

# **RESCINDED**

## **Unlawful Internet Gambling Enforcement Act Program**

This document and any attachments are superseded  
by OCC Bulletin 2010-17

### **EXAMINATION OBJECTIVES**

To determine the savings association's compliance with the statutory and regulatory requirements of the Unlawful Internet Gambling Enforcement Act (UIGEA).

### **EXAMINATION PROCEDURES**

Examination work to review a supervised institution's compliance with UIGEA may be conducted independently or together with reviews in other operational or compliance areas (*e.g.*, information technology or BSA/AML compliance). Examiners should note, however, that regardless of how the examination work is carried out, the requirements of UIGEA are independent of other regulatory frameworks. For example, even if UIGEA compliance is handled by an institution's BSA compliance area, it is not a BSA program requirement, it is not covered by the mandates of 12 USC 1818(s), and it does not supersede any other compliance requirements.

UIGEA compliance examination should be risk-focused. In tailoring the scope of the examination work, examiners may consider appropriate risk factors, such as the number of commercial accounts the institution maintains for commercial customers engaged in the business of Internet gambling. If the institution is not using the safe harbor policies and procedures as set forth in the rule and as assumed in the examination procedures below, examiners must determine whether the institution's policies and procedures are reasonably designed to identify and block or otherwise prevent or prohibit restricted transactions.

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1. Determine whether the institution qualifies as a nonexempt participant in a designated payment system as defined by the provisions of the UIGEA (see chart in [Appendix A](#)).

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2. Obtain and review any risk or other assessments and audit reports that assess the institution's UIGEA compliance.

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3. Determine which position in the institution is responsible for UIGEA compliance.
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4. Review the preceding report of examination and UIGEA-related exceptions noted and determine whether management has taken appropriate corrective action.

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5. Review the Matters Requiring Board Attention and Corrective Actions from the three or four previous ROEs to ensure that the board and management have taken appropriate corrective action where necessary and persistent problems have not recurred.

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6. Obtain the institution's policies and procedures for UIGEA compliance.
  - a. Review the adequacy of the institution's policies and procedures for determining whether a commercial customer presents more than a minimal risk of engaging in an Internet gambling business.
  - b. Review the adequacy of the institution's policies and procedures for obtaining documentation from commercial customers who present more than a minimal risk of engaging in an Internet gambling business, or when the institution has actual knowledge that the customer is engaged in such a business. Documentation includes:
    - i. A certification from the customer that it does not engage in an Internet gambling business; or
    - ii. If the customer does engage in an Internet gambling business:
      1. Either a copy of the commercial license from a State or Tribal authority authorizing the customer to engage in the business or a reasoned legal opinion that demonstrates that the business does not involve restricted transactions; and
      2. A written commitment by the customer to advise the participant of any changes in its legal authority to engage in the Internet gambling business; and
      3. A third-party certification that the customer's systems for engaging in the Internet gambling business are reasonably designed to ensure that the business will remain within legal limits.

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- c. If applicable, determine whether the institution appropriately uses a code system for card transactions to detect potential restricted transactions.
  - d. Determine whether the institution has in place:
    - i. An adequate mechanism to receive notice (*e.g.*, from law enforcement or supervisory authorities) that restricted transactions have been sent through an account at the institution; and
    - ii. Policies and procedures to be followed when the bank receives such actual knowledge of restricted transactions.
  - e. Review the adequacy of any procedures or measures established by the institution to determine the circumstances under which the institution should deny service, close an account, report suspicious activity, conduct an account review or continue transaction processing in instances of actual knowledge of restricted transactions.
  - f. Determine whether the institution has taken appropriate steps to provide written notice (as part of an account agreement, on the institution's website or otherwise) to all commercial accountholders that accounts may not be used for restricted transactions.
  - g. Determine whether the institution has incorporated UIGEA compliance measures into its processes for managing correspondent account relationships.
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## PROGRAM CONCLUSIONS

- 1. Summarize the findings, supervisory concerns and regulatory violations.
  - 2. For the violation(s), determine the root cause by identifying weaknesses in internal controls, audit and self assessments, training, management oversight, or other factors. Determine whether the violation(s) are repetitive or systemic.
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3. Identify action(s) needed to correct violations and weaknesses in the institution's compliance system.

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4. Discuss findings with the institution's management and, if necessary, obtain a commitment for corrective action.

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5. Record violations according to agency policy in the EDS/ROE system to facilitate analysis and reporting.

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## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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