

The Following Articles Relate to the Historical Meeting Held on April 2, 2008. After reading them, you will most likely conclude that the climate for Internet Gaming is about to improve in the United States.

March 31, 2008

Congressional Hearing Scheduled on Internet Gambling Ban

On April 2, there will be a hearing on the burdens U.S. financial institutions are facing in trying to comply with the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA). The hearing, "Proposed UIGEA Regulations: Burden without Benefit?" is expected to reinforce statements made in hundreds of comments previously submitted to the Department of the Treasury and Federal Reserve, that the ambiguity in the proposed rules to implement UIGEA could lead to a potential compliance trap for U.S. financial service companies.

Additionally, despite UIGEA's attempt to deter illegal Internet gambling activity, millions of Americans are likely to continue to circumvent the proposed regulations and gamble online with offshore operators.

Congressmen Barney Frank (D-MA) and Peter King (R-NY) recently issued a joint letter to their colleagues calling on Congress to undo UIGEA.

Instead of instituting a ban that is doomed to fail, Congress should look to regulate Internet gambling in order to protect consumers and collect the billions of dollars lost to offshore Internet gambling operators. This regulatory framework would be accomplished through a bill introduced last year by Congressman Frank, the Internet Gambling Regulation and Enforcement Act.

The hearing will take place in the House Committee on Financial Service's Subcommittee on Domestic and International Monetary Policy, Trade, and Technology.

The Safe and Secure Internet Gambling Initiative encourages you to contact your Representative now to thank them or ask for their support for regulated Internet gambling. Visit www.safeandsecureig.org and take action today.

April 1, 2008, 7:37 pm

Congress to Take Testimony on Internet Gambling Ban

By Matt Richtel

The Unlawful Internet Gambling Enforcement Act of 2006 made it illegal for banks and other financial institutions to process online wagers. The goal was to find an indirect way to regulate offshore casinos, which are outside the jurisdiction of American law enforcement. In short: the casinos are out of reach, but not the banks in the United States that process their transactions.

The question now is whether the banks are capable of stopping the transactions. That is the topic of a hearing scheduled for Wednesday in front of a subcommittee of the House Committee on Financial Services.

It's a hearing that has, perhaps not surprisingly, an interesting political subtext. But first, a bit of background. Under the gambling act, the Treasury Department and the Federal Reserve were charged with coming up with rules that financial institutions would be required to follow to block gambling transactions. The Treasury Department published its proposed rules last year, and then, as is customary, asked for public comment on the ideas.

Among those critical of the rules were some banks and their trade organizations. For instance, the American Bankers Association has asserted that its members are going to have a difficult time complying. In a letter to the Treasury Department, the organization said that even the definition of “unlawful Internet gambling” was too vague. The ABA is among the groups [scheduled to testify](#) before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology.

Advocates of the legislation have argued that, broadly speaking, an effective way to enforce a gambling ban is to go after the payment mechanism. They have been emboldened by the fact that Internet gambling activity has been hindered in the United States each time that financial services companies – from PayPal to banks issuing credit cards – have agreed to make best efforts to stop processing online wagers.

In the case of the subcommittee hearing, there is a political subtext. Congressman Barney Frank, the Massachusetts Democrat, is the chairman of the House Committee on Financial Services. He is also the author of a bill that would legalize and regulate Internet gambling – a law that would essentially override the Unlawful Internet Gambling Enforcement Act.

Ultimately the subcommittee does not have the power to tell the Treasury Department to change its rules – short of passing new legislation. But the hearing does serve to keep alive the debate about whether a ban on online gambling is enforceable, a debate that the offshore casinos are more than happy to stoke.

One organization representing offshore gambling companies said today that the banks shouldn’t be wasting their time regulating gambling because they have bigger issues to deal with.

“Rather than these companies spending their efforts on this, it would make sense to be more focused on more important issues, such as responding to what’s happening to the economy,” said Michael Waxman, who does public relations for the Safe and Secure Internet Gambling Initiative, a lobbying group backed by offshore casinos. One could argue that financial institutions should be capable of focusing on more than one issue at a time — but perhaps that is a matter for the subcommittee to consider.

APRIL 02, 2008:

The Inside Straight:

Jeff Haney reports that the legal fight over a law that virtually outlaws Internet gambling in the U.S. isn't over

By [Jeff Haney](#)

Wed, Apr 2, 2008 (2 a.m.)

Sun Archives

- [Longtime insiders see online poker helping, instead of hurting, the game](#) (10-3-2007)
- [Online gaming in the shadows](#) (7-17-2007)
- [Gamers still buzzing over passage of online bill](#) (11-19-2007)

Beyond the Sun

- [Casino Player: Jay Lakin interview](#)
- [Poker Source Online](#)

The lobbying group iMEGA (Interactive Media Entertainment & Gaming Association) is proceeding with full force in its fight against the federal law that has shackled the growth of Internet poker and other forms of online gambling in the United States.

The group filed notice Tuesday in the 3rd U.S. Circuit Court of Appeals that it will challenge the recent dismissal of its lawsuit opposing the Unlawful Internet Gambling Enforcement Act of 2006.

The challenge follows a decision last month in U.S. District Court in New Jersey that was mostly favorable to the federal government. The ruling affirmed Congress' right to pass the law — which severely restricts financial transactions linked to Internet gambling — in a constitutional manner and rejected the claim that gambling is a form of free speech. The ruling, however, also established iMEGA's "standing" — law lingo meaning the legal right to initiate a lawsuit.

Jay Lakin, co-owner and vice president of Poker Source Online, who is following the case closely, was encouraged by that part of the ruling and saw it as a small victory for those involved in the Internet poker scene. "This is certainly a big step for iMEGA," Lakin said. "Judge (Mary) Cooper's ruling that the organization has standing means the case will go on. Hopefully her decision and the trial's visibility will result in the Internet gambling issue gaining steam."

Poker Source Online, a community of Internet poker players, was founded in 2004 in Virginia and is now based in Costa Rica. It has more than 100,000 registered members, including many from Las Vegas, according to Lakin. Lakin also touched on a couple of other developments regarding Internet gambling, including a hearing Tuesday in Washington before the Subcommittee on Domestic and International Monetary Policy, Trade and Technology. Rep. Barney Frank, D-Mass., was expected to argue for his cause of legalizing online gambling at the hearing.

Frank, who has called the UIGEA "one of the stupidest things I ever saw," favors the legalization of online gambling and regulation by the Treasury Department. He has proposed a bill, the Internet Gambling Regulation and Enforcement Act, that would topple the current law.

"This will be the second major congressional hearing about Internet gambling," Lakin said. "Congressman Frank's bill would call for licensed Internet gambling in the United States and would revolutionize the landscape as we know it." Meanwhile, in Europe, it was announced the European Commission will take up the cause of the Remote Gambling Association, a group that represents major gambling companies outside the United States, many of which are online-based and listed on foreign stock exchanges.

The Remote Gambling Association had argued the UIGEA unfairly harmed European gambling operators, effectively banning them from catering to U.S. customers. "People around the world are affected by the fallout of the Unlawful Internet Gambling Enforcement Act," Lakin said. "From Europe to Antigua, companies are feeling the heat after the UIGEA was rushed through Congress. I'm pleased that added pressure may come from the European Union." Although Lakin and his group are inherently biased in favor of Internet poker, it's difficult to argue against their contention that the benefits and drawbacks of online gambling should be debated openly. By contrast, the UIGEA was signed by President Bush after it was shoved through Congress at the last minute in fall 2006, attached to a bill to improve security at U.S. ports. As if to highlight the absurdity, some online poker players have taken to calling the law by its proper name, the SAFE Port Act. "These events show the ugly truth of what happens when you ram through legislation without proper discussion," Lakin said. "We're fortunate to have several organizations and several congressmen leading the charge."

APRIL 02, 2008:

<http://www.pokerlistings.com/hearing-discusses-uigea-problems-24938>

Hearing discusses UIGEA problems



By Sarah Polson

The House Subcommittee on Domestic and International Monetary Policy, Trade, and Technology held a hearing today to discuss the Unlawful Internet Gambling Enforcement Act.

Representatives from the Treasury Department and the Federal Reserve, which have been tasked to find a way to implement the UIGEA, were on hand to discuss where they were at in the process of formulating regulations and implementing the law.

There were also witnesses from a few major banking organization there to testify on behalf of the financial institutions, which will have the task of preventing illegal online gambling transactions and enforcing the new law when it is implemented.

It appears from today's testimony that the UIGEA has a few challenges that will have to be overcome before it can be implemented. Both the agencies having to put the law in place and the financial institution representatives acknowledged the problems with the law that was handed down from Congress.

Defining 'unlawful Internet gambling'

One of the first major issues discussed during the hearing was the fact that unlawful Internet gambling isn't clearly defined in U.S. law, which makes it difficult to create a set of rules restricting money transfers from banks to illegal online gambling businesses.

Louise Roseman, Director, Division of Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System, was the first to bring up the issue in her prepared testimony for the subcommittee. "The Act does not spell out which gambling activities are lawful and which are unlawful, but rather relies on the underlying substantive Federal and State laws," Roseman said. "The Act does, however, exclude certain intrastate and intratribal wagers from the definition of 'unlawful Internet gambling,' and also excludes any activity that is allowed under the Interstate Horseracing Act of 1978." She points out that the activities that are permissible under the various Federal and State gambling laws aren't well-settled and can be subject to varying interpretations. "Congress recognized this fact when it included in the Act a 'sense of Congress' provision that states that the Interstate Horseracing Act exclusion 'is not intended to resolve any existing disagreements over how to interpret the relationship between the Interstate Horseracing Act and other Federal statutes,'" Roseman said. Rep. Kenny Marchant (R-Texas) asked Roseman and Valerie Abend, Deputy Assistant Secretary for Critical Infrastructure Protection and Compliance Policy in the U.S. Department of the Treasury, how the financial institutions were supposed to be able to determine what was unlawful Internet gambling if the regulators are unable to do so. "I expect they would take a conservative approach and assume that all Internet gambling is illegal," Roseman responded. One possible solution that has been posed by people that sent in comments on the proposed UIGEA regulations and brought up by Rep. Spencer Bachus (R-Ala.) is to set up a list of companies providing illegal online gambling services.

Roseman and Abend said the two agencies have had discussions about the pros and cons of setting up a list and it hasn't been completely ruled out yet. In this case, a list may not even be effective because it's only certain transactions with these companies that would be considered banned under the law. Roseman pointed out that these companies have legitimate non-gambling related business that they may do as well and there's no way to determine what transactions going to and from the companies are legitimate business and what are online gambling transactions. Bachus, who was a co-sponsor of the UIGEA, then asked if perhaps those companies who are doing illegal business in the United States shouldn't have all their transactions banned.

Skill games



Games of skill should be exempt according to Rep. Wexler.

Further muddying the definition of illegal online gambling is the issue of how skill games such as poker, backgammon, mahjong and more that can be played for money online fall into the mix. Rep. Robert Wexler (D-Fla.) specifically asked if poker would be exempt from the new regulations because of the skill involved in the game. Roseman said that under their current understanding of the law, games that have an element of chance are considered illegal. Poker may be predominantly a game of skill, but because there is an element of chance, and the law doesn't say how much of a game has to be chance to apply, it is illegal. Wexler then pointed out that in some states, poker may be legal to play. For example, New Hampshire law does make poker legal, so it should therefore be legal to play online there as well. Frank had also brought up the point that horse racing is exempt in the law, and wondered if that meant that even in states where horse racing is illegal if banks will be able to process those transactions. What their examples help to further point out is the difficulty that banks will have determining what is or isn't an illegal online gambling transaction because they'll have to look at not only if the activity is legal where the person placing the bet lives but also if the activity is legal where the company is located.

Deputizing the banks

The burden of determining an illegal online gambling transaction was a concern brought up by all four panel members in attendance representing financial institutions. Because there is no set definition of what an illegal online gambling transaction would be, the current proposed regulation would leave it up to the discretion of the bank processing the transaction to determine whether it is legal or not. Wayne Abernathy, executive vice president, Financial Institutions Policy and Regulatory Affairs, American Bankers Association, said in his testimony that the UIGEA regulations point those affected by the law to underlying substantive State and Federal gambling laws rather than a general regulatory definition of unlawful internet gambling. "This is a judicial function that banks are not qualified to fill. Requiring banks to be arbiters of the actions of individuals and businesses with regard to the interaction of gambling laws for all states, as well as federal gambling laws, is infeasible and would place a crippling processing burden and unbounded litigation risk on the nation's payments system participants," Abernathy said. "The vagaries of what constitutes 'unlawful Internet gambling' cannot be resolved by passing the burden on to the banking industry." The law also takes the financial institutions' role in the laws one step further.

Banks have many rules and regulations they must follow and they do have experience with examining transaction for other regulations, but in those cases they just report what they find. Abernathy said that under the UIGEA financial institutions will not only be asked to identify the illegal transactions, but they are also directed to take it a step further to impose a sentence as well by banning the transaction. "We think that goes too far," he said. He also pointed out that banks may take their enforcement role too far at times if they're asked to determine illegal online gambling transactions without a more clear idea of what that is. "We would block a lot more legal transactions in the effort to not be tagged for not blocking the illegal ones," Abernathy said.

Cost for the banks

Like any business, the financial institutions will have to take into consideration what it will cost them to take on this new responsibility. It will take time, money and manpower to implement the new regulations and set up a system to monitor transactions.



How much will banks have to shell out for this?

Rep. Ron Paul (R-Texas) asked what those cost estimates might be. Leigh Williams, BITS president of the Financial Services Roundtable, said that it is hard to estimate the costs that will be involved at this time because there is so much uncertainty about what the final regulations will entail. Abernathy was able to provide an example of what it takes for a typical bank in the American Bank Association to implement regulations the bank must follow under the Bank Secrecy Act. The typical \$100 million bank has two to three full-time employees on staff who do nothing but deal with Bank Secrecy Act issues. He didn't mention the time and money it took to figure out what the banks had to do and get it all set up before those employees were even hired for those jobs. There is also the issue of how the regulations will affect the banks in general. Having to examine every check that comes through the system to determine whether it is being used for illegal online gambling could bring the check processing system to a near halt according to Harriet May's testimony on behalf of the Credit Union National Association. Other areas of banking may also be affected as the financial institutions work to comply with the UIGEA, and ultimately the services they need to provide to the public could be affected.

Enforceability

Probably the biggest question is whether or not all these efforts would even be worthwhile if the bugs can be worked out to get the UIGEA implemented. Both Rep. Lacy Clay (D-Mo.) and Rep. Patrick McHenry (R-N.C.) questioned the Treasury and Federal Reserve representatives as to whether the law would even be effective. Abend said that so far they've tried to adhere to Congress' intent with the UIGEA, and it is their hope that the final rule will be a strong deterrent. Roseman was a little more forthcoming with her answer. She said she thinks it's going to be very difficult to completely shut off the payment systems to unlawful Internet gambling. "There will be transactions that go through despite our efforts," Roseman said. "The question is what proportion goes through." Rep. Luis V. Gutierrez (D-Ill.), chairman of the Subcommittee on Domestic and International Monetary Policy, Trade and Technology, closed the hearing by saying that there are good arguments for an online gambling ban, but he has reservations about the methods being used to achieve that end with the UIGEA.

Online Gambling Ban Regs Get Ripped Apart at House Hearing

Closing the first part of the House Financial Services Subcommittee on Domestic and International Monetary Policy, Trade, and Technology Hearing on the proposed regs for the Unlawful Internet Gambling Enforcement Act (UIGEA), Rep. Luis V. Gutierrez, Head of the Sub-Committee, advised Ms. Louise Roseman from the Federal Reserve Bank, and Ms. Valerie Abend from the Department of Treasury, to tread very carefully in proceeding with instituting the proposed regulations. He remarked how there was more heated discussion, debate, and criticism of this topic than on any other his committee has seen in the year he has resided over the sub-committee, "So be careful," he said.

The main area of concern from the two witnesses was the ambiguity of the UIGEA, which makes it nearly impossible to determine what illegal [online gambling](#) actually is as defined by the 2006 law.

Ms. Roseman pointed out that one company who processes illegal Internet gambling transactions may also transact legitimate transfers which should not be blocked, thus making it almost impossible, or at least very difficult, to determine how to block illegal online gambling transactions.

Rep. Barney Frank, Head of the Financial Services Committee, also posed questions to Ms. Roseman that she could not give exact replies to. Ms. Roseman and Ms. Abend both were eager to point out how they are trying hard to comply with the law, but both were stumped on many questions as to how the banks could enforce it.

The one supporter of the proposed regs, Rep. Bachas, supplied a list of 45 State Attorneys General who opposed federal laws that overruled state laws. Rep. Frank pointed out that in his new law, the Internet Gambling Enforcement and Regulation Act, there is a stipulation that allows individual states to opt out of allowing Internet gambling, thus appeasing the Attorneys General concerns. Also of great concern to at the members at the Hearing was the issue that the law was passed for moral reasons, yet it allowed for gambling via the Internet on horses. Rep. Frank pointed out to the committee, that betting on horses is also gambling, so it too should be considered immoral and thus banned.

For analysis and reports on the second panel portion of the Hearing, stay tuned to Casino Gambling Web. The second panel discussions will begin shortly and end later in the day.

April 2, 2008

Major Banks Rip Apart Internet Gambling Ban Proposed Regulations

Payday lending, predatory mortgage loans, overdraft fees, high interest rates, an economy nearing recession, are all issues the Financial Services Committee must hold the banking sectors accountable for at the moment. At the same time the banking institutions must determine what illegal Internet gambling is, block those transactions, thus imposing penalties to customers of theirs. This, to American Banking Association Vice President, Wayne Abernathy, is ridiculous.

Mr. Ted Kitada from Wells Fargo stated in his testimony at the Hearing for the Proposed UIGEA Regulations that his company completes more than 30 million transactions a day and deciphering which of those 30 million transactions would be illegal Internet gambling transactions would be not only cumbersome, but also a major hindrance to the quality of service his company offers its customers.

Each of the banking witnesses at today's second portion of the Financial Services Committee Hearing agreed that if forced to comply with this law the banking systems would likely block any transaction that may appear illegal, even if, in fact, it was perfectly legal.

Barney Frank pointed out that if a customer's legal transactions are blocked by their banks or credit card companies, it could have an adverse effect on the competition of American banking systems with the rest of the world's banking systems. ABA representative, Wayne Abernathy, agreed that enforcing this law could weaken America's competitive advantages over international banks.

The key to Rep. Luis V. Gutierrez (D-IL), chairman of the Subcommittee on Domestic and International Monetary Policy, Trade and Technology, was not so much whether this all could or could not be efficiently done and enforced, but rather, that the Congress, through the UIGEA, had put the burden of policing the people on banks, when in fact, the government should be policing the banks.

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