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New AML Licence Conditions and Guidance from the Gambling Commission

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Following an extensive consultation in 2015 on changes to the LCCP in relation to the prevention of crimes associated with gambling, and two short consultations in June 2016 on digital adverts and money laundering risks, the Gambling Commission has issued: (i) a publication detailing further amendments to the LCCP (available [here](#)), which will come into force on 31 October 2016; and (ii) updated guidance for remote and non-remote casinos on the prevention of money laundering and combating the financing of terrorism (available [here](#)), which comes into force immediately.

We have included below a summary of the key changes to the LCCP and the updated guidance. With these changes, it is clear that the Gambling Commission is focussing on operators' responsibilities in the fight against the use of the gambling industry to facilitate criminal activity, and particularly money laundering and terrorist financing. Operators should be prepared for greater scrutiny from the Commission of their anti-money laundering and other related policies and procedures, and should ensure that new policies and procedures are put in place to comply with the requirements of the new licence conditions (described in more detail below).

It is more important now than ever for operators to ensure that employees at all levels (from senior management to customer facing employees), and not just an operator's compliance team, understand the importance of compliance with those policies and procedures, and that appropriate training and support is given to all employees. Operators, as ever, should also ensure that proper records of actions taken pursuant to those policies and procedures (including due diligence and enhanced due diligence carried out on customers to establish the source of their funds) are maintained, so that adequate processes and due diligence can be demonstrated in the event of regulatory scrutiny.

Changes to the LCCP

The following changes, which will have effect from 31 October 2016, have been made to the LCCP in respect of the prevention of crimes associated with gambling:

- A new licence condition 12.1, which requires all licensees (except non-remote lottery, gaming machine technical and gambling software licensees) to:
 - conduct an appropriate risk assessment of their business being used for money laundering and terrorist financing, which must be reviewed at least annually, taking into account any changes of circumstances;
 - ensure that, following the completion of such risk assessment, they have in place appropriate policies, procedures and controls to prevent money laundering and terrorist financing; and
 - ensure that such policies, procedures and controls are implemented effectively, kept under review and revised appropriately to ensure they remain effective.

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- A new licence condition 12.2, which requires all remote casino operators whose equipment is located outside Great Britain to comply with certain UK anti-money laundering regulations, whether or not those regulations would otherwise apply to the licensee.
- An expansion to licence condition 5.1 to include digital currencies as cash equivalents, and the introduction of a requirement for licensees to review and revise their policies and procedures appropriately, and take into account guidelines issued by the Gambling Commission from time to time.
- An expansion of the key events which must be reported to the Commission pursuant to licence condition 15.2.1, requiring licensees to report their involvement in criminal investigations where the Commission could reasonably be expected to question whether the licensee's measures to keep crime out of gambling have failed.
- A new ordinary code provision 7.1.3, which requires all betting operator licensees to have employment policies that require staff to report any suspicious betting indicators to their employer and prohibit them from using such information for their benefit.
- An addition to ordinary code provision 4.2.8, which requires all betting operator licensees to ensure that a condition of the acceptance of any bet is that for a bet to be valid, the customer placing such bet must not be in breach of any rules about irregular or suspicious betting. If this is the case, licensees should take steps to void the bet.

Other changes due to come into effect in autumn 2016 include:

- A new licence condition requiring all licensees to ensure responsible placement of digital adverts. Licensees must not place, and must take all reasonable steps to ensure third parties with whom they contract do not place, digital adverts on websites that provide unauthorised access to copyrighted content. Licensees must also ensure that the terms upon which they contract with any such third party enables the licensee to terminate the contract if, in the licensee's reasonable opinion, the third party has been responsible for placing digital advertisements on such websites.
- Amendments to social responsibility code provision 9, which requires an operator to ensure that the function, along with the internal and/or external presentation of its premises, are such that a customer can reasonably be expected to recognise them as premises licensed for the particular purpose (e.g. casino, bingo, betting). The previous version of the social responsibility code provision required licensees to inform customers of such purpose.

Updated Guidance

To coincide with the changes to the LCCP aimed at preventing crimes associated with gambling, and in particular money laundering, the Commission has updated its guidance to remote and non-remote casino operators on the prevention of money laundering and combating the financing of terrorism.

The revised guidance includes a more extensive introduction, which explains in greater detail what is meant by the proceeds of crime and money laundering, the legal background to money laundering and the offences under the Proceeds of Crime Act.

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The Gambling Commission has stated that this edition of its AML guidance, which comes into force immediately, is intended to be the last edition before the 4th Anti-Money Laundering Directive is transposed into UK legislation (expected to be by June 2017), at which time the Commission will publish new or updated guidance for gambling operators. The Commission has also stated that, following the publication of this guidance and in response to multiple requests from operators, it will consider publishing separate guidance for remote and non-remote operators.

Risk Assessments

The guidance now provides information to assist operators in undertaking the risk assessments required by new licence condition 12. The risk assessment requires operators to assess the potential threats, vulnerabilities and consequences relating to money laundering and terrorist financing for each individual operator. Operators are expected to:

- develop an initial list of potential risks or risk factors when combating money laundering and terrorist financing;
- analyse the nature, sources, likelihood, impact and consequences of the identified risks or risk factors;
- evaluate and prioritise the risks identified; and
- develop a strategy for mitigation of the risks.

The Commission lists the risk categories it uses in its own risk assessments as:

- **customer risks (including country/geographic risks)** - as some countries pose an inherently higher money laundering and terrorist financing risk than others, operators should take into account a variety of sources of information to identify countries that may pose a higher risk. Operators should also consider categories of high risk customers, including PEPs, high spenders, disproportionate spenders, junkets, customers with multiple player accounts, unknown or anonymous customers, etc.
- **means of payment risks** - operators should take into account transactional risks, including the use of cash in non-remote casinos, transfers between customers, use of casino deposit accounts, redemption of chips for cash (particularly after minimal or no play) and, for remote casinos, multiple accounts, changes to bank accounts, identity fraud and use of pre-paid cards and e-wallets.
- **product risks** - operators should consider the vulnerabilities associated with particular products they offer. Products which may pose a money laundering risk for operators include peer to peer gaming, gaming where two or more persons place opposite, equivalent stakes on even, or close to even, stakes (for example, the same stake on red and on black in a game of roulette) and gaming machines.

However, the weight given to risk factors used by operators in assessing overall risk, both individually or in combination, may vary from one operator or premises to another, depending on their individual circumstances.

Customer Relationships

The revised guidance also includes a new section on customer relationships, in which the Commission emphasises the importance of an operator's role in not only preventing crimes associated with gambling, but also protecting vulnerable people. In this respect, the relationship between the operator and its customers is key, and operators should

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carry out appropriate enquiries and assessments to enable them to act upon money laundering and/or social responsibility risks identified in respect of a customer. These may include significant increases in the volume or level of play by a particular customer, or spend inconsistent with the customer's apparent source of income.

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