

§ 5363. Prohibition on acceptance of any financial instrument for unlawful Internet gambling

No person engaged in the business of betting or wagering may knowingly accept, in connection with the participation of another person in unlawful Internet gambling—

- (1) credit, or the proceeds of credit, extended to or on behalf of such other person (including credit extended through the use of a credit card);
- (2) an electronic fund transfer, or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of such other person;
- (3) any check, draft, or similar instrument which is drawn by or on behalf of such other person and is drawn on or payable at or through any financial institution; or
- (4) the proceeds of any other form of financial transaction, as the Secretary and the Board of Governors of the Federal Reserve System may jointly prescribe by regulation, which involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of such other person.

(Added Pub. L. 109-347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1957.)

§ 5364. Policies and procedures to identify and prevent restricted transactions

(a) REGULATIONS.—Before the end of the 270-day period beginning on the date of the enactment of this subchapter, the Secretary and the Board of Governors of the Federal Reserve System, in consultation with the Attorney General, shall prescribe regulations (which the Secretary and the Board jointly determine to be appropriate) requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions in any of the following ways:

- (1) The establishment of policies and procedures that—
 - (A) allow the payment system and any person involved in the payment system to identify restricted transactions by means of codes in authorization messages or by other means; and
 - (B) block restricted transactions identified as a result of the policies and procedures developed pursuant to subparagraph (A).
- (2) The establishment of policies and procedures that prevent or prohibit the acceptance of the products or services of the payment system in connection with a restricted transaction.

(b) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In prescribing regulations under subsection (a), the Secretary and the Board of Governors of the Federal Reserve System shall—

- (1) identify types of policies and procedures, including nonexclusive examples, which would be deemed, as applicable, to be reasonably de-

signed to identify and block or otherwise prevent or prohibit the acceptance of the products or services with respect to each type of restricted transaction;

(2) to the extent practical, permit any participant in a payment system to choose among alternative means of identifying and blocking, or otherwise preventing or prohibiting the acceptance of the products or services of the payment system or participant in connection with, restricted transactions;

(3) exempt certain restricted transactions or designated payment systems from any requirement imposed under such regulations, if the Secretary and the Board jointly find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions; and

(4) ensure that transactions in connection with any activity excluded from the definition of unlawful internet gambling in subparagraph (B), (C), or (D)(i) of section 5362(10) are not blocked or otherwise prevented or prohibited by the prescribed regulations.

(c) COMPLIANCE WITH PAYMENT SYSTEM POLICIES AND PROCEDURES.—A financial transaction provider shall be considered to be in compliance with the regulations prescribed under subsection (a) if—

(1) such person relies on and complies with the policies and procedures of a designated payment system of which it is a member or participant to—

- (A) identify and block restricted transactions; or
- (B) otherwise prevent or prohibit the acceptance of the products or services of the payment system, member, or participant in connection with restricted transactions; and

(2) such policies and procedures of the designated payment system comply with the requirements of regulations prescribed under subsection (a).

(d) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTIONS.—A person that identifies and blocks a transaction, prevents or prohibits the acceptance of its products or services in connection with a transaction, or otherwise refuses to honor a transaction—

- (1) that is a restricted transaction;
- (2) that such person reasonably believes to be a restricted transaction; or
- (3) as a designated payment system or a member of a designated payment system in reliance on the policies and procedures of the payment system, in an effort to comply with regulations prescribed under subsection (a),

shall not be liable to any party for such action.

(e) REGULATORY ENFORCEMENT.—The requirements under this section shall be enforced exclusively by—

(1) the Federal functional regulators, with respect to the designated payment systems and financial transaction providers subject to the respective jurisdiction of such regulators under section 505(a) of the Gramm-Leach-Bliley Act and section 5g of the Commodities Exchange Act; and

(2) the Federal Trade Commission, with respect to designated payment systems and fi-

financial transaction providers not otherwise subject to the jurisdiction of any Federal functional regulators (including the Commission) as described in paragraph (1).

(Added Pub. L. 109-347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1958.)

REFERENCES IN TEXT

The date of the enactment of this subchapter, referred to in subsec. (a), is the date of enactment of Pub. L. 109-347, which was approved Oct. 13, 2006.

Section 505(a) of the Gramm-Leach-Bliley Act, referred to in subsec. (e)(1), is classified to section 6805(a) of Title 15, Commerce and Trade.

Section 5g of the Commodities Exchange Act, referred to in subsec. (e)(1), is classified to section 7b-2 of Title 7, Agriculture.

§ 5365. Civil remedies

(a) JURISDICTION.—In addition to any other remedy under current law, the district courts of the United States shall have original and exclusive jurisdiction to prevent and restrain restricted transactions by issuing appropriate orders in accordance with this section, regardless of whether a prosecution has been initiated under this subchapter.

(b) PROCEEDINGS.—

(1) INSTITUTION BY FEDERAL GOVERNMENT.—

(A) IN GENERAL.—The United States, acting through the Attorney General, may institute proceedings under this section to prevent or restrain a restricted transaction.

(B) RELIEF.—Upon application of the United States under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

(2) INSTITUTION BY STATE ATTORNEY GENERAL.—

(A) IN GENERAL.—The attorney general (or other appropriate State official) of a State in which a restricted transaction allegedly has been or will be initiated, received, or otherwise made may institute proceedings under this section to prevent or restrain the violation or threatened violation.

(B) RELIEF.—Upon application of the attorney general (or other appropriate State official) of an affected State under this paragraph, the district court may enter a temporary restraining order, a preliminary injunction, or an injunction against any person to prevent or restrain a restricted transaction, in accordance with rule 65 of the Federal Rules of Civil Procedure.

(3) INDIAN LANDS.—

(A) IN GENERAL.—Notwithstanding paragraphs (1) and (2), for a restricted transaction that allegedly has been or will be initiated, received, or otherwise made on Indian lands (as that term is defined in section 4 of the Indian Gaming Regulatory Act)—

(i) the United States shall have the enforcement authority provided under paragraph (1); and

(ii) the enforcement authorities specified in an applicable Tribal-State Compact ne-

gotiated under section 11 of the Indian Gaming Regulatory Act (25 U.S.C. 2710) shall be carried out in accordance with that compact.

(B) RULE OF CONSTRUCTION.—No provision of this section shall be construed as altering, superseding, or otherwise affecting the application of the Indian Gaming Regulatory Act.

(c) LIMITATION RELATING TO INTERACTIVE COMPUTER SERVICES.—

(1) IN GENERAL.—Relief granted under this section against an interactive computer service shall—

(A) be limited to the removal of, or disabling of access to, an online site violating section 5363, or a hypertext link to an online site violating such section, that resides on a computer server that such service controls or operates, except that the limitation in this subparagraph shall not apply if the service is subject to liability under this section under section 5367;

(B) be available only after notice to the interactive computer service and an opportunity for the service to appear are provided;

(C) not impose any obligation on an interactive computer service to monitor its service or to affirmatively seek facts indicating activity violating this subchapter;

(D) specify the interactive computer service to which it applies; and

(E) specifically identify the location of the online site or hypertext link to be removed or access to which is to be disabled.

(2) COORDINATION WITH OTHER LAW.—An interactive computer service that does not violate this subchapter shall not be liable under section 1084(d) of title 18, except that the limitation in this paragraph shall not apply if an interactive computer service has actual knowledge and control of bets and wagers and—

(A) operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made or at which unlawful bets or wagers are offered to be placed, received, or otherwise made; or

(B) owns or controls, or is owned or controlled by, any person who operates, manages, supervises, or directs an Internet website at which unlawful bets or wagers may be placed, received, or otherwise made, or at which unlawful bets or wagers are offered to be placed, received, or otherwise made.

(d) LIMITATION ON INJUNCTIONS AGAINST REGULATED PERSONS.—Notwithstanding any other provision of this section, and subject to section 5367, no provision of this subchapter shall be construed as authorizing the Attorney General of the United States, or the attorney general (or other appropriate State official) of any State to institute proceedings to prevent or restrain a restricted transaction against any financial transaction provider, to the extent that the person is acting as a financial transaction provider.

(Added Pub. L. 109-347, title VIII, § 802(a), Oct. 13, 2006, 120 Stat. 1959.)