

# 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))<sup>1</sup> 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 29<sup>th</sup> 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 $\geq$ \$10 million in annual gross gaming revenue and $\geq$ \$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.