performs transactions on behalf of that patron, and to any person who performs transactions in conjunction with that other patron, if the transactions trigger a CTR filing.

In those circumstances, both the person(s) conducting the reportable currency transactions as well as the person on whose behalf they are acting must provide the identification and required information described above. If any of these individuals cannot provide the identification and/or required information, that individual will be barred from further gaming activity, and the casino will consider filing a SAR.

For purposes of currency reporting, independent agents that contract with the casino are agents for the patron and not the casino if that designation has been established in the independent agent agreement. Independent agents should acknowledge, in writing, the responsibility of the casino under the BSA and the casino's obligations to report suspicious activity and agree to report to the casino any suspicious activity they become aware of.

Although separate from BSA/AML requirements, casinos should check whether patrons and related entities appear on the list of "Specially Designated Nationals" maintained by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury⁹. Such due diligence may be conducted on a risk basis, and should encompass procedures for checking against updates to the OFAC list.

Ongoing Due Diligence

The casino's compliance policies should be calibrated to increase scrutiny of customer play and background in situations that pose greater risk of money laundering and the use of funds that may derive from criminal activity.

For high-volume patrons, whose activity (in terms of bills-in, marker play, or total play) exceeds a level determined by the risk assessment for that casino or who are otherwise identified as posing a risk of BSA/AML violations, the casino should review the patron's identity against public records and third-party database(s) to determine whether that person (or related entity):

- Is a Politically Exposed Person ("PEP");
- Is the subject of negative reports concerning possible criminal activity or doubtful business practices; or
- Has a prior criminal history, relevant to AML risk.

For high-volume patrons or transactions identified as possibly posing a risk of BSA/AML violations, the casino also may need to assess the source of the funds being used by the patron to gamble and whether they may derive from illegal activity or from legitimate sources.

⁹US persons and entities (including casinos) are prohibited from doing business with persons or entities designated by OFAC, and any assets of the designees must be "frozen" immediately.



This may require the casino to obtain information concerning the patron's financial and business circumstances by querying available databases, through information-sharing arrangements with other financial institutions or through the government's program under Section 314(b) of the USA PATRIOT Act, or directly from the patron, to reach judgments on whether the patron:

- Has sources of wealth or income commensurate with his or her gaming activity; and
- Has provided the casino with identification information and business-related information that can be readily confirmed.

Further due diligence may be warranted if the casino has information indicating that the patron:

- Has financial fiduciary obligations (e.g., trustee, accountant, attorney, nonprofit/charity executive) that may create a risk of misappropriation or other illicit financial activity;
- Is associated with individuals or entities known to be connected with the illicit generation of funds;
- Claims connections with businesses that have no actual operations;
- Proposes transactions with entities of unknown ownership or control;
- Is the subject of substantial tax liens, or has gone through a recent personal bankruptcy proceeding; or
- Otherwise may present an unacceptable risk of money laundering or violating the casino's AML policies.

Databases that may be relevant to consult in such situations include records of court activity such as PACER, the antifraud website maintained by the Federal Trade Commission, the listing of "Specially Designated Nationals" of the Office of Foreign Assets Control (OFAC), and commercial screening products offered by third-party vendors, though such resources are considerably more limited for persons and activity located in non-U.S. jurisdictions.

TRANSACTION MONITORING

On a regular basis, compliance personnel will complete a review of those transactions above thresholds determined by the risk assessment for that casino. To facilitate this effort, data held by relevant casino departments and functions should be consulted, and such data should be shared and integrated to the extent feasible among those relevant departments and functions.

As warranted by the facts of any situation reviewed, compliance personnel may further review third-party databases (as described in the previous paragraph) to determine the patron's business connections and history and any other information that will assist in explaining the patron's transactions or in determining the source of funds presented to the casino by the patron, in order to decide whether or not to file a SAR and/or terminate the relationship.

Circumstances warranting such review may include the following:

- Patrons with large cash-in transactions with no cash-out transactions, which cannot be reasonably explained through transaction review (i.e., little or no gaming activity);
- Patrons with large cash-out transactions with limited cash-in transactions, which cannot be reasonably explained through transaction review;
- Patrons with large credit card advances with limited play;
- Patrons with cash transactions, including aggregated transactions, that are just below the CTR reporting threshold;
- Checks or wire transfers received for the benefit of the patron (or multiple patrons) from third parties whose connection to the patron is not known;
- Multiple transactions over a period of time with the apparent purpose of avoiding BSA reporting requirements; and
- A single payment received by the casino (e.g., negotiable instrument or wire transfer) for the benefit of multiple patrons if the casino cannot determine a relationship or business association between the source of the payment and the beneficiaries.



In addition, compliance personnel should conduct a review of relevant daily audit summaries, logs and reports, such as Marker Summaries, Front-Money/Safekeeping Summaries, multiple transaction logs, Monetary Instrument Logs, Check Logs and wire reports to identify potential suspicious activity.

Based on the result of due diligence reviews of high-volume patrons or of certain events identified by the risk assessment for that casino (e.g., the filing of one or multiple SARs for a patron, or the receipt of a law enforcement request for information concerning a patron), the casino may consider whether to terminate its relationship with a patron. The termination of a patron relationship will be warranted if the patron's activities present an actual or unacceptable risk of violation of Title 18 §1956 or §1957 or the casino's AML policies.

POTENTIAL SUSPICIOUS ACTIVITY

The BSA requires casinos to file a suspicious activity report (SAR) if the casino knows, suspects, or has reason to suspect that a transaction or attempted transaction aggregating at least \$5,000:

- Involves funds derived from illegal activity;
- Is intended to disguise funds or assets derived from illegal activity;
- Is designed to avoid BSA reporting or recordkeeping requirements;
- Involves the use of the casino to facilitate criminal activity;
- Has no economic, business or apparent lawful purpose; or
- Is not the sort in which the particular patron would normally be expected to engage, and the casino knows of no reasonable explanation for the transaction after examining the available facts.

Given that the SAR rule encompasses attempted transactions, casinos should ensure that they monitor both attempted and completed transactions for potential SAR filings.

The following categories are examples of potentially suspicious situations that often will prompt consideration of whether a SAR should be filed under the casino's risk assessment criteria.

Casinos also should consult with FIN-2008-G007¹⁰, which discusses "red flags" for suspicious activity at casinos.

Gaming Floor Activity

- Minimal gaming despite large financial transactions with the casino;
- Structuring of transactions to stay at or slightly below the \$10,000 reporting threshold for CTRs;
- Placing currency in a slot machine, then cashing out after minimal or no play and redeeming the TITO ticket at a kiosk on the gaming floor ("bill stuffing");
- At a racing venue, inserting cash into a tote machine, cashing out for vouchers and then cashing vouchers at a teller's station with little or no wagering;
- A transaction that has no apparent economic, business or lawful purpose (e.g., confederated gamblers placing offsetting bets on red and black on a roulette wheel);
- Patrons pass a large quantity of chips, cash, or TITO tickets between themselves, in an apparent effort to conceal the ownership of the chips, cash, or TITO tickets although if patrons are closely related, such activity may not be suspicious;
- A patron's gaming activity dramatically increases with no known substantiation for the source of those funds;

¹⁰See, FinCEN Guidance, 'Recognizing Suspicious Activity – Red Flags for Casinos and Card Clubs' (July 31, 2008), www.fincen.gov/resources/advisories/fincen-guidance-fin-2008-g007.



- A patron leaves the casino floor with a significant amount of chips in his possession without offsetting chip redemptions or chip buy-ins at another table, and there is no known disposition or whereabouts of the chips, although this may not be deemed suspicious if there is a reasonable, experience-based expectation that the patron will return to the casino in the near future; or
- A patron with a safe-deposit box connected to the poker room accesses that safe-deposit box with a frequency that is disproportionately high when compared to the time and frequency of his poker play.

Race and Sports Book Activity

- Inquiring with race and sports book staff about reporting and identification thresholds either before or after a wager and possibly adjusting wagering activity to fall below the applicable thresholds;
- Structuring wagers across multiple tickets/locations so the payout of each ticket is under the reportable identification thresholds, but in aggregate, would have exceeded the thresholds on one ticket;
- Indications of insufficient wealth or income to support betting patterns; or
- Significant changes in wagering patterns or unusual spike in play that cannot be explained.

Cage-Focused Activity

- Presenting a third-party check or wire transfer – whether apparently deriving from a business or an individual – for payment of markers or for use in gambling-related activity in an amount at or above a threshold determined by the risk assessment for that casino.
 - In such situations, the casino should ascertain whether the beneficiary (patron) has a documented connection to the sender (e.g., spouse or immediate family member or business), either in the casino's records or by means of a database search or other reasonable inquiry. If no appropriate connection can be established between the source of the funds and the patron, those employees responsible for deciding whether to file a SAR also may consider whether or not to proceed with the transaction;
- A negotiable instrument or wire transfer is presented for the benefit of multiple patrons, or multiple patrons engage in play on a single patron account;
- A negotiable instrument or wire transfer is presented for the benefit of an individual and originates from a law firm's Interest on Lawyer's Trust Account (IOLTA) account, or is from a charitable/non-profit organization or foundation, another type of trust or labor union account;
- A patron refuses to provide required information for the completion of a CTR, or identifying information more broadly;
- A patron requests information about how to avoid BSA reporting requirements;
- A patron requests establishment of an "AKA" account in a name other than the one by which the casino knows the patron;
- A patron attempts to deposit front money or to make payments using complex means, such as multiple sources of funds or multiple methods of transmission, which could mask the true source of the funds transmitted;
- A patron presents funds which the casino has a basis for suspecting to be the proceeds of illegal activity;
- A patron presents funds in any form that derive from a foreign jurisdiction declared by the United States government to be a jurisdiction of concern for narcotics trafficking, human trafficking, money laundering, terrorism, or other illicit activity, or if the foreign jurisdiction has been identified as non-cooperative by the Financial Action Task Force, or by Transparency International or similar reputable organization as a country with a high degree of public corruption;¹¹

¹¹For example, see the State Department's annual International Narcotics Control Strategy Report (www.state.gov/documents/organization/239561.pdf) and regulations and guidance issued by FinCEN.



- A patron provides a wire transfer, cashier's check or other form of payment and such instrument reflects that the transaction is being made for a purpose other than related to gaming and;
- A patron presents chips for cashing and there is little or no gaming activity recorded for the patron in the casino's system to establish the source of the chips.

Information from Back of the House

- Law enforcement agencies deliver to the casino a formal request for records concerning the patron;
- News articles or other media reports allege acts of financial wrongdoing or other illegal conduct by the patron;
- Patron is the owner of a business, the nature of which has been profiled by the Federal Trade Commission as high risk for fraud schemes;
- A patron raises his or her financial transactions to levels well above the ordinary levels for that patron with no reasonable explanation.
- An external actor attempts to compromise or gain unauthorized electronic access to the casino's electronic systems, services, resources, or information, in pursuit of illegal activities.¹²

This list is by no means exhaustive; other patron activities may trigger BSA/AML concerns due to the circumstances in which they arise. Each casino should develop its own scenarios tailored to its business.

Further, the SAR requirement encompasses suspicious activity conducted by employees/insiders. Therefore, casinos should have adequate communication lines between the group(s) responsible for employee-related investigations and disciplinary issues, and the team(s) responsible for filing SARs to ensure detection of potential collusion between an employee and customer to circumvent internal policies or ordinary practices, or an employee's violation of casino policies and procedures.

SUSPICIOUS ACTIVITY REPORT REVIEW PROCEDURES

A suspicious activity report (SAR) review – aimed at determining whether a SAR should be filed for a situation – may be prompted by direct observations by property employees, by data analysis performed through back-of-house procedures, or by other means (e.g., incoming law enforcement inquiry).

On an annual basis and as part of its ongoing risk assessment, the casino should review its filed SARs for the previous year to analyze patterns of suspicious activity. The SAR review measures identified in this section ordinarily should be performed by AML/BSA compliance personnel.

In examining the casino's SAR procedures, the casino's review should consider the following components of a SAR compliance effort:

- If prompted by direct observation, information about a transaction and the patron should be gathered promptly (e.g., patron name, Social Security number, player's card number, observed suspicious activity with supporting documentation) without alerting the patron that filing a SAR is being considered;
- The compliance officer or committee will examine the transaction in light of other available facts known about the patron or established during a due diligence review of the situation and the patron, plus the background or possible purpose of the transaction;

¹²Please see, FinCEN Advisory to Financial Institutions on Cyber – Events and Cyber – Enabled Crime (October 25, 2016), <www.fincen.gov/sites/default/files/advisory/2016-10-25/Cyber%20Threats%20Advisory%20-%20FINAL%20508_2.pdf>



- Based on that investigation, the compliance officer may determine that there is a reasonable, non-suspicious explanation for the transaction and that no SAR should be filed, or that a SAR should be filed; and
- In either event, the compliance officer will make a record of that review and its conclusions. The situation then may be reviewed by the casino's SAR Committee or those employees responsible for SAR filings. If that review determines that a SAR should not be filed, the reason for not filing should be documented.

Among the further steps that may be warranted:

- Review when a single patron conducted payments to or deposited funds with the casino through the use of multiple instruments deriving from more than one financial institution, in an aggregated amount exceeding a threshold determined by the casino's risk assessment, or in transactions spread over multiple days in an aggregated amount exceeding such a threshold;
 - Trace redeemed sports tickets above a certain transaction amount, consistent with the casino's risk assessment, to the original wagers to determine whether the patron redeeming the ticket was the same as the patron making the wager;
 - Ensure that the casino has identified those individuals (some of whom may be independent agents registered with state regulatory agencies) who have organized visits to the casino by patrons and that all patrons arriving due to the efforts of such individuals have been identified so that available funds for each patron are accurately reflected in the patron management system and the play of each patron is recorded as warranted;
 - For chip redemptions in excess of a threshold determined by the casino's risk assessment, examine recorded play to determine whether the patron had a significant value of unredeemed chips at the end of play and how the chips were obtained;
 - For front-money deposits and marker payments above a level consistent with the risk assessment for that casino, analyze that patron's deposit and payment patterns;
 - Gather the technical details of relevant electronic activity, including IP addresses, timestamps, Indicators of Compromise (IOCs), and other data regarding the digital footprint of the individuals behind the activity when responding to an external attempt to compromise or gain unauthorized access to electronic systems, services, resources, or information (such as through an e-mail compromise scheme); and / or
 - If the casino participates in voluntary information sharing under Section 314(b) of the USA PATRIOT Act, it may contact officials at other participating casinos or banks or other financial institutions for additional information concerning a patron's business connections and other relevant matters.
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- Receipts for slot tickets purchased with chips will be reviewed if they exceed a threshold determined by the casino's risk assessment, to determine if those tickets were used for gaming or cashed out.
 - Once a decision has been made to file a SAR, the fields on the SAR form must be completed correctly and thoroughly, and the narrative should be sufficiently detailed to explain the circumstances, individuals, and amounts involved. Explanatory documents and other due diligence materials acquired from the transaction/ patron should be maintained and, where appropriate, be attached to the copy of the SAR retained by the casino as part of the casino's recordkeeping processes.
 - A SAR should include all contact information (e.g., mobile telephone numbers, email addresses) that is reasonably available from the casino's records for those persons who are the subject of the SAR.
 - In some circumstances, when a SAR is filed for a patron, compliance personnel should evaluate further activity by the patron for the following 90 days, and consider whether a continuing report of suspicious activity should be filed within 120 days of the previous SAR.
 - When one or more SARs is filed for a patron's activities, casino management may consider whether the casino wishes to continue its relationship with that patron.
 - Casinos also shall establish controls for maintaining the confidentiality of SARs and any information that reveals that a SAR was filed.



AUDIT PROCEDURES

The BSA regulations require independent testing of the casino's overall program, as well as specific functions, by qualified independent auditors. The independent test must cover all elements of the casino's AML program, including but not limited to:

- Customer due diligence;
- Transaction monitoring;
- Required reporting and recordkeeping;
- Training; and
- The AML Officer function.

Independent auditors of BSA/AML compliance may be either external or internal to the casino, depending on the casino's corporate structure and practices.

The independent auditors should report their findings to senior management officials who have the authority to direct those corrective actions warranted by audit findings.

For each audit finding that raises concerns about the casino's AML program, as well as findings by independent auditors or Internal Revenue Service examiners, the casino should undertake corrective action or make a specific documented determination that no such action is necessary.

If the casino utilizes an internal audit function, that function must be independent from AML compliance, in order to ensure the independence of the internal audit function. Casinos also may consider a reporting process to communicate to the Board of Directors the results of AML independent testing.

Independent Testing Procedures for CTRs

On a scheduled basis, the casino's independent auditor, or audit team for CTR filings, will review currency transactions by using all relevant records, including but not limited to Multiple Transaction Logs (MTLs), player-rating records, and patron deposit and withdrawal records, that were prepared during the 24-hour reporting period, as well as all system reports for the period.

A detailed audit program should be maintained to document all audit procedures performed by independent auditors.

An initial audit should ensure:

- That a CTR has been prepared for all reportable transactions – either single or aggregated – that exceed \$10,000;
- That the information recorded on the CTR is complete and accurate; and
- CTRs shall be electronically filed within 15 days of the transaction date.

If the initial findings indicate possible weaknesses in the AML program, the audit may need to be expanded to confirm or disprove those indications.

The Monetary / Negotiable Instrument Log (MIL/NIL) will also be reviewed by independent auditors for proper completion and for retention for at least five years.



A system query should identify those patrons, if any, who inserted into a gaming device bill validator(s) funds in excess of a threshold determined by the casino's risk assessment. For patrons who have reached the log threshold for the gaming day, the total of their inserted bills shall be entered onto the multiple transaction log for reporting when required by law.

All currency transactions above an amount established by the risk assessment for that casino will be logged, with the exception of slot jackpots, which are not reportable on CTRs.

Exception notices will be prepared for all instances of noncompliance noted during the daily audit, including but not limited to logging errors, MIL/NIL completion errors, inaccurate identification, missing information and other requirements not met.

The exception notices should be sent to applicable casino supervisory personnel at the conclusion of the independent audit and secondary review. Exception notices should be returned within a reasonable time indicating corrective action taken, and the results of these periodic audits should be part of the firm's overall independent testing.

Independent Testing Procedures for SARs

The independent test function will establish testing parameters for both SAR and no-SAR decisions. This review will consider the completeness of investigation processes and documentation and timeliness of the review. In instances where SARs were filed, the independent auditors will test the completeness of SAR fields and narrative and timeliness of the filing. This review also should test the casino's monitoring systems (if appropriate) and how the system(s) fits into the casino's overall suspicious activity monitoring and reporting process.

The independent auditors will test information flow across the casino, including but not limited to the fraud/security and host functions, as well as test whether information regarding employee misconduct is appropriately communicated to the group responsible for SAR decisions.

When evaluating the effectiveness of the casino's monitoring systems, independent auditors should consider the casino's overall risk profile based on its products, services, customers, entities, geographic locations volume of transactions, and adequacy of staffing.

RECORDKEEPING AND RETENTION

The casino shall adopt a recordkeeping system to preserve the following for each patron who is the subject of customer due diligence procedures:

- A record of those specific procedures performed to analyze a patron's gaming patterns and financial transactions;
- Any due diligence report created;
- Any risk determination; and
- Any action taken as a result, including monitoring of the patron, reports to law enforcement agencies, or changes in casino services available to the patron.

Such records should be maintained for at least five years after the relationship is terminated.

The casino also shall maintain CTRs, SARs (and supporting documentation) for at least five years after filing. In order to assist law enforcement, the casino may elect to establish a protocol for receiving and responding to authorized requests for SAR supporting documentation without a subpoena.



CONCLUSION

These steps reflect the continuing efforts of the AGA member casino operators to mitigate the risks of money laundering and illegal activity connected with their businesses. The guidelines in this document must be adapted to match the specific circumstances of individual casinos and companies.

When dealing with businesses as complex as modern casinos, and with judgments as subjective as those required by the BSA, no compliance effort can be perfect or immune from retrospective re-evaluation.

Casinos should reconsider their AML/BSA compliance efforts on a regular basis to ensure they account for new risks and emerging patterns of illegal activity.

Though perfection cannot be expected of a process that involves so many variables and periodic shifts in financial practices and regulations, effective AML/BSA compliance programs should ensure that the gaming industry continues not to attract significant illegal money laundering activity.



GLOSSARY

Bank Secrecy Act (“BSA”): Adopted in 1970 and amended several times since, the statute authorizes the U.S. Secretary of the Treasury to impose on U.S. financial institutions the requirement to keep such records and submit such reports that have a high degree of usefulness in criminal, tax, and regulatory matters and in the conduct of intelligence activities to protect against international terrorism. 31 U.S.C. §§ 5311, et seq.

Cage: A secured area adjacent to the gambling floor of a casino where casino cashiers conduct marker/credit, front-money and other gambling-related transactions, and where currency and chips are often kept. Safe-deposit boxes are often available at the cage. A large casino may have more than one cage location.

Chip Walk: When a patron leaves the casino floor with a significant amount of chips in their possession without offsetting chip redemptions or chip buy-ins at another table, and there is no known disposition or whereabouts of the chips. A chip walk may not be deemed suspicious if there is a reasonable, experience-based expectation that the patron will return to the casino in the near future.

Credit: Under the regulations of many state licensing authorities, casinos are authorized to issue gaming chips or other representatives of value to patrons for gambling purposes up to the amount of a “marker” (see below), which is a negotiable instrument signed by the patron and made out to the benefit of the casino by the patron. Although state regulations refer to such arrangements as credit transactions, the markers may be negotiated immediately at the discretion of the casino.

Front money: Cash, wired funds, or negotiable instruments that are deposited with the casino by a patron who will draw down on those funds for gambling. Front-money accounts are sometimes described as safekeeping accounts.

Interest On Lawyer’s Trust Account (IOLTA): A financial account set up by a law firm, in which the funds are held in trust for the benefit of the firm’s clients, and are by state law or supreme court rule to be held separate and apart from the funds belonging to the law firm.

Marker: A negotiable instrument (sometimes called a “counter-check”) executed by a casino patron and made payable to the casino that authorizes the casino to recover the amount of the marker from the patron’s bank account. The casino will advance funds to the patron up to the amount of the marker. Under state casino regulations, casinos are not required to conduct full credit investigations before issuing a marker, but will confirm that the patron’s bank account contains sufficient funds to cover the requested marker.

Monetary/Negotiable Instrument Log: Required by the BSA, it must reflect transactions of monetary instruments (e.g., money orders, cashier’s checks, traveler’s checks and bank drafts) between the casino and the patron with a value above \$3,000.

Multiple Transaction Log: This is a record of cash-in and cash-out transactions at or above pre-determined amount which also records identifying information about the patron in order to determine when a person is approaching or has exceeded a reportable threshold.

Risk Assessment: The formal process of examining a casino’s mix of gambling activity, patrons, and overall economic environment in order to identify those activities and levels of play or other transaction that pose a risk of money laundering to be addressed by the casino’s AML compliance procedures.

Ticket In/Ticket Out (“TITO”): A system for slot machine play through the use of a barcoded paper ticket. The ticket may be purchased in advance of slot machine play, or issued from the slot machine if there are credits remaining at the conclusion of the patron’s gaming session. When the patron has completed his play, balances on the ticket can be redeemed for cash at a kiosk or the casino cage, or used for further play at the casino that issued the ticket.