

GAMBLING COMMISSION

Supplementary consultation on customer funds reporting

December 2014

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1 Introduction

- 1.1 The Gambling Commission (the Commission) has previously consulted on plans to introduce customer funds reporting. Following this consultation, the Commission intends to proceed with this reporting system during 2015. This supplementary consultation now seeks views on the exact format and timing of this customer funds report.
- 1.2 Customer funds reporting will be required of remote operators (other than ancillary remote operators) who hold customer funds. This consultation will therefore be relevant to remote gambling operators or those with an interest in remote gambling only.
- 1.3 This consultation will run for 8 weeks and the deadline for response is **13 February 2015**. Further details on how to respond are provided in **Section 4** of this document.

2 Background

- 2.1 Customers who hold an account with a gambling operator frequently deposit monies or keep winnings with that operator with the option to use those funds for future gambling or to withdraw at a later date. In some sectors, particularly remote poker and betting exchanges, customers may hold large amounts with an operator in order to have sufficient liquidity to play in tournaments or to cover the full liabilities for their bets.
- 2.2 However, there have in recent years been some high-profile cases where customer funds were put at risk by the collapse of a remote gambling company. In some of these cases, customer funds have been lost or have only been reinstated some time later when another company has taken on the assets and liabilities of the collapsed operator.
- 2.3 A particular problem highlighted by these cases has been customer misunderstandings of the level of protection that might be afforded to them in the event of their gambling operator entering into insolvency. The Commission has introduced requirements for enhanced disclosure to customers and the detail of these requirements has been set out in the [advice note](#) to gambling operators which was published in November 2014.
- 2.4 The Commission plans to introduce regular reporting by remote gambling operators who hold customer funds in order to promote good financial management of customer funds liabilities and assets. The reports will also act as a deterrent to customer funds being used by gambling operators for inappropriate company purposes, for example, borrowing customer funds to cover working capital requirements elsewhere in the business.
- 2.5 For reference, the earlier documents relating to the Commission's approach to the protection of customer funds can be accessed as follows:
 - The Commission consulted on [Protection of customer funds: proposals for amendments to current licence condition 4 for all gambling operators](#) at the end of 2013, alongside a wider package of proposed revisions to the *Licence conditions and codes of practice* (LCCP).
 - Responses to that consultation were published in April 2014 in [LCCP changes part 2](#). Section 7 of LCCP changes part 2 stated that the Commission will introduce a formal mechanism for operators to regularly report on the levels of customer liabilities and funds held in the customer account(s), and a number of elements that such a report would need to include were outlined. We also stated our intention to continue discussion with industry about the format that this report would take.

- We published [Consolidated LCCP - May 2014](#) which set out the fully revised licence condition 4.1.1. This introduced a number of changes in connection with customer funds in addition to the formal reporting requirements for operators, notably a definition of customer funds, that segregation of funds must be the minimum level of protection that should be offered and that enhanced disclosure to customers according to a ratings system must be made in terms and conditions and at deposit stage.
- A further update was also published in our [Responses to a review of remote regulatory returns - August 2014](#), where we reiterated our intention to continue engaging with operators on the introduction of a formal report.
- We also published an advice note for operators [Customer funds: segregation and disclosure to customers - November 2014](#) to give more details on the various requirements which are summarised below.

2.6 As a reminder, the main requirements relating to customer funds are:

Segregation of funds

- Licence condition 4.1.1 requires remote gambling operators who hold funds to segregate those funds into a separate account and also contains a definition of customer funds.

Disclosure to customers and the rating system

- Licence condition 4.2.1 requires (remote and non-remote) operators who hold customer funds to disclose information to customers about whether customer funds are protected, the level of such protection and the method by which this is achieved.
- This information must be made available in terms and conditions and must be acknowledged by the customer at the point of depositing funds. Changes to the arrangements for the protection of customer funds must be disclosed to the customer in terms and conditions and at any subsequent deposit of monies by the customer.

Regular reporting on customer funds and liabilities

The May 2014 consolidated LCCP contains several requirements for reporting of customer funds issues. These are as follows:

- any deficit on reconciliation of a segregated customer funds account must be reported as a key event to the Commission.
- some information about customer funds must be reported as part of the overall quarterly regulatory returns as is currently the case for remote operators. The amount of funds held in customer accounts be recorded showing the breakdown between customer funds relating to customers in Great Britain and those relating to customers outside of Great Britain.
- the requirement to comply with customer funds reporting requirements as set out by the Commission. It is this aspect of the reporting requirements on which we are consulting in this consultation document.

3 Customer funds reporting: format of the report

- 3.1** During 2015, we intend for a formal reporting mechanism, the ‘customer funds report’, to be incorporated into eServices, the Commission’s centralised online system whereby operators can already complete a number of other reporting requirements such as Key Events and Regulatory Returns. Although it will sit under the eServices umbrella, it will be separate so as to ensure that timings of reports can be tailored and not for example, linked to Regulatory Returns timetables.
- 3.2** We are now seeking views on the format that the customer funds report will take in order to best achieve the Commission’s aims of monitoring and ensuring compliance with the requirements for protection of customer funds, and compliance with operators’ own stated policies. In this section we will discuss and seek views on the following topics:
- Relevant operators
 - Frequency of the report
 - Financial institutions
 - Account information
 - Reconciliation information: liabilities, assets and deficits
 - Responsibility for submission & supporting evidence

Relevant operators

- 3.3** Reports would be submitted by any remote gambling operator (other than ancillary remote gambling operators) who holds customer funds. The default position would be that all business-to-consumer (B2C) remote gambling operators (other than ancillary remote) would be required to submit customer funds reports.
- 3.4** If a remote gambling operator does not hold customer funds (because of its particular business model or because it has not yet started trading¹), the operator must notify the Commission and the requirement to submit customer funds reports will be suspended on the eServices system. This will ensure that the operator does not receive reminders to complete the reports and that no compliance action is taken as a result of failure to submit.
- 3.5** We therefore also propose that operators must report to the Commission when they start to hold customer funds, so that the requirement to complete customer funds reports can be applied. The Commission would consider adding this as a new LCCP notification to be reported via the Key Events Portal on the eServices system.

Consultation question

- Q1. Do you agree that B2C remote gambling operators (other than ancillary remote operators) should be required to report to the Commission:
- a. if they do not hold customer funds (so that the reporting requirements can be suspended); and
 - b. if they subsequently start to hold customer funds (so that the reporting requirements can be applied)?

¹ If an operating licence is granted but an operator does not begin providing facilities for gambling in reliance on that licence within a reasonable period, the Commission may commence a licence review with a view to revoking the licence if that appears necessary. The Commission may also grant licences subject to a condition that requires an operator to begin to offer facilities for gambling within a specific timescale.

Frequency of the report

- 3.6** As set out at paragraph 5.5 of our [advice note](#), we expect remote gambling operators to carry out reconciliations on their customer funds and liabilities on a weekly basis, though it is often more appropriate for operators to carry out more frequent reconciliations. The customer funds report will therefore be structured so that operators can demonstrate this weekly breakdown.
- 3.7** We do not consider it appropriate to only receive information about a single snapshot of the level of customer funds held per month or per quarter. This is because it could be considered too easy for an operator to simply make sure that the customer account held sufficient funds to meet liabilities at the reporting point, while at other times the account could be running at a deficit. We wish to see the flows of funds throughout the reporting period in order to deter such activity, and so the customer funds report will be broken down to demonstrate the week-by-week changes, and any discrepancy at those times.
- 3.8** The customer funds element of the eServices system will be designed to be flexible to take account of our experiences of gathering customer funds reports over time. It is proposed that in the immediate period after its introduction, the customer funds report will be required to be submitted to the Commission through eServices **on a monthly basis, consisting of weekly reconciliation points**. This is the proposed default timing of customer funds reports.
- 3.9** This will also allow operators some flexibility in compiling the report: reconciliation information can be saved and submitted on eServices as this takes place each week, or the data can be inputted and submitted in one go at the end of the monthly reporting period.
- 3.10** However, it is proposed that the Commission retains flexibility to make weekly reporting and submission a requirement **for individual operators** where compliance concerns exist that customer funds are at risk, for example if an operator is repeatedly encountering a deficit in funds available to cover liabilities; or there are other risk indicators or issues of non-compliance.
- 3.11** After an initial period (of at least one year), we may review the monthly requirement for all operators and consider whether the customer funds report should be changed to a quarterly basis for some or all sectors.

Consultation questions

- Q2. Do you have any comment on the proposal that certain individual operators should be required to submit customer fund reports on a weekly basis (rather than submit the information for each week on a monthly basis), where sufficient compliance concerns exist? Are there any particular circumstances that you consider warrant a requirement to submit customer funds information on a weekly basis?

Overview of the proposed customer funds reporting system

- 3.12** The eServices system will be designed so that operators create some information about the location and type of accounts in which customer funds are held on the occasion of their first customer funds report. This information would then be retained in the system and would not need to be re-entered for each subsequent report.

Creating the first customer funds report:

Step 1: Record the financial institutions with which customer funds are held

Step 2: Record the accounts which are held with those financial institutions

Steps 1 and 2 need only be repeated for subsequent customer funds reports if customer funds are moved to new financial institutions or accounts. Old records can also be deleted.

For each customer funds report:

Step 3: Enter the relevant weekly reconciliation point

Step 4: Record the total customer funds liabilities to customers for the British licence for each weekly reconciliation point

Step 5: Record the monies in all accounts where customer funds are held at each weekly reconciliation point

Step 6 (Optional): Return to weekly reconciliation points to edit earlier information (prior to submission)

Step 7: Summary screen – explain any deficits

Step 8: Check total figures and submit monthly report

Step 1: Financial institutions

- 3.13** As set out in licence condition 4.1.1, remote operators who hold customer funds must do so in separate client bank accounts or accounts.
- 3.14** We are aware that operators hold customer funds with a number of financial institutions or services providers in addition to regular company bank accounts in order to comply with this condition. At present customer funds may be segregated into:
- bank accounts, either in Britain or overseas
 - investment accounts, where a cautious approach to choice and spread of investment accounts is taken
 - other accounts: payment processor merchant reserve accounts which would be payable to the operator/its creditors in the event of insolvency.²
- 3.15** We are proposing that the customer funds report will collect details of the full range of institutions or providers that an operator may use to hold customer funds, including the name and address, and where applicable the sort code of the provider. The report function will store the details of the financial institutions and so operators will only have to provide this once on completing the report for the first time and then simply update the list of financial institutions as and when these change.

² Further information is provided in our advice note [Customer funds: segregation and disclosure to customers - November 2014](#)

3.16 The below image illustrates an example of how the financial institutions section of the customer funds report may be structured:

Step 1 Illustration: Record a financial institution

The screenshot shows a web form titled "Financial accounts details table / Add Account / Add Institution". The form contains the following fields and elements:

- Name of Financial institution:** A text input field.
- Previous addresses:** A dropdown menu with the text "List of previous addresses, Add new UK address, Add new overseas address...".
- Country:** A dropdown menu.
- Postcode:** A text input field next to a green button labeled "Find address".
- Search results:** A dropdown menu.
- Address line 1:** A text input field.
- Address line 2:** A text input field.
- City:** A text input field.
- Sort code:** A text input field.
- IBAN/Other number:** A text input field.
- Buttons:** "Cancel" (blue), "Delete record" (blue), and "Save" (green).

Consultation questions

Q.3 As a remote operator that holds customer funds, would the structure in Step 1 allow you to record the details of all financial institutions with which you hold customer funds? If not, please explain the type of institution and the details which should be recorded.

Step 2: Account information

3.17 For each financial institution that is recorded, it is proposed that the report will collect details of any account (or equivalent) that is used to hold customer funds. As with the financial institutions, account information will be stored on the system so that the operator need only input that information once.

3.18 The account type must be specified (using a dropdown menu) according the types that are permitted, as detailed in paragraph 3.14. The account number or equivalent must also be provided as the Commission considers it is necessary to have clear means to identify the location of customer funds that are included in the report.

3.19 In some cases, the type of account in which customer funds is held may trigger a further request for information or evidence to the Commission. For example, if the account types shown do not appear to match the information made available to consumers about the protection that is afforded to their funds, the Commission may consider compliance activity. Similarly, if customer funds are being held (or predominantly held) in account types that were considered more of risk, the Commission could consider requests for further information or evidence.

Step 2 Illustration: Record account information

Financial accounts details table / [Add record](#) / Add Institution

Financial institution

Account type

Other account type

Account Number

Friendly name for account

Currency

[Cancel](#) [Delete record](#)

Consultation questions

- Q4. In addition to the account types outlined in paragraph 3.14 (bank accounts, investment accounts and payment processor accounts), are there any other account types that you believe the Commission should include in the drop down menu to identify the types of customer fund accounts?
- Q5. Do you have any views on whether the Commission should not permit customer funds to be held in certain types of accounts? Please specify which type you consider should not be permitted and state the reason/s why.
- Q6. Do you have any other comment on the suggested format for the 'Step 1: Financial institutions' or 'Step 2: Account information' sections of the report?

Steps 3 – 5: Reconciliation points: liabilities, assets and deficits

- 3.20** Once details of the financial institutions and accounts that an operator makes use of have been completed, the report will request details of the weekly reconciliations that have been undertaken. Operators may complete a weekly reconciliation at any point during the week, ie we do not at this time expect operators to always complete on a particular day or on the same day each week.
- 3.21** For each weekly reconciliation point, the date that the reconciliation was undertaken must be provided, along with the total value of liabilities and assets available for that weekly period. The location of the assets must also be specified using the account information already provided.
- 3.22** On completing the reconciliation information, a summary page will be produced whereby operators will be required to explain any deficits that have been recorded.

3.23 The below images illustrate this section of the report:

Step 3 Illustration: Enter reconciliation point details

Funds reconciliation details table / [Add reconciliation](#)

1 Reconciliation details 2 Liabilities 3 Assets 4 Summary

Was a reconciliation undertaken for this week?

Yes No

Date reconciliation took place

Reason reconciliation did not take place

Multi
line
textarea

[Cancel](#) [Delete record](#) [Save](#)

3.24 If an operator does not complete a reconciliation during a reporting period, the reason should be recorded on the report for that period. This might be, for example, because the operator was not trading for part of the reporting period or because there were no customer funds assets or liabilities during the period.

Step 4 Illustration: Record total liabilities held

Funds reconciliation details table / [Add reconciliation](#)

1 Reconciliation details 2 Liabilities 3 Assets 4 Summary

Currency

Total liabilities

Exchange rate

Total value in GBP

[Cancel](#) [Next](#)

3.25 The liabilities recorded here would reflect the **total** amount that have been accrued through all activity conducted in reliance on the licence issued by the Commission, regardless of whether these liabilities may be recorded separately on an operator's own system.

3.26 It is suggested that an option is made available to record the conversion of liabilities into Great British pounds (GBP), where these may be held in a different currency by the operator. However, in this illustration, the exchange rate would apply to the total liabilities, rather than on the liabilities relating to individual currencies or jurisdictions in which the operator conducts business. We therefore seek views on whether this would be a useful tool for all customer liabilities or whether it is simpler for the operator to provide the total figure in GBP in all cases.

Step 5 Illustration: Record the customer funds assets

Funds reconciliation details table / [Add reconciliation](#)

1 Reconciliation details 2 Liabilities 3 **Assets** 4 Summary

Account #	Value	Action
12345678	1.000.000	Manage
87654321	2.000.000	Manage
65498701	3.000.000	Manage

[Add](#)

Select financial account

Total funds

Exchange rate

Total value in GBP

Are customer funds solely for the GB Licence?
 Yes No

[Cancel](#) [Delete record](#) [Add](#) [Next](#)

- 3.27** Details of assets available to cover liabilities to customers must be recorded against the account that they are located in, and an exchange rate should be provided should the funds be held in currencies other than GBP.
- 3.28** As set out in paragraph 4.5 of our [advice note](#), operators must be able to demonstrate to the Commission that there are sufficient funds to meet the British liabilities to customers, as well as other customer funds liabilities.
- 3.29** We are therefore proposing to collect information from operators in the customer funds report about whether the customer funds recorded in the reconciliation information are available solely for the purpose of covering liabilities relating to the British licence. This may mean that the operator would have to provide additional information to the Commission about non-British activity in order to be able to demonstrate that there are sufficient funds to cover all customer funds liabilities.
- 3.30** The below image has been provided to illustrate how an operator will be able to manage the weekly reconciliation points, before the monthly report is submitted:

Optional Step 6 Illustration: Return and edit weekly reconciliation points from the monthly reporting period

[In Progress](#) [Submitted](#)

Week Commencing	Status	Action
1 December 2014	In progress	Manage
8 December 2014	In progress	Manage
15 December 2014	New	Manage
22 December 2014	New	Manage

Step 7: Explain any deficits recorded

- 3.31** On completing the liabilities and assets, the report will display an ending balance and will indicate where a deficit has occurred.

Step 7 Illustration: Summary screen – explain any deficits

Funds reconciliation details table / [Add reconciliation](#)

1 Reconciliation details 2 Liabilities 3 Assets 4 **Summary**

Total liabilities	325,000
Total assets	225,000
Balance	-100,000

Has a key event been reported for this deficit?

Yes No

Explanation of deficit recorded in customer funds

Multi
line
textarea

[Cancel](#) [Delete record](#) [Save](#)

- 3.32** If a report shows a deficit, the operator must explain the reasons for the deficit and provide confirmation of when the funds will be in place in order to cover the liabilities recorded.
- 3.33** As any deficit on customer funds must be reported to the Commission as a Key Event³, it is proposed that the customer funds report will be developed to connect where possible to the other reporting facilities available through eServices, such as Key Event reporting. For example, where a deficit is recorded on the customer funds report, it is intended that the operator will be reminded of their responsibility to report this as a key event and will be given the opportunity to create a Key Event record if they have not already done so.
- 3.34** There may be differences in the account features depending on the type of provider used, or the availability of real-time information on account balances. We are therefore seeking examples from operators of any specific account features when using accounts other than bank accounts that may impact on an operator's ability to comply with the information requests within the customer funds report.

Consultation questions

- Q7. Would it be useful for the report to have a currency conversion tool to convert all customer liabilities, or would it be simpler for the operator to provide the total figure in GBP in all cases?
- Q8. Do you have any comment on the proposal that operators must provide an explanation of any deficits that are recorded on the customer funds report?

³ For the full wording of this Key Event reporting requirement, please see [licence condition 15.2.1](#) of LCCP, event number 17.

- Q9. Do you consider there being any difficulties in reporting the funds held in particular accounts, for example due to difficulties in obtaining real-time information on account balances, depending on the type of account used?
- Q10. Do you foresee any issues that operators may face in reporting the funds held by the operator due to use of different currencies for different accounts?
- Q11. What measures are available to operators to calculate a breakdown of customer funds to show those that are available to cover liabilities in relation to activity conducted under the licence issued by the Commission?
- Q12. Do you have further comment on the information being requested in the 'Reconciliation: liabilities, assets and deficits' section of the customer funds report?

Responsibility for submission and supporting documentation

- 3.35** We understand that the information contained within the customer funds report could be considered sensitive in nature due to the disclosure of account information and therefore propose that a facility is incorporated that allows an operator to restrict access to this particular report amongst any individuals who can access the other facilities offered through eServices.
- 3.36** In line with other regular reporting requirements, and to confirm the importance we attach to the information contained within the customer funds report, we will require a key position holder in one of the following specified management positions to be accountable for the accuracy of the information contained within the customer funds report and to declare this at the point of submission. For Small-scale Operators⁴ this will mean someone in a 'Qualifying Position'⁵. For larger operators we will require the sign off from the holder of one of these three 'specified management offices'⁶:
- a. the overall management and direction of the licensee's business or affairs
 - b. the licensee's finance function as head of that function
 - c. the licensee's gambling regulatory compliance function as head of that function
- 3.37** We do not at this stage consider it necessary for supporting documentation, such as account statements, to be provided as a matter of routine in order to substantiate the information submitted in the customer funds report. However, there may be instances where it is necessary for the Commission to have sight of such documentation and we expect that operators are able to produce this on request and in a timely manner, where significant compliance concerns arise.
- 3.38** Where it is considered necessary for an operator to provide evidence to support any of the information contained within the customer funds report, it is proposed that this is collected by being uploaded onto eServices, and is uploaded at the point that the report is submitted.

Consultation questions

- Q13. Do you consider it necessary for there to be additional restrictions in place to limit which users of eServices within an operator can have access to the customer funds report information?

⁴ For the definition of a small-scale operator please see that ascribed in the [Gambling Act 2005 \(definition of a small-scale operator\) Regulations 2006](#)

⁵ For the meaning of qualifying position please see that ascribed in the [Gambling Act 2005 \(definition of a small-scale operator\) Regulations 2006](#)

⁶ More information on specified management offices is set out in the [LCCP under section 1.2](#) (Personal Licences).

- Q14. Do you agree with the proposal for the holder of a Personal Management Licence with one of the following three specified positions to be responsible for submitting the customer funds report? (Or for small-scale operators, this will mean someone in a qualifying position).
- a. the overall management and direction of the licensee's business or affairs
 - b. the licensee's finance function as head of that function
 - c. the licensee's gambling regulatory compliance function as head of that function
- Q15. What circumstances do you consider warrant a requirement to provide the Commission with evidence to support the information submitted within the customer funds report, for example, bank statements?

Next steps

- 3.39** Operators should already be conducting weekly reconciliations of customer funds, and should be reporting as a key event where there is an identified deficit on the customer funds accounts. We expect this process to continue unaffected by this consultation.
- 3.40** Following the closure of this consultation and a period to analyse the responses provided, we intend to publish a short response document outlining the final format of the customer funds reports to be submitted in 2015.
- 3.41** We plan to introduce the customer funds report by the summer of 2015. The earliest day that we will implement the report will be from **April 2015, with the first report to be submitted within 14 days of the final day of the first reporting period.**
- 3.42** A full timeframe for implementation will be set out in the responses document.

Consultation questions

- Q16. Do you have any comments to make on the suggested next steps for the introduction of the customer funds report?

4 How to respond to this consultation

- 4.1** The Commission is inviting comments on these proposals and would prefer respondents to complete the responses template provided on our website and send it by email to: consultation@gamblingcommission.gov.uk
- 4.2** Further information and assistance is available from the Commission's consultation co-ordinator at the same email address. If you are not able to use the template provided, please indicate clearly the questions or issues to which your comments refer.
- 4.3** Alternatively, responses can be sent by post to:
Consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP
- 4.4** The closing date for receipt of responses by the Commission is **13 February 2015.**
- 4.5** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.

- 4.6** 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 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, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 4.7** 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 release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk. The Commission will treat information marked 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 the 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.
- 4.8** 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, local 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 do so.
- 4.9** The Commission will consider all responses carefully when finalising its proposals, but will only alter its position if it thinks there is good reason to do so. Following the end of the consultation the Commission will prepare a summary of responses, which it will publish alongside the finalised documents.

Gambling Commission December 2014

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

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