



Know Your Customer: Compliance with Source of Funds Requirements

by Sheryl L. Ashley

At various conferences over the past year, the Financial Crimes Enforcement Network (FinCEN) has discussed their expectations for casinos in complying with new interpretations of the source of funds requirements. Based on FinCEN's interpretations of their regulations, these requirements will have a significant impact on virtually all properties within Indian Country and will warrant extensive discussion and strategic planning within tribal gaming organizations. To understand the driving factors behind these recent interpretations, current trends in the casino industry must first be examined. Based on this, casinos can then determine what information to collect and how, a timeframe within which to collect such information, sources of obtaining the information, and retention and storage of the information that has been obtained.

The driving factor behind these interpretations stems from recent headlines showcasing current money laundering and embezzlement schemes in casinos. The extensive news coverage within the last several months about casino arrests involving monetary penalties, embezzlement, and fraud has triggered significant discussion regarding a customer's source of funds and the casino's responsibility to be aware of such information. Perhaps the most infamous is the Sands Corporation and their mammoth \$47 million non-prosecution agreement. Their largest all-cash gambler was being prosecuted by the Mexican government for being a "drug kingpin." Other casinos were recently in the news for allegations of customers laundering money through their casinos. However, the news articles don't report if the customers used loyalty club cards or whether the casinos had identified their transactions as suspicious. As a result of these recent impactful headlines, FinCEN has readdressed the requirements that casinos must gather information regarding its customers and their sources of funds so as to preclude more of the aforementioned occurrences, whether that is through players club cards or via additional information gathering.

The regulations published in the Code of Federal Regulations (CFR) regarding Customer Identification Program Requirements are not currently specified for casino required compliance. The only current regulation that could require casinos to obtain and verify a customer's source of funds is broad and allows for interpretation: "When required by this chapter, the name, address, social security number, and other information, and verification of the same, of a person" (31 CFR Section 1021.210(b)(2)(v)(A)). Casinos are left with regulations requiring them to obtain specific information about customers but no parameters to establish the practice.

What information should be obtained about customers? The Director of FinCEN's comments that "casinos are required to know a customer's source of funds" are vague. How this information should be obtained, and on whom, are never addressed. Many casinos have elected to use a risk-based approach to determine a customer's source of funds. This does not mean that every customer who enters the property needs to be closely monitored; however, it does mean that casino personnel will be required to perform extra steps to determine more information about the source of funds and outside activities of customers that meet a certain threshold of gaming activity.

Casinos already know a significant amount of information about their top-tier customers. For casinos with executive hosts, it may be easy for a host to obtain information through casual conversations with their customers, to be later verified by compliance officers. Additional information can be obtained through searches on internet search sites and public records, background check service websites, and even through social media. This information is generally communicated through the various departments of the casino such as marketing, loyalty cards, cage, security, surveillance, floor personnel, and finance including the accounting and compliance personnel. In order to ensure that a property effectively monitors and properly reports this information, all departments within the organization should be working together to share pertinent information regarding suspicious activity reporting. All available information throughout the casino should also be utilized to assess risk and improve monitoring and reporting.

In addition, it may also be necessary for each casino to revisit their risk assessment and address when more information will be gathered from a customer to determine source of funds and the customer's activities in general. Establishing the proper tone at the top, starting with executive management, to brainstorm and determine the best way to accomplish "know your customer" in an effective and less invasive way will help all casino personnel start building a better network within the casino and will assist in avoiding non-compliance with the new regulation interpretations.

FinCEN's new interpretations of their regulations are not without significant challenges, but as with all change, prioritization, communication, and a proactive team environment will enable continued tribal success long into the future. ♣

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