

**The prevention of money laundering  
and combating the financing of  
terrorism: Updated guidance for remote  
and non-remote casinos**

**Consultation response**

**September 2017**

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## 1 Introduction

- 1.1 On 31 July 2017, the Gambling Commission (the Commission) published a consultation setting out proposals to update *The Prevention of Money Laundering and Combating the Financing of Terrorism: Guidance for remote and non-remote casinos* (the Guidance) to its fourth edition.
- 1.2 The revisions are required to incorporate provisions in the new Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (the Regulations) and changes to the Proceeds of Crime Act 2002 introduced by the Criminal Finances Act 2017.
- 1.3 This document provides a summary of stakeholders' responses to the consultation. The Guidance takes effect upon publication.
- 1.4 The Commission recognises that it takes time to implement changes and we will take that into account but we expect to see that an operator has acted promptly, invested appropriately (if technology is required to accommodate the changes) and implemented changes with the requisite urgency.

## 2 Background

- 2.1 The Commission is the supervisory authority for remote and non-remote casinos with regard to the Regulations. Amongst other things, this means that the Commission should publish guidance to casinos on complying with their anti-money laundering and counter terrorist financing responsibilities.
- 2.2 We last revised and published guidance for the casino sector in July 2016. This incorporated learning from our anti-money laundering case work and guidance in relation to the anti-money laundering licence conditions which came into effect in October 2016.
- 2.3 HM Government published the Regulations on 26 June 2017, at which time they came into effect. This followed a period of transposition of the EU 4th Money Laundering Directive, and the Regulations replace the previous Money Laundering Regulations 2007. All casino operators, both non-remote and remote, are required to comply with the new requirements and need to ensure they have effective anti-money laundering and counter terrorist financing measures in place.
- 2.4 Following its consultation, the Commission is publishing its final revised guidance, in particular to reflect the changes in the Regulations and to assist operators in complying with the new or amended requirements.

## 3 Summary of responses

- 3.1 A total of nine responses to the consultation were received. Respondents identified themselves as follows:
  - Industry body – six
  - Other - two
  - Not specified – one

The numbers above include operators who responded to the consultation. Some operators identified themselves as 'Industry body' and some as 'Other'.

- 3.2 The consultation provided five questions and specific areas for discussion, to which stakeholders were invited to respond. We also welcomed comments on more general issues and concerns that were not specifically referenced in the consultation.

- 3.3** We have revisited the guidance and made revisions based on the feedback received from respondents. We have also made some additional changes to ensure clarity.
- 3.4** The details of the responses we received to the consultation questions, along with the Commission's position in view of those responses, are provided below.

### **Customer due diligence (CDD) threshold**

#### **Consultation question**

- Q1.** Do you agree with the Gambling Commission's interpretation of the new threshold requirements? Does the Commission's revised text provide sufficient guidance in this area?

#### **Respondents' views**

- 3.5** Four respondents agreed with the Commission's interpretations of the threshold requirements for CDD.
- 3.6** A further four respondents sought further clarity, in particular regarding transactions which are executed in several operations which appear to be linked and cumulative deposits. There was a view expressed that examples would be useful to illustrate the Commission's interpretation of the threshold requirements. One respondent expressed concerns that there was a requirement to conduct CDD on every transaction above the threshold.
- 3.7** One respondent described difficulties in applying the CDD threshold in euros when transacting with customers in pound sterling.

#### **Our position**

Based on responses received, we have included additional guidance in relation to linked activity.

In the Commission's view, transactions should be considered to be linked if, for example, they are carried out by the same customer through the same game or in one gaming session, or in the case of remote casinos, if they are part of the overall activity undertaken by a customer during a single period of being logged on to the operator's gambling facilities. These examples are not exhaustive and casino operators will need to consider whether there are other circumstances in which transactions are linked.

Operators should note that the measures taken must be balanced against the requirement to conduct CDD upon establishing a business relationship with a customer, requirements for the timing of verification and the need to conduct enhanced customer due diligence in high risk situations and where safeguards are not in place. This should be informed by the risk profile of the particular customer, including circumstances which alter the risk attributed to the customer.

In relation to conducting CDD on every transaction which exceeds the threshold, the Regulations require operators to apply CDD measures at other appropriate times to existing customers on a risk-sensitive basis, and when the operator's risk profile of an existing customer changes.

The Regulations provide threshold values for in euros, as opposed to pound sterling, as this is the currency used in the Fourth Money Laundering Directive. HM Treasury's position is that "any reference to an amount in euros should be considered as also a reference to an equivalent amount in any other currency and that the equivalent in sterling (or any other currency) on a particular day of a sum expressed in euros is determined by converting the sum in euros into its equivalent in sterling or that other currency using the London closing exchange rate for the euro and the relevant currency for the previous working day." It follows that the sterling amount will fluctuate and it is therefore not possible to give a fixed amount in sterling.

## Money Service Business (MSB) activities in non-remote casinos

### Consultation question

- Q2. Do you agree that the Commission should remain the sole supervisory authority under the Regulations for MSB activities provided by non-remote casinos?

### Respondents' views

- 3.8** Four respondents did not have a view as they were remote operators. Of the remaining five responses, four were supportive of the continuation of the arrangement, with the other respondent supportive in principle, but noting that the Commission should be sufficiently resourced and trained to understand and effectively supervise MSB activities.

### Our position

The Commission intends to remain the sole supervisory authority for non-remote casinos for MSB activities as provided by regulations 7(2) and 7(3) of the Regulations, and we will continue to maintain our awareness of the MSB activities undertaken by the casino sector.

### Nominated officer

### Consultation question

- Q3. As operators are no longer permitted to outsource the nominated officer role and responsibilities, please indicate what costs and impacts, if any, would be incurred by your business? Are there any implications from regulations 21(1) and 21 (3) that the Commission should be aware of?

### Respondents' views

- 3.9** The majority of respondents stated this would have no impact on them, or was not applicable. A small number of respondents indicated there would be a financial impact. The trade body representing a number of remote operators said that the impact would vary across the industry depending on the scale of the operator, but was unable to determine what costs they would incur.
- 3.10** One respondent sought clarification on whether the nominated officer role would require a Personal Management Licence and whether the individual responsible for Regulatory Compliance could be appointed as the nominated officer.
- 3.11** One respondent sought clarity for operators with an online presence registered in foreign jurisdictions.

### Our position

The Commission recognises that some casino operators may have a structure in which the nominated officer will hold other roles and responsibilities. The Commission is content, for example, that the nominated officer may take on other compliance roles and responsibilities. An operator may choose to appoint a nominated officer who already holds another management function within the business, however they must have the authority to act independently in carrying out their responsibilities, and have access to sufficient resources to carry out their duties.

The individual appointed as nominated officer for anti-money laundering and associated purposes must have a sufficient level of seniority. The nominated officer is not required to hold a Personal Management Licence, but we consider it good practice to do so.

If operators have not yet begun the process of appointing an individual responsible for the nominated officer role and responsibilities within the operator's firm then they should do so without delay.

Casino operators must also, within 14 days of the appointment, inform the Commission of the identity of the individual appointed as the nominated officer and any subsequent appointment to that position, in accordance with regulation 21(4) of the Regulations.

With regards to operators in foreign jurisdictions, they must appoint a nominated officer for the purposes of complying with the Regulations, if they transact with GB customers.

## **Politically exposed persons (PEPs)**

### **Consultation question**

Q4. Does the revised Guidance on PEPs correctly reflect the requirements in respect of PEPs? Is there any aspect which requires further explanation?

### **Respondents' views**

**3.12** The majority of respondents were content with the level of guidance provided regarding PEPs.

**3.13** There was a view expressed that the Financial Conduct Authority's (FCA) guidance on PEPs should be incorporated in the Commission's guidance to ensure consistency of approach.

### **Our position**

In July 2017, the FCA published guidance in relation to the treatment of PEPs for anti-money laundering purposes. Although this guidance is primarily aimed at financial institutions, we have decided to incorporate the entirety of the FCA guidance as an appendix to our guidance, in order to ensure that casino operators' application of the PEPs requirements is consistent with that of other regulated entities.

## **Reliance on third parties and simplified due diligence**

### **Consultation question**

Q5. Do you have any comments on the new proposed sections on reliance and simplified due diligence? What aspects do you think require additional guidance?

## Respondents' views

- 3.14** The majority of respondents were content with the Commission's updated guidance regarding reliance and simplified due diligence.
- 3.15** A small number of respondents sought further clarification, with one respondent requesting a list of approved companies for third party reliance and another seeking examples of when simplified due diligence could be applied.

### Our position

We have provided additional guidance on reliance and simplified due diligence to improve clarity in this area.

The casino operator's risk assessment should identify products, services, transactions, customers or countries which present a low degree of money laundering and terrorist financing risk. This will inform if and what simplified customer due diligence measures are appropriate in these circumstances.

We do not provide a list of approved third parties for reliance. Operators are reminded that, notwithstanding reliance on a third party to apply CDD measures, they remain liable for any failure of such measures. Casino operators must satisfy themselves that the information supplied by the third party is sufficiently detailed, reliable and accurate, and that the third party can in fact be relied upon for CDD purposes.

## 4 List of respondents to the consultation

### Respondents

Asian BGE (IOM) Ltd  
Bear Group Ltd  
BML Group Limited  
Greentube Group  
Ladbrokes Coral Group PLC  
National Casino Forum  
Remote Gambling Association  
SMP Partners Limited  
Thinking about Crime Limited

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