

Improving your odds on the gambling frontier

THE SUPREME COURT has laid the groundwork for sports betting in any state that wants it, but those predicting an imminent land grab by betting houses may not fully appreciate the deliberate and occasionally painstaking process that most states will likely implement. Careful planning now to anticipate the many challenges ahead — including those related to licensing, anti-money-laundering and money-transmission compliance, and appropriate terms of use between operators and customers — could confer a competitive advantage among those seeking a share of this new market.

Many aspects of the coming state compliance regimes must still be sorted out. A research firm for the gaming industry recently estimated that approximately 14 states will legalize some form of sports betting in the next two years, and as many as 32 states within five years. Each state could institute its own unique regulatory framework, although it is likely that some states will borrow heavily from existing regimes with more mature sports-betting industries, including Nevada and New Jersey.

An important consideration is where and how bets may be placed. One potential structure would limit the placement of bets to brick-and-mortar facilities such as casinos and retail sportsbooks, while another might allow bets through mobile devices. Answers to such basic questions will determine the precise contours of each state's regulatory structure in a process that will shake out over the next few

months and years. For now, potential participants must be aware of the various aspects of regulatory compliance implicated in setting up and operating a sports-wagering business.

Each state that allows sports wagering will almost certainly require operators to obtain a license. Nevada, America's sports-gambling nerve center, requires a license from the Nevada Gaming Commission; New Jersey, which passed the law that led to the landmark Supreme Court decision, already has regulations in place that require any operator of a "sports pool" to obtain a license from the New Jersey Division of Gaming Enforcement. Although

state requirements will vary, generally the licensing agency will ask the applicant to provide information about its organization, governance, finances, control persons and business plan. It can take weeks, if not months,

just to prepare such an application. The level of scrutiny that states will bring to bear on these applications, as well as overall processing time, will also vary.

States that permit betting via online and mobile applications raise the prospect of additional licensing considerations, as electronically accepting wagers and paying winnings fits squarely within the definition of money transmission. That triggers its own form of licensure in most states, where each license must be obtained individually and, again, requirements and timeline vary greatly. Some states grant licenses in a matter of weeks, while others take six

months or more. Technology typically changes faster than regulation and, accordingly, many state licensing agencies compensate through cautious and deliberate review of applications.

Additionally, casinos with gross annual gaming revenue in excess of \$1 million — or that otherwise fit the definition of money transmitter or check casher — must comply with the Bank Secrecy Act and anti-money laundering regulations, including by developing detailed BSA/AML programs and filing currency transaction and suspicious activity reports with FinCEN.

Operators of online or mobile applications will also have to consider terms of use that govern how customers establish accounts, place bets and receive payouts. Those terms should address a broad spectrum of issues, including fees, eligibility, privacy, bank-account access to initiate payments, consumer protections, arbitration and myriad other subjects.

It is likely that the burgeoning sports-gaming market will develop quickly over the course of the next few months and years. Competition will be fierce. The most successful first movers will be those that navigate licensing and compliance challenges more efficiently than their competitors. Odds favor the prepared.

Kathryn L. Ryan and Andrew R. Louis are partners at Buckley Sandler LLP. Tim Lange is the chief operating officer of Buckley Sandler's Approved Licensing, a service that helps regulated businesses secure state licenses.

BY KATHRYN L. RYAN,
ANDREW R. LOUIS AND
TIM LANGE