


## Anti Money Laundering Workstream:

### Revised workstream Intent and money laundering risk assessment & submission to HM Treasury

For Board approval	
For Board briefing	
For Board steer	
For Board information	

Prepared by:

Date: 13 March 2014

## **Executive summary**

### **Part One**

1. This paper summarises recent progress in the Anti Money Laundering (AML) workstream whilst setting out a revised workstream intent and high level plans for the medium term.
2. Significant progress has been made since the workstream was established in 2012. These developments enable and underpin a fresh approach to meet a series of cultural, technological, and legal challenges as both the AML and gambling landscapes continue to change.
3. The (proposed) intent of the AML workstream is, “to keep money laundering, including criminal spend out of gambling.
4. It will do this by raising standards within the gambling industry by:
  - Influencing and learning
  - Applying this understanding and
  - Assuring compliance”
5. Once agreed, a further and more detailed paper is planned for presentation to the May Board. Whilst this paper focuses on the what, the next will consider ‘how’?
6. Board support for the revised workstream intent is invited.

### **Part Two**

7. The paper also sets out the proposed Gambling Commission (the Commission) response to HM Treasury (HMT) who have asked for details of money laundering risks identified by the Commission in the gambling industry.
8. We are proposing to respond in fairly headline terms at this stage, using the questionnaire provided by HMT, with further, more detailed analysis being developed at sector level.

## **Background**

9. In October 2013, we updated the Board on the progress of the AML workstream as well as giving an indication of the future direction of travel.
10. The paper we presented highlighted a number of positive developments relating to evidence gathering and capability-building in areas of the Commission such as intelligence and enforcement, licensing, compliance and stakeholder engagement.
11. Our success in developing understanding across the Commission has led to a new level of maturity in dealing with this subject – one which is now enabling us to move to a new phase of development and broader canvas on which the workstream can function.
12. The embodiment of this is the development of our own cross-sector Money Laundering Risk Assessment, which has been one of the main areas of activity since our last visit to the Board.
13. The groundwork that has gone into this risk assessment work and the platform it has provided us for dialogue with key partner agencies (such as HMT and the National Crime Agency), means that we now have a much stronger voice amongst the fraternity of professionals traditionally involved in AML supervision and, in turn, is something we

can use as a tool to move beyond enhancing our own capabilities, to raising AML standards within the gambling industry as a whole.

14. Existing work-stream actions and milestones will migrate into the revised framework for activity including:

- training needs analysis & training delivery
- planned compliance activity
- refresh AML Guidance and Advice material
- Industry Forums

## Issues

### Part One Revised AML workstream intent

15. The Commission continues to face significant challenges in meeting its responsibilities as regulator, and as supervisor under the Money Laundering Regulations (MLR)<sup>1</sup> including those set out at paragraph 17. The previous workstream intent was focused on functional requirements to establish Commission capability. These components are now in place, offering an opportunity to revise the workstream intent and move the Commission to the front foot in engaging the key AML challenges within a simplified framework of activity.

### **The intent of the AML workstream is to keep money laundering, including criminal spend out of gambling**

16. Recent Commission casework has revealed shortcomings, potentially industry-wide in systems to prevent money laundering in the form of criminal spend. Whilst the definition of money laundering includes criminal spend, it is none the less specifically included in the workstream intent recognising the prevalence of this type of money laundering, and a danger that it is not seen as laundering, (as it does not involve ‘washing’, i.e. providing apparently legitimate cover for illegitimate funds). The workstream will however focus on measures taken by operators to mitigate this risk, and the extent to which they are effective in preventing criminal spend becoming a significant part of (local) gross gambling yield<sup>2</sup>.

### **It will do this by raising standards within the gambling industry by influence and learning**

17. This component recognises the complex and changing AML landscape in which the Commission and the industry operate. To be effective we need to continue to identify and engage the critical issues, build and sustain key relationships and ensure a clear and up to date awareness across the AML environment.

## Challenges

18. The workstream currently recognises three major challenges:

- Cultural – noting the need for elements of the gambling industry (for instance within betting) to accept that money laundering is taking place, and take steps to prevent it<sup>3</sup>.
- Technological – including new gambling technologies; emerging electronic means of payment (for instance ‘Bitcoin’); realising the latent AML opportunities

---

<sup>1</sup> The Commission has a duty under the MLR to ensure that adequate controls are in place to prevent remote and non-remote casinos (as part of the regulated sector) being used for money laundering or terrorist financing.

<sup>2</sup> In contrast to a focus on, for example any instance where the proceeds of minor crime may be tendered on an occasional basis.

<sup>3</sup> The challenge to change this culture within the gambling industry needs, for instance, to engage the perception that any increase in AML compliance leads to competitive disadvantage to the operator.

presented by the significant amounts of customer and activity data held by operators (the so called 'big data' issue).

- Legal – including the EU Fourth Money Laundering Directive (further information below), and the potential AML implications of licensing remote operators generated by the Remote Bill<sup>4</sup>.

### Relationships

19. The Commission will continue to build relationships with key partners including HMT, UK Financial Intelligence Unit (FIU), other regulators, law enforcement, industry forums, the EU and international counterparts. This will include expanding engagement on a number of AML regulator and industry groups. The Commission will develop plans for both bilateral and sector wide engagement, whilst working with colleagues in other individual regulators that face similar challenges.
20. The Commission will continue to refine our understanding of, and position towards the key challenges (mentioned above) and, drawing on this will influence AML activity consistent with licensing objectives, the LCCP and other relevant provisions.

### Rolling environmental scan

21. The workstream will continue to monitor the wide range of information sources to ensure an up to date awareness and understanding of key issues. This will include the Commission's own compliance and licensing activity and the issues mentioned at paragraph 17 above<sup>5</sup>.

### **Apply**

22. As set out above, the first component ('Influence and Learn') involves further development of our engagement on the key AML issues, and ensures up to date and clear understanding. This, in turn will be applied to the Commission and industry through a variety of means including a mainstreaming approach, policy development, and a robust, evidence based money laundering risk assessment.

### Mainstreaming (embedding) - within the Commission

23. There is opportunity to further mainstream or embed AML understanding and effort across the Commission. This will involve effective communication, established points of contact and organisation wide training as shown in the following paragraphs.
24. A refreshed approach to communicating key AML messages<sup>6</sup> across the Commission will be developed, documented and implemented by the end of June 2014. This will use existing media, and points of contact within business areas to cascade key information alongside one-to-one and one-to-many briefings by the AML workstream.
25. Cross sector engagement on the AML workstream will continue to involve identified points of contact who will be involved in workstream planning and decision making as well as delivery. Their AML function will be recorded in a formalised role description.

---

<sup>4</sup> AML implications arising from the licensing of remote operators have not yet been fully assessed. They include, for instance, consideration around how the UK money laundering regulatory approach is applied to an operator in a different jurisdiction.

<sup>5</sup> Examples from the last month include media reporting; EU developments; overseas regulatory action; parliamentary reporting; Financial Action Task Force (FATF) activity; technical and legal developments in payment method technologies; UK Financial Intelligence Unit (FIU) publications; and industry guidance.

<sup>6</sup> Key AML messages will include for instance: legal and regulatory developments; good practice; what this means for Commission individual business areas; and WORKSTREAM progress.

They will represent AML issues within their business areas, and act as a point of escalation to the workstream. These individuals will be equipped through enhanced training identified in a training needs analysis.

26. This training needs analysis (TNA) is currently being prepared to clarify the requirement for AML understanding across the Commission. It builds on a range of training that has already been delivered, whilst identifying the bespoke needs across the different parts of the Commission that engage the AML agenda. The TNA will be finalised by the end of March 2014.

#### Policy – affecting industry behaviour

27. The Commission will continue to prepare, update and publish guidance and advice to the gambling industry. This is revisited and updated on a rolling three year basis - or when a change in legislation or other provisions require it. We are also looking to produce further sector-specific guidance and advice<sup>7</sup> alongside required work to drive out and apply lessons learned from Commission licensing and compliance activity, and the policy implications arising from the UK's implementation of the EU Fourth Money Laundering Directive.
28. The workstream will continue to develop and where appropriate communicate a consistent position to industry and other queries in the interpretation of relevant legislation, guidance and advice.

#### Money Laundering Risk Assessment in Gambling that affects the UK

29. Further development and use of a money laundering risk assessment will, over time ensure the Commission sustains a risk- and evidence-based approach building on the foundation that prior workstream activity has put in place.
30. This risk assessment informs every element of the workstream – including internal and external engagement, policy, and licensing and compliance activity.

#### **Assure**

31. This final component relates to ensuring that the industry complies with relevant conditions and guidance in meeting its AML responsibilities.

#### Licensing

32. This first line of defence identifies (and declines) applicants that are or may be involved in organised crime, or vulnerable to direct influence from this source. A 'triage' process identifies applications that need additional research. Close engagement between the Intelligence and Licensing ensure this is effectively developed enabling informed decisions at every stage of the application process.
33. This effort focuses particularly on the identity and antecedents of prospective owners, together with the source of funds. As well as ongoing analytical and specialist support, it requires a clear and up to date understanding of the money laundering threat that the workstream will continue to deliver.

#### Analysis & Compliance

---

<sup>7</sup> Current guidance and advice generalises to casino and non-casino operators

34. AML compliance is and will continue to be focused by our understanding of the money laundering threat. This will be marshalled by the Money Laundering Risk Assessment – mentioned both above and below. Compliance includes informed ‘generalist’ work, together with specialist and more direct AML activity. A number of current and historic compliance cases have focused and refined our approach. Lessons learned have been captured and will continue to inform future delivery.
35. Analysis of industry data alongside the product of compliance activity will, on a pilot basis, explore new ways to identify systemic and isolated money laundering weaknesses. For example: a betting shop that enjoys significantly higher gross gambling yield than its competitors in the same street may actually be dependent on inappropriate activity, for instance cash being laundered through the business. Effective cross Commission analysis will seek to identify opportunities to expose cases such as this. Consideration will be given to this innovative approach during the financial year 2014/15.
36. Board support for the revised workstream intent is invited, together with any views concerning a further paper that will set out workstream structure, governance, outcomes, operating model and risks - consistent with the agreed intent and availability of resource.

## **Part Two: Gambling money laundering Risk Assessment and Fourth Money Laundering Directive**

### **Fourth Money Laundering Directive**

37. In February 2013 the European Commission published proposals for a 4th Money Laundering Directive. A process of consultation and development followed including a number of revisions to a text that originally provided for all gambling services to join casinos in the money laundering-regulated sector.
38. On 20 February 2014, the EU Economic and Civil Liberties Committees approved the current draft – that includes an amendment allowing member states to exempt some forms of gambling that are of proven low risk. In practice, if this amendment finds its way into the final text it will enable member states to exclude gambling activities where they can demonstrate that they pose a low risk of money laundering. This will, if enacted, require prior agreement from the European Commission.
39. The directive still needs approval of the EU Parliament and Council – and this is heavily influenced by the Commission. Planned European elections in May are likely to hold this process up and EU finalisation is anticipated early in the life of the next administration – late 2014 or early 2015. A two year implementation period will then follow during which members states will be required to apply the provisions locally – through the preparation, publication and implementation of revised money laundering regulations.
40. It is during this period that the work necessary to widen application of the money laundering regulations across any additional parts of the gambling industry will be required. If there is any discretion in the scope of this application it is reasonable to anticipate a period of intense Government lobbying from the industry.

### **National money laundering Risk Assessment**

41. HMT lead engagement with the EU in the development of the 4MLD. In parallel with this work they are developing a National Money Laundering Risk Assessment (NRA) – identified as a requirement within Financial Action Task Force (FATF) Standards.
42. HMT has asked the Commission for details of the money laundering risks identified within the industry – with a timetable for submission by the end of March 2014. The first

formal submission in this process is the completed questionnaire which is shown at Appendix 1. We are working on a further detailed analysis on a sector-by-sector basis

43. Responses from individual regulators and supervisors including the Commission will be considered by HMT alongside the product of a series of workshops with the industry.

### **Gambling money laundering Risk Assessment – Continuing to build a sound evidence base**

44. If the text of the 4<sup>th</sup> Money Laundering Directive is finalised in the terms set out at paragraph 37, HM Government will need to make a decision concerning those parts of the gambling industry that do or do not fall within the regulated sector. It is likely that Commission advice will inform this decision and in turn may be exposed to EU scrutiny, as well as potential challenge from within the industry. Hence there is a need to further develop a reliable, evidence based assessment of money laundering risk within gambling. This will not only contribute to any decision making arising from the implementation of the 4<sup>th</sup> Money Laundering Directive, but also has the potential to equip the Commission in its wider engagement with government, the industry<sup>8</sup>, and regulatory partners. An assessment will further act as a focus and starting point for the necessary activity<sup>9</sup> to move the Commission's AML approach firmly onto an evidence and risk basis.
45. Building upon a range of work across the Commission to understand the money laundering threat over past years, risk assessment work is ongoing. A cross-regulator review has been undertaken including three domestic and five international authorities. Wide ranging open source material has been identified and reviewed alongside nine relevant FATF publications. A range of dialogue continues with internal and external AML partners including HMT, the UK Financial Intelligence Unit (FIU) and the Financial Conduct Authority.
46. Board support for the proposed response to HMT is requested, noting the continuing work to understand and evidence money laundering risk.

### **Recommendations**

47. The Board is asked to endorse the proposed AML workstream intent as shown at paragraph 3 and support for the proposed response to HMT mentioned at paragraph 45.
48. Note that a further paper setting out workstream structure, governance, outcomes, operating model, risks consistent with the agreed intent and availability of resource is planned for the May Board meeting.

---

<sup>8</sup> Current understanding of money laundering risk within the industry is poor for a number of reasons including the absence of victims and complainants; inability or unwillingness of operators to identify and share instances of money laundering; the covert nature of the activity; and the lack of understanding within law enforcement. This is a common experience across the EU as highlighted in Christian Kalb's publication - Money Laundering: the Latest Threat to Sports Betting.

<sup>9</sup> This activity to build an evidence based assessment will entail the use of a collection plan to systematically seek and capture evidence from a variety of sources including compliance, licensing, UK FIU, law enforcement, other regulators and open source.