

WHAT TO EXPECT WHEN YOU'RE EXPECTING... A COMPLIANCE REVIEW

By Luke Rippee and Dave Staley

The Nevada Gaming Control Board's ("Board") Gaming Compliance Unit ("Compliance Unit") formally started operation on January 1, 2016 to centralize all gaming compliance plan ("Plan") reporting and provide a dedicated unit to ensure that Plan reviews are completed in a more timely fashion.

Since January 1, 2016, the Compliance Unit established a "Compliance Email" account to receive all compliance-related correspondence in electronic format, increased in size from four to five Agents, provided compliance training in partnership with the UNLV International Center for Gaming Regulation, and provided an industry-facing resource available to gaming licensees ("Licensees") to help answer inquiries or direct them to appropriate resources, as well as completing compliance reviews ("Reviews") of various Licensees.

The Compliance Unit's role as a resource is not limited to Licensees or applicants. Non-mandated Plans and compliance programs have become more common in gaming and non-gaming settings and we have been contacted by entities without mandated Plans for suggestions and advice. It appears that some Licensees with non-mandated Plans may be concerned that the Board will impose a Plan condition on them in the future, simply because they have established their own Plan now. This is simply not the case. While Plan requirements for publicly traded corporations are standard, Plan requirements for non-publicly traded corporations are evaluated on a case by case basis. The Compliance Unit should be recognized as a valuable resource for any entity that has its own compliance program. Licensees should not believe that a Plan requirement will automatically be imposed when it is proactively examining its business relationships. Hopefully, this article will dispel that notion. The Compliance Unit encourages Licensees to ask questions and seek guidance, and this applies to non-Licensee inquiries regarding compliance programs as well.

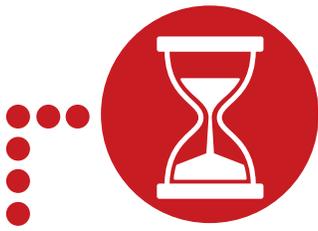
As the Compliance Unit began conducting regular Reviews, we found that the gaming industry appreciated the additional compliance scrutiny but were still apprehensive about undergoing Reviews. Some companies have paid outside consultants or law firms to conduct independent compliance reviews before our arrival, some companies have utilized their internal auditors to conduct compliance reviews and some have asked employees that have been involved in earlier compliance reviews to prepare new compliance staff on what to expect from a Board Review.

All of these practices are helpful in determining if a Plan is working the way that it should, or developing a comfort level before a Board Review, but may not always be necessary. Good compliance staff should be able to identify and fix potential gaps or deficiencies during day-to-day operations and should be given the authority to report potential issues to the Compliance Officer. In addition, the role of the Compliance Unit is not to identify Plan violations to support a potential violation letter or fine, but to work with the Licensee to understand how various practices work and suggest



alternative approaches or new procedures to address growth and the evolution of Plan requirements that fit the Licensee's specific operations or organization. Despite the Compliance Unit's role as an industry-facing resource, many executives and compliance staff are still

nervous when we schedule their company for a Review. As a result, we've prepared the following to provide Licensees and gaming advisors an overview of what to expect when the Compliance Unit schedules a Licensee for a Review.



SCHEDULING

The Compliance Unit tracks and schedules Reviews six to nine months in advance and is currently on a three to four-year Review cycle. When planning a Review, we evaluate the following:

- When was the last Review?
- Can we coordinate with an existing licensing investigation?
- Can we take advantage of physical proximity of Licensee operations to schedule more than one Review at the same time?
- Has there been a request by a Board member or Chief?
- What are our Agent's current schedules?

All of these items are evaluated when considering timing for future Reviews so that we don't experience significant down time and allows us to manage our Reviews.



FIRST CONTACT

A Licensee will first become aware of its possible Review when contacted by a Compliance Unit Agent. The Agent will personally contact the Compliance Officer to start the Review process. The Agent and Compliance Officer will identify any major Licensee events that might complicate or simplify scheduling. They will also discuss location and schedules for executives and key Compliance Department personnel, location of Compliance data and methods of access, dates and locations of Compliance Committee ("Committee") meetings, and any other items that might complicate the timing of the Review for the Licensee or the Compliance Unit.

Before completing the Initial Document Request letter ("Document Request") or any field work, Agents will read the Plan in detail, review Board in-house records including Committee minutes and annual reports, correspondence between the Board and the Licensee, news articles and press releases, SEC filings, and compliance with license or Order of Registration conditions.



INITIAL DOCUMENT REQUEST

The Review process is similar to the licensing investigation process. After discussion with the Compliance Officer, the Agent will send the Document Request approximately one month before the Agent plans on arriving at the Licensee's offices. The Document Request will include official notification that we are starting a Review, which Agents will be completing the Review and contact information, key dates and locations. We typically review Plan operations for a two-year period and try to correspond the time period to the Licensees' fiscal year reporting.

In addition, the Document Request will include a list of individuals who need to be interviewed and a list of the types of documents and information the Licensee will need to gather and prepare for the Review. Along with information related to each section of the Plan, we will request company structure and management organizational charts, copies of Human Resources' policies and handbooks, Board of Directors' and Executive Committee meeting minutes, record retention policies, access to background investigations, Anti-Money Laundering ("AML") policies and procedures, Prohibited Foreign Trade Practices and Foreign Corrupt Practices Act ("FCPA") policies and procedures, and other potential Licensee-specific items to help understand Plan operations.



FIELD WORK

During the Review, Compliance Unit Agents will interview the Compliance Officer, all Committee members, all key members of the Compliance Department, and several key executives and members of the Board of Directors. The goal is to understand the Licensees' overall understanding and commitment to the compliance process, how authority and information flow throughout Licensee operations, which executives are involved in which components of the compliance process, how data and financial reporting flow through operations and are managed, and who has responsibility for reporting required compliance-related information to the Compliance Officer and, ultimately, the Committee.

Since most sections of the Plan include financial benchmarks, the Agent will request various financial reports to help them chart entities or transactions that are required to be identified by the Plan, and test them against due diligence, Licensee records and discussion during Committee meetings.

Other components of field work include attending a Committee meeting, contacting the Board's Audit, Tax & License, Technology and Enforcement Divisions to identify any issues or concerns, and contacting material foreign jurisdiction regulators that may also identify any issues or concerns.



REPORT

Much like the Review process being similar to the licensing investigation process, the Review Report ("Report") is similar to an investigative report of the Board's Investigations Division. In the Report, the Agent will provide a history of the Licensees' Plan and any previous Reviews, Licensee history and description of its operations, chart its corporate organization and Compliance Department organization, explain the scope of the Review and any challenges in completing the Review, describe the Licensees' compliance and AML operations, detail any weaknesses or gaps in the Licensees' Plan or compliance operations, summarize pertinent information from any regulatory inquiries, and explain any proposed changes to the Plan as a result of the Review.

The Report is reviewed by the Compliance Unit, Corporate Securities Section Deputy Chief and Investigations Division Chief before being submitted to the Board members for their review, comments and suggestions. After review by the Board members, the Agent will conduct a closing conference with the Licensee, typically the Compliance Officer, where the Review and any suggested changes to the Plan are discussed. Finally, a Results Letter is sent to the Licensee containing most of the information from the closing conference and requesting that an appropriately amended Plan be submitted for review and approval by the Board's Chair. The Report is then saved in the Board's archives and used as a starting point when the Licensee's next Review is scheduled.

Amending the Plan, subsequent to a Review, is also a perfect time for the Licensee to propose its own changes to strengthen its Compliance program or right-size its Plan to its evolving operations.

Compliance Unit's Involvement with AML

NGC Regulation 6A ("Reg. 6A"), providing the Board's oversight over large currency transactions in Nevada casinos, was repealed effective June 30, 2007, as the result of increased federal regulation. The United States Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Patriot Act) strengthening banking rules against money laundering, including Title 31 of the Bank Secrecy Act. As the Financial Crimes Enforcement Network ("FinCEN") expanded its role into the casino industry, Reg. 6A became redundant and the Board was no longer the primary regulator over casino cash transactions. After the repeal of Reg 6A, the Board limited its review of large cash transactions until several high-profile money laundering cases were made against various Nevada casinos.

As a result, the Compliance Unit made a concerted effort to develop a better understanding of AML requirements and procedures. During Reviews, the Agent will interview AML personnel and review the Licensees' AML policies and procedures to understand how the Licensee complies with its AML requirements. AML requirements are not included in Plans, although the Board has required that non-routine inquiries from FinCEN and the Internal Revenue Service be reported to the Board and the Committee. In addition, the Compliance Unit participates with the Las Vegas Casino/Law Enforcement AML working Group, and will continue to be engaged with other law enforcement agencies regarding AML issues.

Hopefully, the above information has provided Licensees and interested persons with a comfort level that the Board's Compliance Unit is designed to assist, rather than penalize, Licensees with Plans and address any other compliance-related questions. Any inquiries should be directed to Supervisor Luke Rippee at 775-684-7874, or Special Agent David Staley at 775-684-7876.



Luke Rippee is a Supervisor with the Nevada Gaming Control Board's Investigations Division, Corporate Securities Section, Compliance Unit and has 11 years of experience conducting corporate licensing investigations and compliance plan reviews for the Board.



David Staley is a Special Agent with the Nevada Gaming Control Board's Investigation Division, Corporate Securities Section, Compliance Unit and has 24 years of experience conducting corporate licensing investigations and compliance plan reviews for the Board.



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Brownstein Hyatt Farber Schreck is pleased to announce that industry veteran Scott Scherer has joined the firm's internationally recognized gaming practice as a shareholder. He is based in the firm's Las Vegas and Reno offices.

Scherer brings more than 30 years of gaming experience to Brownstein. He has a unique perspective, having served as a member of the Nevada Gaming Control Board, where he had responsibility for the Investigations, Audit, and Technology divisions, as a supervising deputy in the Gaming Division of the Nevada Attorney General's Office, and in-house with a major gaming device manufacturer. These experiences inform his representation of clients with state, national and international regulatory and compliance matters, including clients in Japan, the Philippines, Singapore and Macao. In addition to his emphasis on gaming regulatory matters, Scherer represents clients with respect to other regulatory and administrative law issues, including state and local tax matters, transportation matters and legislative affairs.

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