

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

Consultation

July 2017

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1 Introduction

- 1.1 This consultation document sets out proposals by the Gambling Commission (the Commission) 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 This update is 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 The Commission regulates remote and non-remote casinos who provide facilities to consumers in Great Britain, and is the supervisory authority for casinos with regard to the Regulations.
- 1.4 The proposed fourth edition of the Guidance is attached with the changes from the third edition marked up for ease of reference. Deleted text is shown as strikethrough [~~strikethrough~~] and new text is underlined [underlined].
- 1.5 It is proposed that this fourth edition of the Guidance will be published by October 2017 and take effect upon publication.
- 1.6 Responses are sought to this consultation by **8 September 2017**. Further details on how to respond and where to find the response template are included at the end of this document

2 Background

- 2.1 The Commission is the supervisory authority for remote and non-remote casinos with regard to the Regulations. Among 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 support of the anti-money laundering licence conditions contained within the Licence Conditions and Codes of Practice (LCCP), which came into effect in October 2016.
- 2.3 HM Government has published the Regulations, which came into effect on 26 June 2017. This followed a period of transposition of the EU 4th Money Laundering Directive and replaces the previous Money Laundering Regulations 2007. All casino operators, both non-remote and remote, must comply with the new requirements and will need to ensure they have effective anti-money laundering and counter terrorist financing measures in place.
- 2.4 The Commission is now consulting on revised guidance, in particular to reflect the changes in the Regulations and to assist operators in complying with the new or amended requirements.

3 Proposals

- 3.1 In this section, we highlight the key changes that we propose to make to the Guidance in order to generate specific discussion on these points. You are, however, free to make general points about the proposed changes, or points on changes that we have proposed but that are not specifically raised in this section.

Customer due diligence threshold

- 3.2** In the Regulations, a key requirement is to make checks on customers, known as customer due diligence. Casino operators must apply customer due diligence measures when they establish a business relationship, suspect money laundering or terrorist financing, or doubt the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification.
- 3.3** Casino operators must also apply customer due diligence measures in relation to any transaction that amounts to €2,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.
- 3.4** A transaction is defined in the Regulations (see paragraph 6.4 of the Guidance), and consists of the wagering of a stake or the collection of winnings.
- 3.5** In the Regulations, the customer due diligence threshold is no longer based on a customer's aggregated spend over a 24 hour period, but is now determined by any transaction of €2,000 or more, whether it is a single transaction or occurs in several operations which appear to be linked.

Proposed new text regarding the customer due diligence threshold

- 6.3** Regardless of whether they have established a business relationship with the customer, suspect money laundering or terrorist financing, or doubt the veracity or adequacy of documents or information previously obtained for the purposes of identification or verification, casino operators must *also* apply CDD measures in relation to any transaction that amounts to €2,000 or more, whether the transaction is executed in a single operation or in several operations which appear to be linked.¹
- 6.4** 'Transaction' consists of:
- the wagering of a stake, including:
 - the purchase from, or exchange with, the casino of tokens for use in gambling at the casino
 - payment for the use of gaming machines
 - the deposit of funds required to take part in remote gambling, or
 - the collection of winnings, including the withdrawal of funds deposited to take part in remote gambling or winnings arising from the staking of such funds.²
- 6.5** In determining whether a transaction amounts to €2,000 or more, casino operators do not need to take account of winnings from a previous transaction which had not been collected from the casino, gaming machine or remote gambling, but are being re-used in the transaction in question.³ This means that casino operators do not need to include re-staked winnings (so called 'recycled winnings', 'turnover' or 'churn') when determining whether a customer has reached the €2,000 threshold.
- 6.6** Casino operators must *also* apply CDD measures:
- at other appropriate times to existing customers on a risk-based approach
 - when the operator becomes aware that the circumstances of an existing customer relevant to its risk assessment for that customer have changed.⁴
- 6.27** As discussed in paragraphs 6.3 to 6.5, the Regulations set out thresholds which, if customer transactions reach these levels, require the casino operator to apply customer due diligence measures. These limits are:

¹ Regulation 27(5).

² Regulation 27(6).

³ Regulation 27(7).

⁴ Regulation 27(8).

- in non-remote casinos the ‘threshold approach for tokens’ – identification and verification is required when a customer purchases from or exchanges with the casino tokens for use in gambling at the casino with a value of €2,000 or more
- in non-remote casinos the ‘threshold approach for gaming machines’ – identification and verification is required when a customer pays €2,000 or more for the use of gaming machines, or collects winnings amounting to €2,000 or more
- in remote casinos the ‘threshold approach for remote gaming’ – identification and verification is required when a customer deposits funds to take part in remote gambling or withdraws such funds or winnings amounting to €2,000 or more.

6.28 The threshold applies to the wagering of a stake or the collection of winnings, and is to be applied to single transactions or transactions that appear to be linked. Customers may execute a series of linked transactions that are individually below the €2,000 threshold but, when taken cumulatively, they meet or exceed the threshold. 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. Casino operators will need to consider, among other things, whether a customer is deliberately spreading their wagering or collection of winnings over a number of transactions in order to circumvent the CDD requirements. They should also ensure that the triggering of the threshold by a customer is not circumvented through the customer opening multiple accounts under fictitious names.

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?

Money Service Business activities in non-remote casinos

3.6 Certain activities carried out by non-remote casinos regarding the methods of payment that they accept in respect of gambling services are categorised as money service business (MSB) activities. By acting as a cheque casher or currency exchange, or by accepting winners’ cheques and foreign currency, casinos are subject to registration with, and supervision by, HM Revenue and Customs (HMRC). The exemptions that remove this requirement, where the MSB activities are occasional or very limited, do not apply to casinos because of the value of the transactions typically involved. However, in order to avoid dual regulation, and as provided by the Money Laundering Regulations 2007, there is an agreement between HMRC and the Commission that the Commission performs the supervisory role for the MSB activities in question. This means that it is not necessary for non-remote casinos to register with HMRC in this regard.

3.7 The Commission intends to continue with this arrangement as provided by regulations 7(2) and 7(3) of the Regulations.

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?

Nominated officer

3.8 The Commission is aware that some small scale operators currently outsource the nominated officer role and responsibilities to an external individual or provider.

- 3.9** In the Regulations, regulation 21(3) requires that *“an individual in the relevant person’s firm must be appointed as a nominated officer”*. Regulation 21(1) also introduces a new requirement that operators must *“appoint one individual who is a member of the board of the directors (or if there is no board, of its equivalent management body) or of its senior management as the officer responsible for the relevant person’s compliance with these Regulations.”*
- 3.10** The outsourcing of the nominated officer role and responsibilities is therefore no longer permitted under the Regulations.

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?

Politically exposed persons (PEPs)

- 3.11** In the Regulations, the scope of the definition of a PEP is expanded to include United Kingdom (UK) individuals who are or have, at any time in the preceding year, been entrusted with prominent public functions, other than middle-ranking or more junior officials. Operators are now therefore required to conduct enhanced customer due diligence on individuals who have been entrusted with prominent public functions both overseas and in the UK.
- 3.12** The Commission’s revised guidance includes these additional requirements for PEPs, at paragraphs 6.75 – 6.82.

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?

Reliance on third parties and simplified due diligence

- 3.13** The Regulations allow casino operators to rely on the customer due diligence carried out by a third party if that third party is either subject to the Regulations or an equivalent anti-money laundering regime. However, the operator remains liable for any failure to apply such measures.
- 3.14** The Commission’s revised guidance describes the conditions for relying on third parties, at paragraphs 6.88-6.95.
- 3.15** The Regulations also permit casino operators to apply simplified customer due diligence measures in relation to a particular business relationship or transaction if it determines that the business relationship or transaction presents a low degree of money laundering and terrorist financing risk, taking into account its money laundering and terrorist financing risk assessment. It must also take into account any relevant information made available by the Commission and a list of risk factors identified in paragraph 6.84.

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?

4 How to respond to this consultation

- 4.1** The Commission is committed to a full and open consultation and would welcome comments on any aspect of this document. A response template will be available on our website. We would prefer respondents to complete the response template provided and send it by email to: consultation@gamblingcommission.gov.uk
- 4.2** Alternatively, responses can be sent by post to:
Anti-money laundering guidance consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
- 4.3** The deadline for responses to this consultation is **8 September 2017**. Respondents are of course welcome to comment on any or all of the areas addressed by this consultation.
- 4.4** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding as an individual, please mention your own interest in the consultation.
- 4.5** Please note that responses may be made public or published in a summary of responses to the consultation, unless you state clearly that you wish your response and/or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email or via the website, unless you specifically include a request to the contrary in the main text of your submission, we will assume your consent overrides any confidentiality disclaimer that may be generated by your organisation's IT system.
- 4.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on the release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk. The Commission will treat information marked as confidential accordingly and will only disclose that information to people outside the Commission where it is necessary to do so in order to carry out the Commission's functions or where the Commission is required by law to disclose the information. As a public authority, the Commission must comply with the requirements of FOIA and must consider requests for information made under FOIA on a case-by-case basis. Therefore, when providing information, if you think that certain information may be exempt from disclosure under FOIA, please annotate the response accordingly so that we may take your comments into account.
- 4.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments or agencies, licensing authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to.
- 4.8** This consultation is being conducted in line with the Cabinet Office consultation principles published in January 2016. The criteria are listed on www.gov.uk and the Commission's website, together with details of who to contact with any comments on the consultation procedure or complaints about the way it is being conducted.

5 Summary of consultation questions

5.1 The following table summarises the consultation questions:

Consultation questions

- 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?
- Q2. Do you agree that the Commission should remain the sole supervisory authority under the Regulations for MSB activities provided by non-remote casinos?
- 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 regulation 21(1) and 21 (3) that the Commission should be aware of?
- Q4. Does the revised Guidance on PEPs correctly reflect the requirements in respect of PEPs? Is there any aspect which requires further explanation?
- 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?

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