



Minor expansion to AML supervisor role - casinos

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

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Executive summary

1. Non-remote casinos are theoretically subject to dual regulation for anti-money laundering (AML) purposes. This is because in addition to the Gambling Commission being their AML supervisory authority, a small part of their activities, concerning the forms of payment they accept, are categorised as being a Money Services Business (MSB). For this they are subject to registration with, and AML supervision by, HMRC.
2. This requirement for dual regulation only recently came to light, although the MSB activities in question are long established. Therefore the Commission has by default regulated casinos' management of money laundering risk in its entirety, including the MSB aspects of their businesses. In agreement with HMRC, it is proposed to invoke a provision within the Money Laundering Regulations (MLR) that allows dual regulation to be avoided by virtue of one supervisor acting on behalf of another. This would regularise the established situation in which the Commission acts as the single supervisor but would have a negligible impact on the Commission's workload. Insistence on dual registration and dual supervision would be costly and burdensome for the industry.
3. HMRC has asked whether the Commission agree that this approach makes policy and operational sense. In our view it does, and we propose that the Commission should now do explicitly what has been done implicitly to date. In the unlikely event of a future rise in the money laundering risk associated with MSB activities in casinos, then HMRC and the Commission can agree to discontinue the arrangement, with supervision reverting to HMRC.
4. The Board is asked to approve this minor increase in the scope of the Commission's responsibilities.

Background

5. Under the provisions of the MLR, non-remote casinos are in the regulated sector and the Gambling Commission is the supervisory authority.
6. Incidental to their main business casinos may accept, as payment for gambling, cheques issued to a customer by another casino, known as 'winners' cheques' (effectively a third party cheque cashing service). They may also allow customers to buy in for gambling using currencies other than sterling (effectively a currency exchange service). These facilities are offered as a convenience to customers rather than as a chargeable service.
7. Cheque cashing and currency exchange are considered to be MSB activities and such businesses are ordinarily registered with and supervised by HMRC under the MLR. Exemptions can apply where these activities are incidental to the main business, but the casinos do not meet all the necessary criteria because they will tend to exceed the financial limit set for exemption (£65,000 per annum).
8. The issue came to light because of the vigilance of one particular bank, which refused to allow winners' cheques to be accepted by a casino client until the casino either registered with HMRC or the requirement to register was removed. The operator raised this with the Commission at the biannual casino sector meeting with the trade body and its members. Casino specialists then took the matter up internally with AML specialists to identify whether there was any alternative to obliging all casino operators accepting winners' cheques to register with HMRC. On reading the HMRC guidance to MSBs we then identified that casinos accepting foreign currency as payment for gambling should also register as MSBs.

9. Prior to this, HMRC had been unaware that these registrable activities were conducted in casinos, whilst the Commission was aware of the activities but not of the separate registration requirement. No casinos are currently registered, although these practices are long established. No other banks have required their casino clients to register as MSBs.
10. Registration with HMRC would entail a detailed application process, the payment of a fee per premises and a suite of fit and proper tests to be undertaken in respect of the business and of key individuals. Given the process already gone through for casinos to be licensed by the Commission and to operate as gambling businesses, this would be a duplication of effort, onerous and contrary to the principles of good regulation.
11. There is however provision within the MLR, under Regulation 23(2), that in situations where there is more than one supervisory authority for a business, the supervisory authorities may agree that one will act on behalf of both. The alternative is a requirement for the two supervisors to co-operate in the performance of their functions. We have discussed the matter with AML supervision specialists at HMRC, whose view is that 'casinos are closely supervised by the Gambling Commission for AML compliance and these incidental activities should be supervised by the Gambling Commission'.
12. We have considered the matter and agree that we should avoid the imposition of additional regulatory burdens on the casino sector by taking on this small element of AML supervision. Neither supervisor sees any merit in separating out one small element of the casinos' activities for separate supervisory activities, with the attendant cost and inconvenience for businesses. The MLR state that the Gambling Commission is the supervisory authority for casinos and there has been no suggestion that we should consider the theoretical alternative, that HMRC take on AML supervision of casinos in its entirety on behalf of the Commission.
13. In addition to discussions with HMRC, we have also spoken to colleagues in Crime Risk and Policy in the Specialist Supervision Division of the Financial Conduct Authority (FCA) and to AML, Sanctions & Illicit Finance colleagues at HM Treasury. There is a similar supervisory agreement between the FCA and HMRC in relation to companies that offer safety deposit box services alongside accepting high value cash payments, whereby HMRC rather than FCA take on the supervision. This arrangement has not given rise to any issues of note. Similarly, Treasury colleagues did not see any problem with the proposed arrangement provided that both the Commission and HMRC were in agreement as to the best course of action. They know of other situations in which there are multiple AML supervisors, such as in complex accountancy firms, but agreed that where there is clearly a predominant activity to determine the supervisor, it makes sense to adopt the Regulation 23(2) arrangements.

Issues and risks

14. We considered what impact it would have for the Commission to supervise the MSB activities for casinos in addition to our existing supervisory responsibilities and assess this as being negligible. We already have an interest in these activities through licence condition 5.1.1 – cash handling, which requires policies and procedures to be in place to minimise the risks associated with cash and other forms of payment. The LCCP crime review includes an amendment to this licence condition to make it more robust.
15. We include these activities in our AML supervisory approach for casinos by default, since they form a standard part of casinos' financial and transactional management and there is no reason to exclude them. We looked at HMRC's AML guidance for MSBs and

this does not set out any requirements beyond what already applies to casinos. Anything in the guidance that is not duplicated in our own AML guidance relates to more typical MSBs (such as bureaux de change, pawnbrokers, cheque cashers, or money transmitters) and not to businesses with incidental MSB activities¹.

16. The presentation of winners' cheques is a well established but rare event in the majority of casinos, though more common at the higher end in London where winnings can be considerable; on average around ten winners' cheques per week may be presented in high end casinos. Typically these cheques are presented by known customers, and enhanced due diligence requirements already apply to them. The receiving casino checks with the issuing casino that the cheque is genuine. Winners' cheques are only accepted as payment for gambling and are not exchanged for cash. No additional AML activities for the Commission are envisaged in respect of overtly supervising this form of payment. The risk with winners' cheques is that they are uncrossed (transferable) which means that they need not be paid into the player's own bank account. This means that they could be used to layer funds – creating separation from the origins of the money by paying it over to another person or business. The AML responsibilities would then lie with the receiving bank or business. However where a winners' cheque is transferred between casinos there is a full audit trail which mitigates this risk.
17. Currency exchange activities are more widespread in casinos, though again more usual in London where there are large numbers of overseas customers. Non-sterling transactions are only accepted in payment for gambling and not as a standalone service. If a customer bought in using foreign currency and the sterling chips were then cashed out without being played, then operators would already see this as a possible Suspicious Activity Report (SAR) trigger. Simply buying in with high denomination notes in foreign currencies is seen as a risk indicator and reported accordingly, particularly if the customer does not have a plausible reason for presenting the particular currency. Monitoring of such activity, and mechanisms to identify and if necessary decline suspicious transactions, is already required by the Commission. This would be the case whether or not HMRC had a formal role in AML supervision for casinos and so no additional burden would be incurred by the Commission in taking responsibility for this.
18. The Commission is in the process of updating the AML guidance to non-remote casinos and the revised version is currently out to consultation appended to the LCCP crime review. We reviewed the HMRC guidance to MSBs before our consultation began and we think that everything that is relevant to the MSB activities of casinos is already covered in our guidance.
19. If we enter into an arrangement with HMRC in respect of AML supervision for the MSB activities of casinos, the Regulations require that we communicate this to those affected. We will directly inform the company that has the immediate problem, but also inform the casino sector as a whole, via the National Casino Forum since the issue was raised in a meeting with them and we undertook to resolve it. We will also write to each operator, copying the letters to HMRC, as well as referring to the arrangement in our AML web content, with a link to HMRC's guidance.

¹ Such as not accepting third party cheques from scrap metal dealers, which may be an attempt to launder the proceeds of metal theft.

Recommendations

20. The Board is asked to approve the proposal that the Commission put in place an arrangement under Regulation 23(2) of the Money Laundering Regulations to take responsibility for those elements of money laundering supervision in casinos that would otherwise be supervised by HMRC. This will formalise the current informal position whereby the Commission acts as the sole supervisory authority for casinos under those Regulations, by including Money Services Business-type activities within the Commission's remit.
21. The Board is asked to note that there is no formal registration requirement in respect of this arrangement under the Money Laundering Regulations, but the Commission would be responsible for ensuring that all those affected were made aware of the agreement.