

Congress of the United States
Washington, DC 20515

May 5, 2010

The Honorable Timothy Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Dear Secretary Geithner and Chairman Bernanke:

Last year, many of us wrote to you regarding the regulation issued pursuant to the Unlawful Internet Gambling Enforcement Act (UIGEA), and requested that your agencies extend the compliance date for that regulation from December 1, 2009 to December 1, 2010. Your agencies instead chose to extend it to June 1, 2010, a date that is quickly approaching.

As your agencies conceded when they announced the extension, the greatest flaw in UIGEA is its failure to define “unlawful Internet gambling.” Prior congresses tried, over several years, to enact legislation which would have updated the Wire Act (18 U.S.C. §1084) to clarify certain types of Internet gambling as illegal; however, all of these legislative attempts failed. As one of the last acts of the 109th Congress, UIGEA was added to the conference report on major port security legislation. That provision simply prohibited the acceptance or processing of a financial instrument for the purposes of “unlawful Internet gambling” without defining that term. The UIGEA regulation, which took effect on the last day of the Bush Administration, does not provide a definition either.

In the absence of a clear definition, regulated financial institutions and payment processors are tasked with parsing decades-old federal and state laws that never contemplated the Internet, and their application to activities that may or may not be gambling. The Department of Justice (DOJ) claims the Wire Act applies to all forms of gambling, but the highest court that has ruled on its application found that it only applied to sports betting. Similarly, DOJ contends that interstate wagers on horse racing are illegal, though the Interstate Horseracing Act (IHA) seems to provide a definition of legal Internet horse bets. Furthermore, it is unclear from which states Internet horse betting sites can accept bets under the IHA. Finally, there are some activities which resemble gambling but may not be; under the proposed UIGEA regulation, a bank might have to decide whether a bridge tournament with an entry fee and a prize constitutes unlawful Internet gambling.

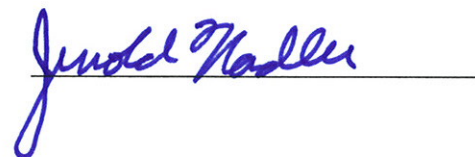
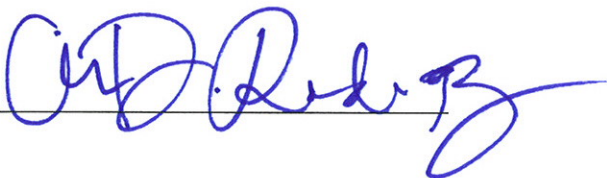
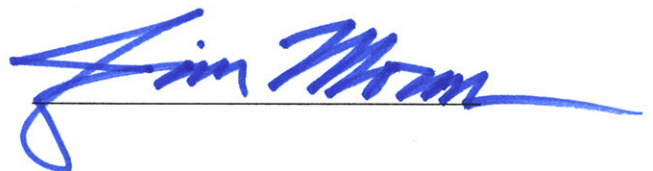
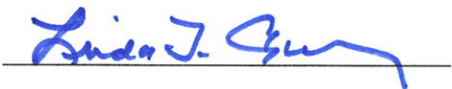
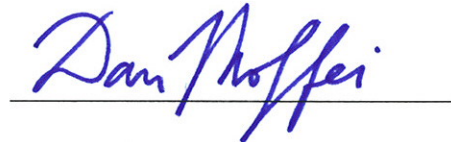
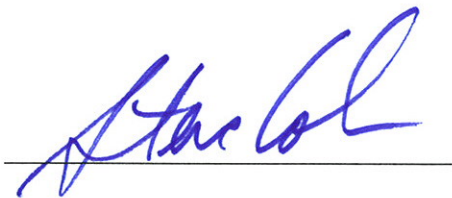
Faced with the difficulty of answering such questions, many financial institutions will simply choose to decline transactions for any activity that in any way resembles gambling. We are

aware that companies that accept Internet horse wagers which are clearly exempted from UIGEA are having payments disrupted, as are providers of pure skill games like chess tournaments, which are not arguably unlawful Internet gambling.

We believe that Congress should clarify what is and is not unlawful Internet gambling, and there are bills before Congress that do that. In the meantime, however, we believe that most of the uncertainty in the regulation surrounds its application to two forms of gaming: peer-to-peer games and pari-mutuel betting. There is settled federal case law that Internet sports betting placed by individuals in the U.S. violates the Wire Act. There also seems to be some consensus that accepting bets on house-banked games of chance (such as roulette, blackjack, and virtual slot machines) from the U.S. violates state law.

We believe the best way to clarify the regulation is to have the regulation apply only to those two forms of gambling, about which there is some consensus, and to exempt from the scope of the regulation peer-to-peer and pari-mutuel wagering. We are aware that the Poker Players Alliance has filed a petition that would seek to exactly that. To be clear, the regulation would not affect the application of other state and federal laws to those forms of gaming; it would merely exempt them from the particular effect of this regulation. We believe that such a change would provide a clearer and more focused regulation, and we encourage you to approve the petition.

Sincerely,



Spencer

Phil Hare

John B. Law

John

Joe Courtney

Shelley Berkeley

Justin

Rice Market

Lon Klein

John Longenecker

Steve Titus

Paul Welch

Ed Beck

22 Members signing the letter:

Steve Cohen
Dan Maffei
Linda Sanchez
Paul Hodes
Tom Perriello
Jim Moran
Ciro Rodriguez
Jerrold Nadler
Steve Israel
Phil Hare
John Larson
John Yarmuth
Joe Courtney
Shelley Berkley
Jim Himes
Bill Delahunt
Ron Klein
John Conyers
Dina Titus
Peter Welch
Ed Perlmutter
Bobby Scott