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Contact: Michael Waxman  
(202) 872-0010 or (202) 872-4860  
info@safeandsecureig.org

## **Bush Administration Moves Forward on Midnight Rulemaking to Force Banks to Ban Internet Gambling**

### ***NFL Lobbyist Turned Political Appointee Accused of Improper Involvement in Rush to Issue Regulations***

(Washington, D.C. - November 10, 2008) The Bush Administration is working to finalize regulations to enforce a ban on Internet gambling despite concerns raised by leading financial service companies that the regulations are ambiguous, burdensome and not likely to stop millions of Americans from gambling online. It is expected that the regulations, issued to implement the Unlawful Internet Gambling Enforcement Act of 2006 (UIGEA), will be finalized at the last minute before they can be stopped by the Obama Administration – an orchestrated move being linked to a former National Football League (NFL) lobbyist now working in the Bush Administration. The NFL has actively campaigned against clarifying UIGEA and has opposed legislation introduced by Rep. Barney Frank (D-Mass.) to regulate online gambling in order to protect consumers and generate billions for critical State and Federal programs.

"At a time when the financial system is in crisis, it is irresponsible for the Bush Administration to rush through a fundamentally flawed regulation that even representatives of the Treasury Department and Federal Reserve have stated on record is unworkable," said Jeffrey Sandman, spokesman for the Safe and Secure Internet Gambling Initiative. "We are skeptical of the Administration's motivation to get this done at the very last minute, especially given the apparent involvement of a NFL lobbyist turned Bush appointee."

Last week, Rep. Steve Cohen (D-Tenn.) asked White House Counsel Fred Fielding to detail what role Deputy Director of Public Liaison William Wichterman played in the Treasury Department's decision to send the proposed rule to the Office of Management and Budget for final review on October 20. In a November 7 letter to Mr. Fielding, Rep. Cohen said he had been told that Mr. Wichterman "has been a source of considerable political pressure to speed this regulation through." The letter further stated, "The National Football League has been among the most vocal advocates for the proposed rule and the underlying law. I am sure you will agree that, at a minimum, the appearance of a conflict of interest is undeniable."

As recently as March 2008, Mr. Wichterman was a paid lobbyist for the NFL, which has been a strong opponent of all forms of Internet gambling except for fantasy sports – an activity that generates more than \$1 billion a year in revenues. Mr. Wichterman recently left the law firm of Covington and Burling, which represents the NFL, to serve as a political appointee in the few remaining months of the Bush Administration.

Movement on UIGEA comes despite a commitment by the Bush Administration not to issue final regulations after November 1, 2008 except in "extraordinary circumstances." A delay in issuance of the final regulations was also expected given the September passage of the Payment System Protection Act by the House Financial Services Committee. The legislation would have delayed UIGEA implementation in order to develop regulations that do not harm the payments system.

"The Bush Administration is setting a horrible precedent of pushing through flawed regulations at the very last minute to deliberately circumvent the in-coming administration," added Sandman. "The special interests, including the NFL, are clearly the big winners with this last minute maneuver, leaving already struggling banks and financial companies to implement costly and poorly crafted regulations."

A fundamental flaw in the proposed regulations to enforce UIGEA is that they leave U.S. financial service companies to interpret ambiguous State and Federal gambling laws, which do not clearly differentiate between legal and illegal Internet gambling activities or transactions, according to a report issued by the Center for Regulatory Effectiveness.

Representatives of the Department of the Treasury and Federal Reserve System acknowledged the challenges U.S. financial institutions will face in attempting to comply with UIGEA in testimony before Congress in April. Since most payment systems are not designed to comply with this law, "it will be very difficult to shut off payment systems for use of Internet gambling transactions," said Ms. Louise Roseman, Director, Division of Federal Reserve Bank Operations and Payment Systems, Board of Governors of the Federal Reserve System. "The implementing statute will not be iron clad at all."

At the April hearing, representatives from the American Bankers Association, Financial Services Roundtable, Wells Fargo & Co. and Credit Union National Association unanimously opposed regulations proposed to implement UIGEA. They all questioned the fundamental approach taken by Congress in enacting legislation that forces financial institutions to implement unreasonable and costly solutions to achieve compliance.

"The UIGEA and the Proposed Rule do not provide a rational path towards halting unlawful Internet gambling," said Wayne Abernathy, American Bankers Association's executive vice president of financial institutions policy and regulatory affairs. "The path leads to an increased cost and administrative burden to the banks and an erosion in the performance of the payments system, but it will not result in stopping illegal Internet gambling transactions. Imposing this enormous unfunded law enforcement mandate on banks in place of the government's law enforcement agencies is not likely to be a successful public policy."

Mr. Leigh Williams, president of the technology division of the Financial Services Roundtable stated in his testimony concerns that enforcement of the proposed rules "could impose significant compliance burdens on financial institutions by increasing their role in policing illegal activities, determining whether a transaction is illegal, or by imposing ambiguous compliance requirements that could be subject to wide variations in interpretation by regulators and law enforcement agencies. We believe these functions are more appropriate for law enforcement agencies."

The testimony supports over 200 comments submitted to the Department of the Treasury and Federal Reserve System on the burden and ambiguity in the proposed rules to implement UIGEA.

"The reality is that UIGEA is unclear, burdensome and doomed to fail," said Sandman. "It simply does not make sense to impose more costs and burdens on financial companies, while the activity they are expected to stop flourishes in an unregulated, uncontrolled and underground marketplace. Congress should look to regulate Internet gambling in order to protect consumers and collect billions of dollars that are being lost to offshore Internet gambling operators."

The Internet Gambling Regulation and Enforcement Act of 2007 (H.R. 2046), introduced by Rep. Frank, would establish an enforcement framework for licensed gambling operators to accept bets and wagers from individuals in the U.S. It includes a number of built-in consumer protections, including safeguards against compulsive and underage gambling, money laundering, fraud and identity theft. A companion piece of legislation that would ensure the collection of taxes on regulated Internet gambling activities, the Internet Gambling Regulation and Tax Enforcement Act of 2008 (H.R. 5523) was introduced by Congressman Jim McDermott (D-WA). According to a tax revenue analysis prepared by PricewaterhouseCoopers, taxation of regulated Internet gambling is expected to generate between \$8.7 billion to \$42.8 billion in federal revenues over its first 10 years.

#### **About Safe and Secure Internet Gambling Initiative**

The Safe and Secure Internet Gambling Initiative promotes the freedom of individuals to gamble online with the proper safeguards to protect consumers and ensure the integrity of financial transactions. For more information on the Initiative, please visit [www.safeandsecureig.org](http://www.safeandsecureig.org). The Web site provides a means by which individuals can register support for regulated Internet gambling with their elected representatives.

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