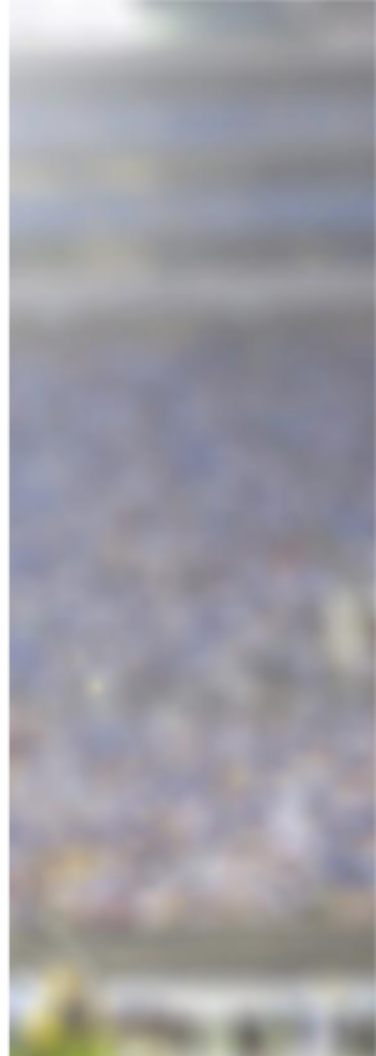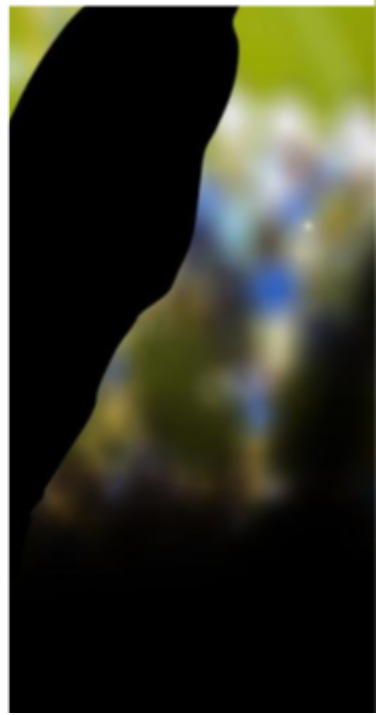# Sports betting and AML – Don't gamble on compliance

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Introduction

In May of last year, the US Supreme Court (SCOTUS) struck down a 1992 law that had largely confined legal sports betting to casinos and sports books located in Nevada by prohibiting other states from operating or authorizing wagering on sporting events. With 18 states taking steps to legalize sports betting since the decision – and several others introducing bills to do so[1] – companies now have an opportunity to tap into the estimated $150 billion of illegal wagers Americans make on sports every year.[2]

In addition to existing casinos and sports bookmakers, companies not traditionally associated with gambling have signaled interest in the industry. Online daily fantasy companies, which have previously argued their fantasy sports products were games of skill rather than gambling, have stated that they believe sports betting revenues will soon constitute the majority of their income. Meanwhile, the "big four" sports leagues have announced betting partnerships with major casino businesses since the SCOTUS decision, and a number of venture capital-backed startups have announced plans to launch app-based sports betting platforms. A national dining chain is even expressing an interest in allowing customers to place bets directly at their restaurants.

This rush to enter the sports betting market has resulted in a growing number of businesses that may not be fully aware of their regulatory responsibilities and expectations. Federal regulators in the US have recently significantly increased their scrutiny of gambling businesses' Bank Secrecy Act and Anti-Money Laundering (BSA/AML) responsibilities and sanctions programs. States have also been implementing their own licensing requirements and regulations, creating a patchwork of compliance requirements.

As a result, companies that offer sports betting services – especially new market entrants – should implement or enhance their compliance programs to fully understand their regulatory requirements, adequately detect and report suspicious activity, and conduct real-time transaction monitoring.

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[1] Specifically, Arkansas, Delaware, Indiana, Iowa, Mississippi, Nevada, New Jersey, New Mexico, New York, Pennsylvania, Rhode Island and West Virginia have legalized sports betting, while Illinois, Montana, New Hampshire, North Carolina, Oregon and Tennessee have voted to legalize but have yet to implement the law.

[2] For more information, see https://www.americangaming.org/new/americans-to-wager-more-than-4-6-billion-illegally-on-super-bowl-52/

The regulatory landscape

SCOTUS's decision came at a time of increased regulatory scrutiny and enforcement actions against casinos and gaming companies. In the past four years, US regulators have issued over $110 million in AML and sanctions-related fines to such companies – compared to only $1.6 million in the period between 2003 and 2014.
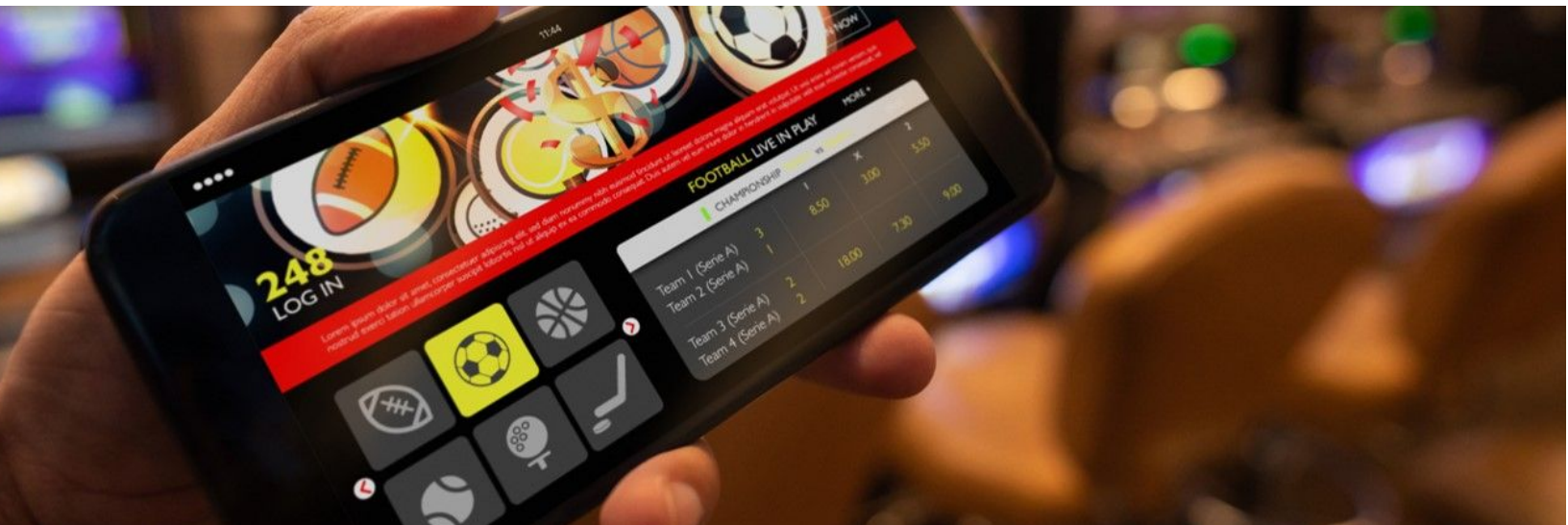
UK regulators have also recently ramped up their enforcement efforts against sports betting companies. So far this year, the UK Gambling Commission issued fines against sports betting companies and online casinos for a total of over £12 million, a large increase from previous years.

These enforcement actions highlighted a number of deficiencies within the companies' AML and sanctions programs, including failure to provide adequate AML training for compliance officers and employees, inadequate controls to detect and report suspicious transactions, lack of adequate customer identification procedures, inadequate independent testing of the AML and sanctions program, gaps in the AML and sanctions risk assessments, and a poor culture of compliance.

Earlier this year, FinCEN Director Kenneth Blanco spoke at the Las Vegas Anti-Money Laundering

Conference, where he explained that sports betting companies will be subject to the same regulatory expectations and scrutiny regardless of whether their services are offered on-site or through digital (e.g., online, mobile) channels. He remarked that regulators expect sports betting companies to use all available information to detect and report suspicious activity. The information may be based on in-person interactions in traditional casino settings, or on tech-based indicators such as geo-location and IP address analysis.

As there does not appear to be the political appetite for legalization of sports betting at the federal level in the near future, companies will need to be aware of a patchwork of gaming regulations and licensing requirements as they expand across different states. For example, some states (e.g., New Jersey, Pennsylvania) have legalized sports betting through mobile apps, while others (e.g., Arkansas) only allow in-person wagering. State-by-state licensing, anti-fraud, and AML requirements also contain significant variations.

What should gaming companies be doing now?

We recommend entities looking to expand into sports betting markets take the following actions:

Gain subject matter expertise on regulatory requirements

As gaming companies navigate the patchwork of federal and state gaming regulations and expand their BSA/AML and sanctions programs, they should make sure that they have the proper expertise on pertinent regulations and requirements. As state regulations are still being implemented, it is unclear how strictly the different gaming rules will be enforced, but the recent increase in federal AML and sanctions-related scrutiny suggests that gaming companies will be facing a difficult environment.

Create a formal BSA/AML and sanctions program

As seen in recent consent orders against casinos, entities contemplating or entering the sports betting market should implement a BSA/AML and sanctions program with:

- A BSA/AML and sanctions policy with applicable country supplements specific to jurisdictions of operations
- A common BSA/AML and sanctions risk assessment methodology that considers gaming and sports-betting specific inherent risks and controls
- A consolidated BSA/AML and sanctions reporting and committee structure
- Ongoing reports with key performance and key risk indicators, supported by qualitative analysis
- BSA/AML and sanctions training across operations, including targeted training based on employee responsibilities

- A customer identification program with written procedures
- A risk-based customer due diligence program featuring enhanced procedures regarding customers that pose a heightened money laundering risk
- A risk-based suspicious activity monitoring and reporting program to investigate activity and file SARs in a timely manner
- Independent testing

Install or enhance compliance technology

Regulators expect BSA/AML and sanctions programs to be supported by transaction monitoring and case management technology systems. Those entering the gaming space will have to use their risk assessments and expert advice to select the BSA/AML and sanctions technology appropriate for the size and complexity of their business. When doing so, they should consider their plans for future expansion and determine whether scalability of their technology supports these plans.

Mobile sports betting platforms should also consider incorporating cyber-related indicators, such as geolocation, IP addresses, or other tracked user data into their transaction monitoring.

Given the unique needs of companies in the gaming space, companies should assess whether they will be able to tailor vendor solutions to their businesses. Simplistic, in-house solutions may offer advantages to gaming companies, especially those in a start-up stage.

Additional information

For additional information, please contact:

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