

Anti-money laundering and counter terrorist financing: Approach to supervision

Information note

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1 Introduction

- 1.1 All gambling operators have a responsibility to keep financial crime out of gambling. Non-remote and remote casinos (referred to collectively as 'casinos' in the remainder of this document) have additional responsibilities under the Money Laundering Regulations¹ (the Regulations).
- 1.2 The Gambling Commission has a duty as a supervisory authority under the Regulations to ensure that adequate controls are in place to prevent casinos from being used for money laundering or terrorist financing².
- 1.3 The Commission uses a risk-based approach to combating money laundering and terrorist financing and advocates the adoption of this approach by gambling operators.

2 Legal background

- 2.1 Broadly, the term 'proceeds of crime' or 'criminal proceeds' refers to property from which a person benefits directly or indirectly, by being party to criminal activity, for example stolen money, money from drug dealing or property stolen in a burglary or robbery (this is commonly referred to as criminal property). It includes property that a person gains by spending the proceeds of criminal activity, for example, if a person uses money earned from drug dealing to buy a car or house, or spends money gained in a bank robbery to gamble.
- 2.2 The [Proceeds of Crime Act 2002](#) (POCA) places a duty on gambling operators to be alert to attempts by customers to gamble money acquired unlawfully, either to obtain 'clean' money in return or simply as a leisure activity. They should report instances of money laundering or terrorist financing or attempts by customers to launder money or finance terrorism to the National Crime Agency (the NCA) and, if circumstances permit, wait for consent to deal with a transaction or arrangement involving the customer and wait until a set period has elapsed before proceeding.
- 2.3 As casinos fall within the 'regulated sector', they have additional legal responsibilities under POCA which could result in criminal charges for failing to comply (for example, the offence of tipping off). Casinos are also required to appoint a nominated officer. The nominated officer is responsible for receiving internal disclosures under POCA, deciding whether these should be reported to the NCA, making such reports to the NCA, and ensuring that appropriate consent is applied for as necessary.
- 2.4 The Commission and other agencies or authorities that have the appropriate authorisation under POCA in England and Wales can, in certain circumstances, apply for orders and warrants in relation to money laundering, for the purpose of, for example:
 - requiring a specified person to produce certain material
 - permitting the search and seizure of material from specified premises
 - requiring a financial institution to provide customer information relating to a specified person.

¹ The current regulations (The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017) came into effect on 26 June 2017 and implemented the 4th EU Directive. Where this paper describes the Regulations, this is a reference to the Regulations in force as at the date of publication. Operators should ensure they remain compliant with the version of the Regulations in force from time to time.

² While the Commission is not the supervisory authority for other licensed gambling operators, we are nonetheless concerned about the potential for them to be targets for financial crime. To this end we have published [an advice document and a quick guide](#) on other gambling operators' duties and responsibilities under the Proceeds of Crime Act 2002.

3 The anti-money laundering and counter terrorist financing framework

The FATF Recommendations

- 3.1** The Financial Action Task Force (FATF) is an international inter-governmental body whose purpose is to set standards and to promote effective implementation of legal, regulatory and operational measures for combating money laundering, terrorist financing, the financing of the proliferation of weapons of mass destruction and other related threats to the integrity of the international financial system. It also works to identify vulnerabilities at national level with the aim of protecting the international financial system from misuse.
- 3.2** FATF issues recommendations on anti-money laundering and combating terrorist financing. The recommendations set out a framework of measures which member countries should implement in order to combat money laundering and terrorist financing. They are endorsed by over 180 countries and are recognised as the international standard for anti-money laundering and combating the financing of terrorism.
- 3.3** The [FATF Recommendations](#) set out the essential measures that countries should have in place to:
- identify the risks, develop policies and provide domestic coordination
 - pursue money laundering, terrorist financing and the financing of proliferation
 - apply preventative measures for the financial and other designated sectors
 - establish powers and responsibilities for competent authorities (investigative, law enforcement and supervisory authorities) and implement other institutional measures
 - enhance the transparency and availability of beneficial ownership information of legal persons and arrangements
 - facilitate international cooperation.
- 3.4** FATF advocates countries tailoring these measures to their particular circumstances, taking into account their financial systems and legal, administrative and operational frameworks.

The EU Directive³

- 3.5** The European Union (EU) is an economic and political union of member states which are located primarily in Europe. The EU operates through a system of supranational independent institutions and intergovernmental decisions negotiated by the EU member states.
- 3.6** The EU Anti-Money Laundering Directive (the EU Directive)⁴ sets out a framework which is designed to protect the European financial system against the risks of money laundering and terrorist financing and is, to a large extent, based on the international standards adopted by FATF.

³ Although the UK has voted to leave the European Union (EU), until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period, UK government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU. It should also be noted that the UK is a FATF member country and must still abide by the FATF recommendations.

⁴ The latest Directive is the 4th Directive ([EU 2015/849](#))

It requires EU member states to prohibit money laundering and to oblige the financial sector, comprising credit institutions and a wide range of other financial and non-financial institutions (including casinos), to identify their customers, keep appropriate records, establish internal procedures to train staff and guard against money laundering and to report any indications of money laundering to the competent authorities.

The Money Laundering Regulations

- 3.7** The [Regulations](#) are generated from and implement the EU Directive in the United Kingdom. They set out the requirements for the anti-money laundering and counter terrorist financing regime within the regulated sector. The Regulations cover a range of businesses and professions, including remote and non-remote casinos licensed by the Commission.
- 3.8** The Regulations require relevant businesses to:
- put in place procedures to verify the identity of customers on entering into a business relationship or transaction and to carry out ongoing monitoring during the business relationship
 - keep records obtained in establishing customers' identities and of business relationships for five years
 - train employees in the relevant procedures and law
 - appoint a nominated officer whose role includes reporting to the NCA suspicions of money laundering and terrorist financing activity
 - put in place and maintain policies and procedures to cover the requirements listed above.
- 3.9** Under the Regulations⁵, the Commission is designated as the supervisory authority for casinos.
- 3.10** The Regulations⁶ stipulate that a supervisory authority must:
- effectively monitor the relevant persons for which it is the supervisory authority⁷ and take necessary measures for the purpose of securing compliance by such persons with the requirements of the Regulations
 - adopt a risk-based approach to the exercise of its supervisory functions, having identified and assessed the risks of money laundering and terrorist financing to which the relevant persons for which it is the supervisory authority are subject
 - ensure that its employees and officers have access to relevant information on the risks of money laundering and terrorist financing which affect its sector
 - base the frequency and intensity of its on-site and off-site supervision on the risk profiles it has prepared
 - keep a record in writing of the actions it has taken in the course of its supervision and of its reasons for deciding not to act in a particular case
 - take effective measures to encourage its sector to report breaches of the Regulations to it
 - inform the NCA as soon as reasonably practicable of instances where, in the course of carrying out its supervisory functions under the Regulations or otherwise, it knows or suspects that a person is or has engaged in money laundering or terrorist financing.

⁵ Regulation 7(1)(d) of the Regulations

⁶ Regulation 46(1), (2) and (5) of the Regulations

⁷ 'Relevant persons' in this context means non-remote and remote casinos licensed by the Commission

- 3.11** In accordance with its risk-based approach, the supervisory authority must also take appropriate measures to review:
- the risk assessments carried out by relevant persons to identify and assess the risks of money laundering and terrorist financing to which the business is subject
 - the adequacy of the policies, procedures and controls adopted by the relevant persons and the way that those policies, procedures and controls have been implemented.⁸

4 The risk-based approach

- 4.1** The FATF Recommendations, the EU Directive and the Regulations support the adoption of a risk-based approach to combating money laundering and terrorist financing. By adopting a risk-based approach, supervisory authorities and relevant businesses have to develop capabilities to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate to the risks identified. The principle is that resources should be directed in accordance with priorities so that the greatest risks receive the highest attention.
- 4.2** Adopting a risk-based approach implies the adoption of a risk management process for dealing with money laundering and terrorist financing. This process encompasses:
- recognising the existence of the risks
 - undertaking an assessment of the risks
 - developing control strategies to mitigate and monitor the identified risks.
- 4.3** An effective risk-based approach involves identifying and categorising money laundering and terrorist financing risks and establishing reasonable controls based on the risks identified. The Commission's strategies to manage and mitigate identified money laundering and terrorist financing risks are typically aimed at preventing the activity from occurring through a mixture of:
- prevention, through the provision of guidance, advice and information
 - detection, through monitoring and assessment
 - deterrence, through investigation and enforcement.
- 4.4** Proportionate procedures by operators and the Commission must be based on assessed risk, with higher risk areas subject to enhanced control procedures. For casinos seeking to prevent their gambling facilities being exploited for money laundering and terrorist financing purposes, the Commission, as regulator and supervisory authority, needs to be assured of the effectiveness of casinos' anti-money laundering and counter terrorist financing policies, procedures and controls through assessment activity. We also support casinos by developing guidance based upon good practice and, on occasion, disseminate information to counter specific threats.
- 4.5** We will seek to identify which casino businesses may be vulnerable to money laundering and terrorist financing, including criminal spend (the use of criminal proceeds to fund gambling as a leisure activity). We will develop a range of techniques for identifying these higher risk casino businesses. This will inform how we target our supervisory resources.

⁸ Regulation 46(4) of the Regulations

5 The Commission's approach to supervision

- 5.1 The Commission was set up under the Gambling Act 2005 (the Act) to regulate commercial gambling in Great Britain on the basis of three licensing objectives⁹, namely:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - ensuring gambling is conducted in a fair and open way
 - protecting children and vulnerable people from being harmed or exploited by gambling.
- 5.2 The Commission operates a risk-based regulatory regime, concentrating our efforts on those operators and issues where the impact of failure to deliver the licensing objectives would be the highest.
- 5.3 Licence condition 12.1.1 requires operating licence holders¹⁰ to conduct an appropriate assessment of the money laundering and terrorist financing risks and to review the assessment in the light of any changes of circumstances. Having regard to the risk assessment, they must ensure they have appropriate policies, procedures and controls to prevent money laundering and terrorist financing, implement them effectively and revise them appropriately to ensure that they remain effective. Licensees must also take into account any applicable learning or guidelines published by the Gambling Commission from time to time.
- 5.4 The [*Statement of Principles for Licensing and Regulation*](#) sets out the principles which underpin the Commission's approach to investigations and prosecutions. Our approach to anti-money laundering and counter terrorist financing sits within this framework, including how we discharge our responsibilities as a supervisory authority, as demonstrated by the following activities:
- providing information and guidance through a variety of channels (for example, through the licensing department and contact centre, the Commission website, quick guides and a confidential intelligence line)
 - establishing a single point of contact for the exchange of anti-money laundering and counter terrorist financing information and intelligence
 - promoting operators' requirements to discharging their responsibilities under POCA, the Terrorism Act and the Regulations, through engagement with operators on a one-to-one basis and through meetings and multi-agency forums to identify and promote best or good practice
 - publishing formal anti-money laundering and counter terrorist financing guidance
 - monitoring the submission of suspicious activity reports, and law enforcement activity
 - undertaking compliance assessments of operators' understanding and application of anti-money laundering and counter terrorist financing risk management controls
 - producing risk assessments and profiles to assist the planning of compliance assessments
 - ensuring that Commission staff are equipped to take appropriate decisions on the suitability anti-money laundering and counter terrorist financing systems and controls
 - ensuring that the integrity of the licensed gambling sector is not compromised by the inadvertent licensing of persons seeking ownership or control of gambling businesses using criminal funds, or who would manage licensed gambling activity in a way that facilitates money laundering or terrorist financing.

⁹ Section 1 of the Gambling Act 2005

¹⁰ Save for operators who only hold a gaming machine technical or gambling software licence

- 5.5 Further details about the Commission’s general approach can be found in our [Licensing, Compliance and Enforcement Policy Statement](#).

Guidance, advice and information

- 5.6 The Commission focuses on preventative activity by keeping the gambling industry informed of the requirements of the regulatory regime and provides general information, guidance and advice with a view to aiding regulatory compliance by operators.
- 5.7 The Commission helps casinos reduce the risks of money laundering and terrorist financing by producing guidance, giving advice and raising awareness levels generally. We actively engage with, and consider the views and comments of, casinos when producing guidance.
- 5.8 We have published formal guidance for casinos ([The prevention of money laundering and combating the financing of terrorism: Guidance for remote and non-remote casinos](#)). This guidance is designed to help casinos to understand what is expected of them, particularly in relation to taking a risk-based approach.
- 5.9 In accordance with the Regulations¹¹, the Commission publishes its own [money laundering and terrorist financing risk assessment](#). This risk assessment is updated at least annually, and must be taken into account by casino operators when carrying out their own assessments of the risks of money laundering and terrorist financing to which their businesses are subject¹².
- 5.10 We have established forums for both the remote and non-remote casino industries to identify and disseminate best and good practice, and to ensure effective industry and Commission communication, so as to support policy development in the field of anti-money laundering and counter terrorist financing. These forums meet on a six-monthly basis.
- 5.11 Where appropriate, we work with licensed operators to prepare public statements about failings in order to deter future non-compliance by others. These public statements may share learning in relation to the prevention of money laundering and terrorist financing that may be beneficial to the wider industry or other stakeholders, including the public.
- 5.12 Adherence to the Commission’s guidance is an ordinary code provision in the Commission’s [Licence conditions and codes of practice](#) and failure to comply with the requirements of the guidance may have an impact on the continued suitability of the operator to be licensed.

¹¹ Regulation 17(1) of the Regulations

¹² Regulations 17(9) and 47 of the Regulations

Monitoring and assessment

- 5.13** Casinos must take adequate steps to identify their money laundering and terrorist financing risks, put in place appropriate controls to mitigate those risks, and take steps to ensure that the controls are being effectively implemented¹³. While we will seek to maintain a constructive and open dialogue with casinos, the Act gives us legal powers to request licensees to provide us with information¹⁴.
- 5.14** We have established a single point of contact for the Commission to receive and exchange anti-money laundering and counter terrorist financing information and intelligence. This is in addition to our confidential intelligence line, which can be used to provide information on suspected money laundering and terrorist financing activities. We welcome intelligence and reporting from casinos who have concerns about potential money laundering or terrorist financing¹⁵.
- 5.15** We make use of a range of tools when assessing the anti-money laundering and counter terrorist financing controls of casinos:
- **Questionnaires:**
We may request information from management about the business and its anti-money laundering and counter terrorist financing policies, procedures and controls, including self-assessment questionnaires.
 - **Information requests:**
We may request information from casinos, as appropriate. Examples include documents such as organisation charts, documents setting out internal procedures and controls, breaches logs, job descriptions of senior managers and periodic returns.
 - **Thematic work:**
We will sometimes seek to involve a number of casinos in a piece of work on a particular topic. This work may involve a number of the supervisory tools listed here.
 - **Visits:**
Commission staff may visit a casino to meet senior management and examine documents.
 - **Information from other sources:**
We assess information and alerts from other sources, such as law enforcement agencies, other supervisory authorities, employees, other businesses or the public.
 - **Review of case files kept by casinos:**
This allows analysis of past decisions made while implementing anti-money laundering and counter terrorist financing controls to assess whether the controls are adequate and effective.
 - **Test purchasing:**
We may, where appropriate, carry out test purchase exercises to check a casino's processes and procedures.

Investigation and enforcement

- 5.16** Powers in the Act¹⁶ permit constables, enforcement officers¹⁷ or authorised persons¹⁸ to enter casino premises to:
- inspect any part of the premises and any gaming machine or other thing on the premises

¹³ Regulations 18 and 19 of the Regulations and licence condition 12.1.1

¹⁴ Sections 122 and 317 of the Gambling Act 2005

¹⁵ In accordance with regulation 46(2)(e) of the Regulations

¹⁶ Section 317 of the Gambling Act 2005

¹⁷ Section 303 of the Gambling Act 2005

¹⁸ Section 304 of the Gambling Act 2005

- question any person on the premises
 - inspect any written or electronic records kept on the premises
 - demand a copy of an entry in a written or electronic record kept on the premises
 - remove and retain anything reasonably believed to constitute or contain evidence of the committing of an offence under the Act, or the breach of a term or condition of a licence issued under the Act
 - remove and retain anything reasonably believed to be used or having been used in the committing of an offence under the Act.
- 5.17** We are also empowered by the Act to request casinos to:
- produce written or electronic records relating to the licensed activities
 - provide copies of written or electronic records relating to the licensed activities
 - provide information about the licensed activities¹⁹.
- 5.18** We recognise that a risk-based approach is not a zero-failure regime. Therefore, failures in anti-money laundering and counter terrorist financing policies, procedures and controls will not automatically result in regulatory sanctions. Enforcement action will be more likely where a casino has not taken adequate steps to identify its money laundering and terrorist financing risks, not put in place appropriate controls to mitigate those risks, failed to take steps to ensure that the controls are being effectively implemented or not exercised appropriate due diligence. We will take robust action, in collaboration with law enforcement where necessary, against licensees who demonstrate persistent or material breaches of the licence conditions or the Regulations.
- 5.19** We will make use of a range of investigation and enforcement tools when investigating suspected failures in the anti-money laundering and counter terrorist financing controls of casinos, including:
- **Information requests:**
We may require information by serving written notice on a casino or any person connected to a casino.
 - **Interviews:**
We may question any persons on the casino premises, including individuals working at or connected to the casino.
 - **Search warrants:**
We may apply to the court for a search warrant, allowing a constable or an enforcement officer to enter and search premises and to take possession of documents.
- 5.20** The EU Directive requires supervisory authorities to have the power to impose effective, proportionate and dissuasive sanctions for non-compliance with anti-money laundering and counter terrorist financing requirements. Although the Commission is not a 'designated body' with enforcement powers under the Regulations, compliance with the licence conditions, ordinary code provisions and, more generally, with the licensing objectives, is a factor when considering the suitability of the holder of an operating licence to continue holding it. Therefore, we are able to:
- commence a review²⁰ into the manner in which a licensee has carried on licensed activities (including when we suspect that a condition of a licence has been or is being breached), and may prepare a regulatory sanction case for the consideration of the Regulatory Panel²¹
 - in appropriate cases, suspend or revoke an operating licence, attach further conditions, and/or impose a financial penalty on the licence holder²².

¹⁹ Section 122 of the Gambling Act 2005

²⁰ Section 116 of the Gambling Act 2005

²¹ The Regulatory Panel is a committee of Commissioners of the Gambling Commission acting under delegated authority

²² Sections 117 to 121 of the Gambling Act 2005

5.21 The Commission has similar powers to review personal licences and, in appropriate cases, to either suspend or revoke a personal licence, attach further conditions, and/or impose a financial penalty on the licence holder²³.

5.22 Before imposing a regulatory sanction, the Commission will inform the licensee that we intend to do so. We will also give reasons for imposing the sanction and the nature of the sanction. We will give the licensee an opportunity to make representations to us, should they wish to do so. After this, we will make our decision whether or not to impose the sanction. If we decide to impose a sanction and, if the licensee wishes to contest our decision, they will have the right to appeal to the First-tier Tribunal of the General Regulatory Chamber²⁴.

6 Accountability

6.1 There are a number of accountability provisions which apply to the discharging of our responsibilities as a supervisory authority. These are:

- **Annual report to HM Treasury:**
We are required to make an annual report to HM Treasury on how we have discharged our functions as a supervisory authority.
- **Complaints about the Commission:**
We are obliged to consider complaints about how we have exercised (or failed to exercise) our powers as a supervisory authority and gambling regulator. In some cases, we may be required to appoint an independent person to conduct an investigation into complaints we have received.
- **Appeals against the Commission's decisions:**
Where the Commission decides to impose a sanction, the casino will be offered the opportunity to make representations before the Commission reaches its decision. If a casino is dissatisfied with our decision, it may appeal to the First-tier Tribunal of the General Regulatory Chamber.
- **Record keeping:**
We are obliged to maintain records of our decisions.

Disclaimer: References to the law are accurate as at the date of publication

²³ By operation of section 128 of the Gambling Act 2005

²⁴ Section 141 of the Gambling Act 2005

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**Confidential intelligence line
0121 230 6655**

**Single point of contact for anti-money laundering and counter terrorist financing:
intelligencereports@gamblingcommission.gov.uk.cjsm.net**

Keeping gambling fair and safe for all

www.gamblingcommission.gov.uk