

**Statement for the Record – Congressman Pete Sessions (TX-32)
Member (on-leave) of House Committee on Financial Services**

**Subcommittee on Domestic and International Monetary Policy, Trade,
and Technology Hearing
“Proposed UIGEA Regulations: Burden without Benefit?”
Wednesday, April 2, 2008**

Chairman Gutierrez, Ranking Member Paul, and Members of the Subcommittee – I appreciate the opportunity that you are extending to me to participate in this hearing as an on-leave member of the Financial Services Committee and as a Member of Congress who is greatly interested in how the regulations regarding the Unlawful Internet Gambling Enforcement Act (UIGEA) are drafted and enforced.

Like every Member of this committee, I believe that the accurate and faithful application of our nation’s laws is of the utmost importance, and I understand the important role that clear and consistent federal regulations play in achieving this goal. However, when regulatory guidance is vague, an unintended consequence can be the suppression of legitimate commerce caused by a regulated community exercising an unnecessary abundance of caution.

To prevent this from happening in the case of UIGEA, on December 12, 2007, along with 15 other Republican Members of Congress, I wrote a letter to Treasury Secretary Paulson and Federal Reserve Board Chairman Bernanke urging them to ensure that the guidance provided by their agencies is clear and consistent – particularly in the case of what constitutes an “unlawful Internet gambling” transaction and how companies are expected to comply with the “blocking, preventing and prohibiting restricted transactions” mandates referenced throughout the rule.

I was, and remain, concerned that the proposed rule does not designate precisely what sorts of transactions must be blocked by financial institutions and payment systems. The preamble to the regulation cites the difficulty of evaluating every federal and state law with respect to every possible form of gambling as the reason not to do this; nevertheless, the proposed rule would instead lay that exact burden on the general counsel of every bank, credit union, credit card network and money-transmitting business in the country.

The unintended consequence of this lack of clarity will be for many financial institutions to block broadly anything which may in any way resemble gambling, be it legal or illegal. Indeed, I understand that the providers of online skill games are already having difficulty with payment processing, as banks have already begun to exercise an abundance of caution to avoid potentially violating either the law or the unclear regulation.

I urge today’s witnesses and the Members of this panel, prior to issuing a final rule, to determine precisely what transactions payment systems are required to block. I understand that Senators John Sununu and Domenici have written a letter to both Secretary Paulson and Chairman Bernanke suggesting that they consider “separating the rules into those forms of activities for which there is settled federal law (i.e., defined by the Professional and Amateur Sports Protection Act (PAPSA)) and those that are not.” While this is certainly one approach to solving

the problem, some state-by-state determination of precisely what transactions payment systems are required to block should be a prerequisite to finalizing any rule on this issue.

I thank the Committee for the opportunity to provide this input in the process, and I ask unanimous consent that the letter that I sent to Secretary Paulson and Chairman Bernanke be inserted in the record.

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I was, and remain, concerned that the proposed rule does not designate precisely what sorts of transactions must be blocked by financial institutions and payment systems. The preamble to the regulation cites the difficulty of evaluating every federal and state law with respect to every possible form of gambling as the reason not to do this; nevertheless, the proposed rule would instead lay that exact burden on the general counsel of every bank, credit union, credit card network and money-transmitting business in the country.

The unintended consequence of this lack of clarity will be for many financial institutions to block broadly anything which may in any way resemble gambling, be it legal or illegal. Indeed, I understand that the providers of online skill games are already having difficulty with payment processing, as banks have already begun to exercise an abundance of caution to avoid potentially violating either the law or the unclear regulation.

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R. G. Seising
TX-32

Congress of the United States
Washington, DC 20515

The Honorable Henry M. Paulson
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Ave. NW
Washington DC, 20220

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave NW
Washington, DC 20551

December 12, 2007

Dear Secretary Paulson and Chairman Bernanke:

As Members of Congress who are interested in the accurate and faithful application of our nation's laws, we understand the important role that clear and consistent federal regulations play in fostering economic growth and marketplace competition. At their best, federal regulations provide explicit guidance to a regulated community while also providing important consumer protections.

However, when regulatory guidance is vague, an unintended consequence is often the suppression of legitimate commerce through an abundance of caution exercised by an unsure regulated community. **We are writing to ensure that this does not become the case regarding the Notice of Proposed Rulemaking pursuant to the Unlawful Internet Gambling Enforcement Act, issued by your two agencies on October 1, 2007.**

Notwithstanding the policy disagreements surrounding the underlying issue of internet gaming, we agree that it is always the federal government's responsibility to encourage clear regulatory guidance. It appears to us that in this case, the proposed rule governing this area of law is overly broad and does not provide the regulated industry with sufficiently clear and consistent guidance.

Specifically, we are concerned that in the proposed rulemaking, your agencies could do more to clarify what constitutes an "unlawful Internet gambling" transaction and how regulated communities are expected to comply with the "blocking, preventing, and prohibiting restricted transactions" mandates referenced throughout the rule.

As you know, the statute and the proposed rule require financial institutions and payment systems to take steps to block certain unlawful Internet wagers, and exempt from the statute's effect certain classes of wagers, such as wagers accepted in compliance with the Interstate Horseracing Act, and intrastate wagers accepted by state-licensed entities.

However, the proposed rule does not seem to designate precisely what sorts of transactions must be blocked by financial institutions and payment systems. The preamble to the regulation cites

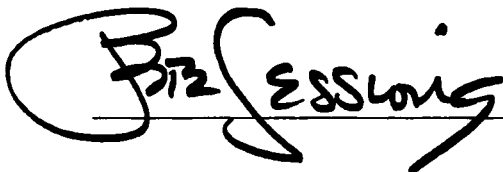
the difficulty of evaluating every federal and state law with respect to every possible form of gambling as the reason not to do this; nevertheless, the proposed rule would instead lay that exact burden on the general counsel of every bank, credit union, credit card network and money-transmitting business in the country.

We believe that the unintended consequence of this lack of clarity will be for many financial institutions to block broadly anything which may in any way resemble gambling, be it legal or illegal. Indeed, it has come to our attention that the providers of online skill games are already having difficulty with payment processing, as banks have already begun to exercise an abundance of caution to avoid potentially violating either the law or the unclear regulation.

Mr. Secretary and Mr. Chairman, we believe that, under both the Administrative Procedures Act and the Paperwork Reduction Act, your agencies could still do more to provide clarity to the regulated community in this instance. **We therefore urge that, prior to issuing a final rule, your agencies undertake additional efforts to determine, on a state-by-state basis, precisely what transactions payment systems are required to block.**

We thank you for all of your efforts in this matter and for your service to our country. If you have any further questions regarding this issue, please feel free to contact Josh Saltzman, Deputy Chief of Staff for Congressman Pete Sessions, at Josh.Saltzman@mail.house.gov or 202.225.2231.

Sincerely,

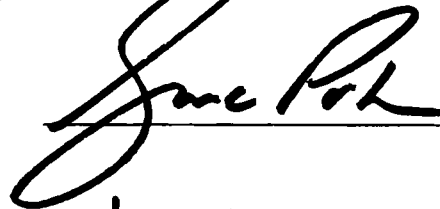




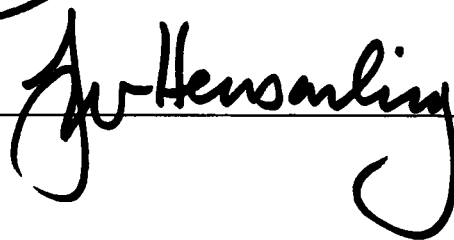












Carrie Mack

Dean Heller

Fae Borton

Fred Lypto

Lynna ~~at~~

Harsha Blackburn

Dan Hesse

Michael T. McCand

**Internet Gambling Regs
Signature Map**

Page One

Left Column

Pete Sessions
Peter King
John Culberson
Jeff Flake

Right Column

Ron Paul
John Carter
Jon Porter
Jeb Hensarling

Page Two

Connie Mack
Joe Barton
Lynn Westmoreland
Darrell Issa

Dean Heller
Fred Upton
Marsha Blackburn
Mike McCaul