

any Federal functional regulators (including the Commission) as described in paragraph (a) of this section.

SOURCE: 81 FR 75658, Oct. 31, 2016, unless otherwise noted.

APPENDIX A TO PART 132—MODEL NOTICE

[Date]
[Name of foreign sender or foreign banking office]
[Address]
Re: U.S. Unlawful Internet Gambling Enforcement Act Notice
Dear [Name of foreign counterparty]:

On [date], U.S. government officials informed us that your institution processed payments through our facilities for Internet gambling transactions restricted by U.S. law on [dates, recipients, and other relevant information if available].

We provide this notice to comply with U.S. Government regulations implementing the Unlawful Internet Gambling Enforcement Act of 2006 (Act), a U.S. federal law. Our policies and procedures established in accordance with those regulations provide that we will notify a foreign counterparty if we learn that the counterparty has processed payments through our facilities for Internet gambling transactions restricted by the Act. This notice ensures that you are aware that we have received information that your institution has processed payments for Internet gambling restricted by the Act.

The Act is codified in subchapter IV, chapter 53, title 31 of the U.S. Code (31 U.S.C. 5361 et seq.). Implementing regulations that duplicate one another can be found at part 233 of title 12 of the U.S. Code of Federal Regulations (12 CFR part 233) and part 132 of title 31 of the U.S. Code of Federal Regulations (31 CFR part 132).

PARTS 133-147 [RESERVED]

PART 148—QUALIFIED FINANCIAL CONTRACTS RECORDKEEPING RELATED TO THE FDIC ORDERLY LIQUIDATION AUTHORITY

- Sec.
148.1 Scope, purpose, effective date, and compliance dates.
148.2 Definitions.
148.3 Form, availability and maintenance of records.
148.4 Content of records.

APPENDIX A TO PART 148—FILE STRUCTURE FOR QUALIFIED FINANCIAL CONTRACT RECORDS

AUTHORITY: 31 U.S.C. 321(b) and 12 U.S.C. 5390(c)(8)(H).

§ 148.1 Scope, purpose, effective date, and compliance dates.

(a) Scope. This part applies to each financial company that is a records entity and, with respect to §148.3(a), a top-tier financial company of a corporate group as defined in §148.2.

(b) Purpose. This part establishes recordkeeping requirements with respect to QFCs of records entities in order to assist the Federal Deposit Insurance Corporation (“FDIC”) as receiver for a covered financial company (as defined in 12 U.S.C. 5381(a)(8)) in being able to exercise its rights and fulfill its obligations under 12 U.S.C. 5390(c)(8), (9), or (10).

(c) Effective Date. This part shall become effective December 30, 2016.

(d) Compliance—(1) Initial compliance dates. (i) A records entity subject to this part on the effective date must comply with §148.3(a)(2) on the date that is 90 days after the effective date and with all other applicable requirements of this part on:

(A) March 31, 2019 for a records entity that:

(1) Has total assets equal to or greater than \$1 trillion; or

(2) Is a member of the corporate group of any such records entity described in paragraph (d)(1)(i)(A)(1) of this section;

(B) June 30, 2019 for any records entity that is not subject to the compliance date set forth in paragraph (d)(1)(i)(A) of this section and:

(1) Has total assets equal to or greater than \$500 billion; or

(2) Is a member of the corporate group of any such records entity described in paragraph (d)(1)(i)(B)(1) of this section; and

(C) June 30, 2020 for any records entity that is not subject to the compliance dates set forth in paragraph (d)(1)(i)(A) or (B) of this section and:

(1) Has total assets equal to or greater than \$250 billion; or

(2) Is a member of the corporate group of any such records entity described in paragraph (d)(1)(i)(C)(1) of this section; and

## Monetary Offices, Treasury

## § 148.2

(D) June 30, 2021 for any records entity that is not subject to the compliance dates set forth in paragraph (d)(1)(i)(A), (B), or (C) of this section.

(ii) A financial company that becomes a records entity after the effective date must comply with §148.3(a)(2) within 90 days of becoming a records entity and with all other applicable requirements of this part within 540 days of becoming a records entity or within the remainder of the applicable period provided under paragraph (d)(1)(i) of this section, whichever period is longer.

(2) *Subsequent compliance dates.* If a financial company that at one time met the definition of records entity later ceases to meet the definition of records entity and thereafter, on any subsequent date, again meets the definition of a records entity, such financial company must comply with all applicable requirements of this part within 365 days after such subsequent date, or within the remainder of the applicable period provided under paragraph (d)(1)(i) of this section, whichever period is longer.

(3) *Extensions of time to comply.* The Secretary, in consultation with the FDIC, may grant one or more extensions of time for compliance with this part. A records entity may request an extension of time by submitting a written request to the Department of the Treasury and the FDIC at least 30 days prior to the deadline for its compliance provided under paragraph (d)(1) of this section. The written request for an extension must contain:

(i) A statement of the reasons why the records entity cannot comply by the deadline; and

(ii) A plan for achieving compliance during the requested extension period.

(4) *Compliance by top-tier financial company.* A top-tier financial company must comply with §148.3(a)(1)(ii) on the same date as the date on which the records entity members of the corporate group of which it is the top-tier financial company are required to comply with this part.

[81 FR 75658, Oct. 31, 2016, as amended at 83 FR 17621, Apr. 23, 2018]

### § 148.2 Definitions.

For purposes of this part:

(a) *Affiliate* means any entity that controls, is controlled by, or is under common control with another entity.

(b) *Control.* An entity “controls” another entity if:

(1) The entity directly or indirectly or acting through one or more other persons owns, controls, or has the power to vote 25 percent or more of any class of voting securities of the other entity;

(2) The entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(3) The Board of Governors of the Federal Reserve System has determined, after notice and opportunity for hearing in accordance with 12 CFR 225.31, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

(c) *Corporate group* means an entity and all affiliates of that entity.

(d) *Counterparty* means any natural person or entity (or separate foreign branch or division of any entity) that is a party to a QFC with a records entity.

(e) *Derivative liabilities* means the fair value of derivative instruments in a negative position as of the end of the most recent fiscal year end, as recognized and measured in accordance with U.S. generally accepted accounting principles or other applicable accounting standards. Such value shall be adjusted for the effects of master netting agreements and cash collateral held with the same counterparty on a net basis to the extent such adjustments are reflected on the audited consolidated statement of financial condition of the applicable financial company filed with its primary financial regulatory agency or agencies or, for financial companies not required to file such statements, on the consolidated balance sheet of the financial company prepared in accordance with U.S. generally accepted accounting principles or other applicable accounting standards.

(f) *Excluded entity* means:

(1) An insured depository institution as defined in 12 U.S.C. 1813(c)(2);

(2) A subsidiary of an insured depository institution that is not: