



## Financial Crimes Enforcement Network Department of the Treasury

### FinCEN Ruling 2005-1 – Currency Transaction Reporting: Aggregation by Casinos at Slot Machines

February 7, 2005

Dear [ ]:

This letter responds to your letters, dated June 18, 2004 and December 7, 2004, to the Financial Crimes Enforcement Network (“FinCEN”). In your letters, you request, on behalf of [Casino] and [Casino] (each a “Casino”), an administrative ruling that interprets 31 C.F.R. § 103.22(c)(3), the provision governing whether a casino must aggregate transactions in currency. You raise questions relating to aggregation and the insertion of currency into slot machines through bill validators.

FinCEN has determined that nothing in 31 C.F.R. § 103.22(c)(3) requires the Casinos to aggregate transactions in currency at slot machines. In reaching the determination, FinCEN has relied on the representations in your letters, and on the scope of your request for an administrative ruling. FinCEN has assumed that no officer, director, or employee of a Casino obtains – from records of the Casino, observation, or any other means – information, by patron or identification card, on transactions in currency at slot machines.

However, FinCEN is ruling on questions that arise under 31 C.F.R. § 103.22(c)(3) only. As discussed in greater detail below, other provisions in the Bank Secrecy Act regulations could require that an officer, director, or employee obtain information, by patron or identification card, on transactions in currency at slot machines.

#### **BACKGROUND:**

As described in your letters, patrons of the Casinos may wager currency at slot machines. The patrons insert the currency into slot machines. In addition, patrons may wager tokens, tickets from slot machines, and funds in other forms. Finally, a patron may insert currency into a slot machine, without conducting a wager; the patron receives a ticket from the slot machine, which the patron may wager or redeem.

The insertion of paper currency, or bills, requires the use of a bill validator. Each Casino employs an operating system that “supports every action associated with...slot play

at the [Casino].” The operating system records information that employees of the Casinos use in auditing activity at slot machines. The employees compare information on the total amount of bills inserted, through the bill validator, into a slot machine during a period of time, with the “actual cash drop” from the slot machine at the end of the period. The audit requires no information on the amount of bills any individual patron inserts.

A patron may obtain an identification card from a Casino, which the patron may insert into a slot machine. A Casino issues a unique identification card to each patron obtaining an identification card. The Casino verifies the identity of the patron before issuing the identification card, and the Casino intends that no other patron insert the identification card. Nevertheless, the potential exists for other patrons to insert the identification card, and situations do occur where patrons “share” identification cards in this manner.

The operating system rates play at slot machines, and points accrue to an account of a patron. The operating system rates play only to the extent patrons insert identification cards into slot machines. The operating system records information used in rating play at slot machines. The information includes the date or dates on which wagers occur, the number of the identification card, and the amount of funds wagered. The extent to which a patron wagers currency – and not tokens, tickets, or funds in any other form – has no effect on the rating of play at slot machines.

Through a “complex series of queries and data manipulation,” a casino employee could obtain information on the insertion of currency into slot machines, to the extent patrons insert bills. The information would include the date or dates on which the transactions occur, and the amount of currency inserted. The individual could obtain the information by identification card – by number of the identification card, or by name of patron issued the identification card.<sup>1</sup> The individual could obtain the information only to the extent patrons insert identification cards.

#### **ANALYSIS:**

Under 31 C.F.R. § 103.22(b)(2), the Casinos must report each transaction in currency<sup>2</sup> involving either “cash in” or “cash out” of more than \$10,000. The provision

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<sup>1</sup> It appears from your letters that the individual could obtain information on wagers of currency only, and not on transactions in which patrons insert currency without conducting wagers; FinCEN notes your discussion of information used in rating play at slot machines. Many casinos employ operating systems that permit individuals to obtain information on the insertion of currency into slot machines, whether or not patrons wager the currency.

<sup>2</sup> A wager of currency at a slot machine is a “bet of currency,” a transaction which 31 C.F.R. § 103.22(b)(2)(i) lists as an example of a transaction in currency involving “cash in.” See 31 C.F.R. § 103.22(b)(2)(i)(E). You argue that, in the absence of a wager, the insertion of currency into a slot machine is not a transaction in currency. You point to the failure of 31 C.F.R. § 103.22(b)(2)(i) to list the insertion of currency into a slot machine as an example of a transaction in currency involving “cash in.” However, the

that governs whether the Casinos must aggregate transactions in currency conditions the requirement to aggregate on knowledge<sup>3</sup> states that:

[M]ultiple currency transactions shall be treated as a single transaction if the casino has knowledge that the transactions are by or on behalf of any person and result in either cash in or cash out totaling more than \$10,000 during any gaming day.

Knowledge by a Casino means knowledge by an officer, director, or employee of the Casino. The mere existence of information in the records of a Casino would not represent knowledge of the information by the Casino; rather, an officer, director, or employee of the Casino must have knowledge of the information. The officer, director, or employee could acquire knowledge of the information through any means, including observation and, as stated in 31 C.F.R. § 103.22(c)(3), "examination" of the records.

Each Casino employs an operating system that records information used in auditing activity and rating play at slot machines. Through a "complex series of queries and data manipulation," an officer, director, or employee of a Casino could obtain information on transactions in currency by identification card at slot machines. According to your representations, no officer, director, or employee performs the "complex series of queries and data manipulation." In addition, you state that no officer, director, or employee obtains, through observation or other means, information on transactions in currency by patron or identification card at slot machines. For these reasons, nothing in 31 C.F.R. § 103.22(c)(3) requires the Casinos to aggregate transactions in currency at slot machines.

However, other provisions in the Bank Secrecy Act regulations could require that an officer, director, or employee of a Casino obtain information on transactions in currency by patron or identification card at slot machines. For instance, each Casino must implement an anti-money laundering program "reasonably designed to assure and monitor compliance" with requirements under the Bank Secrecy Act.<sup>4</sup> A requirement under the Bank Secrecy Act with which each Casino must comply is the requirement to report

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provision clearly states that the list of examples is not exhaustive. Regardless of whether a patron wagers the currency, the insertion of currency into a slot machine involves the physical transfer of currency to a Casino. See 31 C.F.R. § 103.11(ii)(2). Indeed, in the absence of a wager, the transaction is analogous to the purchase of a token with currency; the patron receives a ticket from the slot machine, which the patron may wager or redeem. The purchase of a chip or token with currency is a transaction in currency involving "cash in." See 31 C.F.R. § 103.22(b)(2)(i)(A). Likewise, the insertion of currency into a slot machine is a transaction in currency, even in the absence of a wager.

<sup>3</sup> 31 C.F.R. § 103.22(c)(3).

<sup>4</sup> 31 C.F.R. §§ 103.120, 103.64(a). A patron who inserts currency into a slot machine would satisfy the definition of "customer" in 31 C.F.R. § 103.64(b)(3), whether or not the patron wagers the currency. The rule that requires the Casinos to report suspicious transactions refers to customers. See 31 C.F.R. § 103.21(a)(2)(iii). In addition, various recordkeeping requirements apply by their terms to transactions involving customers. See 31 C.F.R. § 103.36.

transactions a Casino “knows, suspects, or has reason to suspect” are suspicious.<sup>5</sup> Transactions in currency structured to evade the reporting requirements in 31 C.F.R. § 103.22(b)(2) would qualify as suspicious. Transactions in currency that prove unusual in volume or size could also qualify as suspicious. A Casino must perform appropriate due diligence in response to indicia of suspicious transactions. Casinos with “automated data processing systems” must implement programs that “provide for...the use of [the systems] to aid in assuring compliance.”<sup>6</sup> Finally, a Casino must establish “a system of internal controls to assure ongoing compliance.”<sup>7</sup>

FinCEN is ruling only on questions that arise under 31 C.F.R. § 103.22(c)(3). However, knowledge for purposes of 31 C.F.R. § 103.22(c)(3) includes knowledge acquired in complying with other requirements under the Bank Secrecy Act – including the requirement to report suspicious transactions, and requirements that relate to Bank Secrecy Act compliance or anti-money laundering programs.

In the event compliance with other requirements under the Bank Secrecy Act results in an officer, director, or employee of a Casino performing “the complex series of queries and data manipulation”<sup>8</sup> the Casino would, for purposes of 31 C.F.R. § 103.22(c)(3), have knowledge that transactions are conducted “by or on behalf of” the same person. The determination holds despite the fact that the officer, director, or employee would obtain information by identification card only, and despite the potential for sharing of identification cards among customers.

Nothing in this administrative ruling precludes action by FinCEN should any of the representations in your letters, or any of the assumptions in this administrative ruling, prove inaccurate. Moreover, nothing in this administrative ruling precludes action by FinCEN on matters – including matters that relate to compliance with provisions in the Bank Secrecy Act regulations other than 31 C.F.R. § 103.22(c)(3) – on which FinCEN is not ruling. FinCEN reserves the right to publish this administrative ruling as guidance, with all information identifying you or the Casinos redacted. You will have 14 days after the date of this administrative ruling to identify any other information you believe should be redacted, and the legal basis for the redaction.

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<sup>5</sup> 31 C.F.R. § 103.21.

<sup>6</sup> 31 C.F.R. §§ 103.120, 103.64(a)(2)(vi).

<sup>7</sup> 31 C.F.R. §§ 103.120, 103.64(a)(2)(i).

<sup>8</sup> FinCEN is not ruling on questions that arise under 31 C.F.R. §§ 103.120 and 103.64. Other measures, which the Casinos could implement in response to a risk-based analysis, could include enhancements to the operating system for slot machines. The enhancements could consist of new software tools/interfaces and reprogramming. The Casinos could develop the enhancements, or have a vendor develop the enhancements.

If you have any questions concerning this administrative ruling, please contact Leonard C. Senia, Senior Regulatory Compliance Specialist, at (202) 354-6412.

Sincerely,

//signed//

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