



Testimony of

Samuel A. Vallandingham

Chief Information Officer and Vice President, The First State Bank
Barboursville, West Virginia

On behalf of the

Independent Community Bankers of America

Before the

Congress of the United States
House of Representatives
Committee on Financial Services

Hearing on

**“H.R. 2266, Reasonable Prudence in Regulation Act, and H.R.
2267, the Internet Gambling Regulation, Consumer Protection,
and Enforcement Act”**

December 3, 2009
Washington, D.C.

Chairman Frank, Ranking Member Bachus, Members of the Committee, my name is Samuel Vallandingham. I am Vice President and Chief Information Officer of the 104 year-old First State Bank in Barboursville, West Virginia. I am also vice chairman of the Payments and Technology Committee for the Independent Community Bankers of America (ICBA). Barboursville is a historic town of 3,200 people in the far western part of the state near the Kentucky border. Our bank employs 58 people at three locations and holds close to \$214 million in assets.

Banking has been in my family for four generations. My great grandfather, a Kentucky tobacco farmer sold his farm to raise capital to start the First State Bank. It is said that my grandfather came to West Virginia in a horse and buggy and these too were eventually sold, with the proceeds used to set up the bank. The original charter, dated September 1, 1905 and the certificate of authority still hang on the wall in the bank's main office.

I am pleased to represent community bankers and ICBA's 5,000 members at this important hearing on H.R. 2266, the Reasonable Prudence in Regulation Act, and H.R. 2267, the Internet Gambling Regulation, Consumer Protection, and Enforcement Act.

On behalf of ICBA, I would like to commend Chairman Frank for introducing this legislation. H.R. 2266 would push back the compliance date for the Unlawful

Internet Gambling Enforcement Act (UIGEA) regulations one year – from December 1, 2009 to December 1, 2010 and H.R. 2267 would establish a federal regulatory and enforcement framework for lawful Internet gambling, providing greater certainty for all concerned.

We also commend both the Treasury and the Federal Reserve Board for extending the compliance date for the regulations implementing the UIGEA, Regulation GG, from December 1, 2009 to June 1, 2010. ICBA appreciates the agencies' responsiveness to our extension request that we made in a letter dated November 5, 2009. H.R. 2266 would provide even more time to resolve the difficult issues in this legislation and regulation.

ICBA Positions on UIGEA and Regulation GG

Throughout the deliberations regarding unlawful Internet gambling, ICBA has not taken a position on the appropriateness of prohibiting unlawful Internet gambling. We did, however, express our concerns over the burdens that the community banking industry and payment systems would face if charged with identifying and blocking unlawful Internet gambling payment transactions. ICBA has ongoing concerns when our nation's payment systems are used to track, analyze, and block individual payment transactions given the potential for such activity to undermine payment systems efficiency.

Payment systems were not designed for this function. With that said, community bankers are committed to support balanced, effective measures that will prevent terrorists from using the financial system to fund their operations and prevent money launderers from hiding the proceeds of criminal activities. ICBA believes that it is critical that the banking industry's resources be focused where risks to national safety and financial soundness are greatest. The added burden of monitoring all payment transactions for the taint of unlawful Internet gambling would drain finite resources currently engaged in complying with anti-terrorism, anti-money laundering regulations, the plethora of new regulations emerging from the financial crisis and the daily operation of community banks to meet the financial needs of their customers and communities.

We remain greatly appreciative of the Congressional decision to include ICBA-supported UIGEA provisions granting Treasury and the Federal Reserve authority to write the implementing regulations and the authority to exempt certain transactions when transaction tracking and blocking is not reasonably practical. The agencies wisely used this authority to write implementing regulations, Regulation GG, to place most of the compliance burden on financial institutions that maintain direct relationships with unlawful Internet gambling companies, rather than on banks that focus on providing service to individual customers.

Regulation GG Compliance

The UIGEA fails to define “unlawful Internet gambling,” which is vitally necessary if banks are to comply with the law. Of course, the implementing rule, Regulation GG, adopts this flawed approach. As a result, the burden of identifying which entities are engaged in unlawful Internet gambling rests solely on financial institutions. Community banks are required to determine whether current or prospective customers are in violation of diverse federal, state and Indian Tribal gaming laws. Obviously, this is not workable.

Additionally, participants in the payments system that are non-exempt or covered by the law must establish and implement policies and procedures reasonably designed to prevent or prohibit unlawful Internet gambling transactions.

Community banks and other financial institutions have the burden of conducting appropriate due diligence in establishing and maintaining commercial customer relationships and accounts to prevent or prohibit restricted transactions.

Card system participants may rely on merchant transaction coding to identify and block restricted transactions. (This is not available for non-card transactions, such as checks and automated clearing house transactions.) Even card-based systems have their limitations. Merchants can be assigned the correct merchant category code only if they fully disclose all lines of business. For example, a general merchandiser could operate an Internet gambling enterprise, but fail to

disclose this business line to the organization sponsoring the merchant's card system access.

Compliance with Regulation GG is a herculean, judicial-like responsibility particularly as community banks, which operate with limited compliance staffs, are in the midst of implementing a number of consumer laws and regulations.

Current Legislation

ICBA strongly endorses H.R. 2267, the Internet Gambling Regulation, Consumer Protection and Enforcement Act which establishes a federal regulatory and enforcement framework for licensing Internet gambling operators. Licensed operators would have the authority to accept bets and wagers from individuals in the United States subject to certain conditions. The Treasury would have exclusive authority to establish and enforce regulations and issue licenses. Treasury's administrative costs would be borne by licensee fees.

H.R. 2267 appropriately grants a federal agency, the Treasury, the authority to establish, regulate and enforce lawful Internet gambling and most importantly, simplifies financial institution responsibilities for identifying and blocking unlawful Internet gambling transactions as mandated by the UIGEA. The certainty provided by this approach is the key to our support. It would resolve the problem with the current statute and regulation.

ICBA strongly urges the Committee and the Congress to expeditiously pass H.R. 2267.

Conclusion

Mr. Chairman, ICBA greatly appreciates your efforts to enact this legislation. While you and your colleagues must decide on the nation's policy regarding Internet gambling, we hope you can all agree that the nation's community banks – as well as all other participants in the payments system – should not be put in the impossible position of making legal judgments about which individual businesses are, or are not engaged in “unlawful Internet gambling.” That would create an unnecessary burden and require non-governmental entities to make decisions that should be made by law enforcement agencies and the court system.