

GOODBYE 6A, HELLO BSA

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At 11:59 pm on June 30, 2007, Nevada Gaming Commission Regulation 6A ceased to exist. After 22 years of the Nevada Gaming Commission (NGC) and State Gaming Control Board (GCB) regulating and enforcing currency reporting requirements in Nevada casinos, Nevada's agreement with the U.S. Department of the Treasury to allow for the NGC/GCB to regulate and enforce currency reporting requirements ended. In 2003, U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) started to push for amendments to NGC Regulation 6A that would cause NGC Regulation 6A to be identical to the federal Bank Secrecy Act (BSA) regulations. Given that such regulatory efforts would be duplicative, the GCB and NGC determined that it would be more appropriate for the federal government, namely FinCEN and the Internal Revenue Service (IRS), to have full responsibility of regulating and enforcing the BSA and its related regulations (aka BSA regulations, Title 31 regulations and 31 CFR, Part 103) within Nevada casinos. Such change

was effective July 1, 2007.

This is a major change for Nevada casinos. Although the casinos are still completing currency transaction reports and sending them to the IRS for cash transactions over \$10,000, changes have occurred with regards to which casinos must report such transactions, what is considered reportable, the measures taken to identify reportable transactions and the procedures used to audit for compliance with BSA regulations.

At the end of this article is a list of the several major differences between Nevada's regulatory system (Nevada Revised Statutes, NGC Regulation 6A, NGC Regulation 6.090 Minimum Internal Control Standards (MICS), CPA guidelines and checklists, and Internal Audit guidelines and checklists) and the federal requirements (Bank Secrecy Act and BSA regulations). Some of these areas warrant elaboration.

Obviously, the biggest impact of the change to federal requirements is that all casinos that have "gross annual gaming revenue in excess of \$1 million" (*see* 31 CFR 103.11(n)(5)¹) are subject to all the requirements of BSA and BSA regulations. This means that operations that were exempt from filing currency transaction reports under the agreement between Nevada and the U.S. Department of the Treasury (casinos without \$10,000,000 or more of annual gross gaming

revenue and \$2,000,000 or more of table statistical win, or those casinos which were not classified as "6A licensees") now must file reports. Yes, this means the local bar and grill operation operating 25 slot machines with over \$1,000,000 of annual gross gaming revenue is required to be in compliance with all BSA regulations.

The BSA regulations lack the prohibition of certain transactions. On June 29th casinos could not exchange with a patron cash for cash, cash for a check, or cash for a wire-out transaction in amounts greater than \$3,000. Now these transactions are allowed but subject to reporting and recordkeeping thresholds. Each casino is now in the position of examining their business to decide policy regarding when to allow these transactions to occur and whether to self impose any dollar limits. Further, suspicious activity reporting requirements may need to be addressed as the risk that these types of transactions are suspicious is considerable.

As casinos continue to adjust to this new reporting and regulatory environment, attention should be focused upon maintaining records regarding identification credentials obtained from patrons. If a casino has the records related to the identity of patrons, reporting of transactions after-the-fact becomes much easier. It appears that "expired" identification credentials are not

acceptable in any situation where the identity of the patron needs to be verified. Further, there are no excuses for failing to obtain a Social Security Number (SSN) or Taxpayer Identification Number from domestic patrons. Educating patrons on the transition without assisting a patron to circumvent the requirements (a potential area for civil penalty or even criminal penalty *see* 31 CFR 103.57, 31 CFR 103.59 and 31 CFR 103.63) is the key.

Another crucial area is the change to after-the-fact aggregation of transactions throughout the entire casino to determine if the casino accepted more than \$10,000 or disbursed more than \$10,000 from/to a customer. FinCEN and the IRS indicate this process has successfully been accomplished by casinos in other jurisdictions.

Potential areas that may require upgrading include computer systems installed that may not capture patron information and systems containing patron information which may not communicate with other systems. Also, have multiple transaction logs (MTL) continued to be used because the MTLs are part of the casino's anti-money laundering program? A MTL may have been eliminated for a certain area of the casino or for certain transactions as there is no specific requirement in the BSA regulations to have such logs. Another potential new area is aggregating race and sports book transactions with other casino transactions. Most existing computerized race and sports book systems do not capture patron information related to wagers accepted and payments of winning wagers. Because Nevada is the only jurisdiction with race and sports books inside their casinos, there is no history from another jurisdiction to glean from regarding how best to combine these transactions with other transactions throughout the

casino. A review of how the accounting department gathers all the cash transactions into one big pile, sorts through the pile to find the reportable transactions and files the needed reports is probably prudent.

Recordkeeping requirements are also different. All player rating slips, not just computer records, must be retained for five years.

Lastly, when resolving questions and problems, casinos will find another major difference the GCB is not providing any guidance regarding compliance with the BSA and BSA regulations. Questions should be directed to FinCEN's Regulatory Helpline at (800) 949-

2732.

FinCEN and the IRS have enforced the BSA regulations in gaming jurisdictions outside of Nevada for years. And since 2003, FinCEN and the IRS have had the responsibility of regulating and enforcing suspicious activity reporting requirements within Nevada casinos. In July 2007, FinCEN and the IRS assumed complete responsibility for enforcing the BSA in 275 Nevada casinos. Nevada casinos will be more at ease with FinCEN and the IRS enforcing and monitoring compliance and the new regulatory requirements as the memory of old Regulation 6A fades. [NGL](#)

Currency Transaction Reporting - Nevada vs. Federal Regulatory Systems

Nevada Regulatory System	Federal Regulatory System
1. GCB responsible for audits and enforcement programs.	IRS responsible for audits and FinCEN responsible for enforcement programs.
2. NGC may limit, condition, suspend or revoke a casino's gaming license for violations in addition to levying civil and criminal penalties.	Civil and criminal penalties only.
3. MICS, CPA guidelines/checklists and Internal Audit guidelines/checklists provide additional procedures to ensure compliance.	None.
4. Applies to a "6A licensee," one with ≥ \$10 million in annual gross gaming revenue and ≥ \$2 million table games statistical win. A non-6A licensee is subject to 26 U.S.C. § 6050I and 31 CFR 103.30.	Applies to a casino that has > \$1 million in gross annual gaming revenue. An operation of \$1 million or less is subject to 26 U.S.C. § 60501 and 31 CFR 103.30.
5. Applies to all branch offices including foreign offices.	Requirements apply to U.S. domestic branch offices only.
6. A casino must have a compliance program that addresses Regulation 6A and applicable MICS.	Anti-money laundering compliance program required. Requires establishing procedures to use all available information to determine, when required, the name, address, SSN, and other information and verification, of a person. Also, the program must use computers to aid in assuring compliance.

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Nevada Regulatory System

Federal Regulatory System

7.	Prohibited transactions. Cash for cash, cash for check, cash for wire-out transactions > \$3,000 are prohibited.	None. Cash for cash, cash for check and cash for wire-out transactions > \$3,000 are permitted but are reportable if >\$10,000. For purchase of checks and cash for wire-out of > \$3,000, requirements for obtaining identification credential from the patron and recording the transaction.
8.	Certain transactions are exempt from reporting requirement due to narrower definition of patron (<i>e.g.</i> , cash transactions with domestic and foreign banks; other 6A licensees).	Only cash transactions between the casino and a commercial bank are exempt.
9.	MTLs required; used to document transactions > \$3,000.	No specific requirement except for checks cashed or issued > \$3,000.
10.	Due to MTL requirement, player rating records are kept only if used for 6A purposes.	All player rating records which are prepared or used must be kept.
11.	Real-time aggregation of transactions >\$3,000 by department (monitoring area) used to determine if transactions exceed \$10,000. Aggregation of transactions required where: <ul style="list-style-type: none"> ●There is knowledge of similar transactions within a monitoring area (usually transactions on a MTL) or between monitoring areas in a department, or ●Dissimilar transactions occurring during one visit in one area. 	After-the-fact aggregation of all transactions occurring throughout the entire casino to determine if the casino accepted > \$10,000 or disbursed > \$10,000 from/to a customer.
12.	Reportable transactions include single or multiple transactions where an employee accepts > \$10,000 or disburses > \$10,000. A report is required if an employee: <ul style="list-style-type: none"> ●Has actual knowledge of multiple transactions (regardless of amounts) that aggregate to > \$10,000, or ●Has actual knowledge of dissimilar transactions (regardless of amounts) that aggregate to > \$10,000 during one visit in one area. 	Reportable transactions include multiple transactions where the “casino has knowledge” of the multiple transactions. A casino has knowledge if an employee (acting within the scope of his employment) has knowledge of the multiple transactions from examining any casino records, including computerized records and automated systems.

Currency Transaction Reporting - Nevada vs. Federal Regulatory Systems

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| 13. | Prior to completing a reportable single or multiple transactions or reportable dissimilar transactions, must obtain an identification credential from the patron and <i>must attempt</i> to obtain patron's permanent address and SSN. | Before concluding a reportable transaction, the casino must verify the patron's identity and address by examining an identification credential and <i>must record</i> the patron's account number and SSN. |
| 14. | If a reportable single or multiple transactions or reportable dissimilar transactions are completed without obtaining an identification credential and the information on file does not meet the standards regarding a "known patron," the patron is barred from gaming activity until the identification credential is provided. | No additional procedures required if casino fails to obtain the identification credential. |
| 15. | A casino must create and keep accurate, complete, legible and permanent original records to ensure compliance with Regulation 6A for five years. Regulation 6A.050 requirements encompass any record, including a computerized record, used for compliance purposes. | Requires a casino to retain any computer records of transactions for five years. |
| 16. | The casino must obtain and verify the customer's identification information when the deposit of funds, account opened or line of credit extended is in excess of \$3,000. Also, MICS impose other requirements on casinos for credit and deposit accounts. | Requires with respect to each deposit of funds, account opened or line of credit extended, regardless of the amount, a casino shall, at the time the funds are deposited, the account is opened or credit is extended that the casino |
| 17. | The casino shall retain either the original or a microfilm or other copy or reproduction of a record of each: <ul style="list-style-type: none"> ● Receipt (including but not limited to funds for safekeeping or front money) of funds in excess of \$3,000 for a deposit or credit account and records customer's identification information ● Extension of credit in excess of \$3,000, the terms and conditions of | Requires each casino to retain either the original or a microfilm or other copy or reproduction of each record of each: <ul style="list-style-type: none"> ● Receipt (including but not limited to funds for safekeeping or front money) of funds, regardless of amount, by the casino for the account (credit or deposit) of any person and requires that the record include the customer's identification and the verification of that identification. ● Extension of credit in excess of \$2,500, the |

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such extension of credit, and repayments and records customer's identification information

- Advice, request or instruction received or given by the casino for the transfer of funds but only when those transactions exceed \$3,000.

Also, MICS impose other requirements on casinos for deposits and credit extensions.

terms and conditions of such extension of credit, and repayments. The record shall include the customer's name, permanent address, social security number, and the date and amount of the transaction (including repayments).

- Advice, request or instruction received or given by the casino for itself or another person with respect to a transaction involving a person, account or place outside the United States (including but not limited to communications by wire, letter, or telephone).



* The views and statements contained herein should not be construed as representing the position or the policy of the Nevada State Gaming Control Board.

¹ 31CFR103.11(n)(5) states, in part:

“(n) Financial institution. Each agent, agency, branch, or office within the United States of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed below:...

(5)(i) *Casino*. A casino or gambling casino that: Is duly licensed or authorized to do business as such in the United States, whether under the laws of a State or of a Territory or Insular Possession of the United States, or under the Indian Gaming Regulatory Act or other federal, state, or tribal law or arrangement affecting Indian lands (including, without

limitation, a casino operating on the assumption or under the view that no such authorization is required for casino operation on Indian lands); and has gross annual gaming revenue in excess of \$1 million. The term includes the principal headquarters and every domestic branch or place of business of the casino.

(ii) For purposes of this paragraph (n)(5), “gross annual gaming revenue” means the gross gaming revenue received by a casino, during either the previous business year or the current business year of the casino. A casino or gambling casino which is a casino for purposes of this part solely because its gross annual gaming revenue exceeds \$1,000,000 during its current business year, shall not be considered a casino for purposes of this part prior to the time in its current business year that its gross annual gaming revenue exceeds \$1,000,000....”