
CHAMBERS GLOBAL PRACTICE GUIDES

Gaming Law 2023

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Thailand: Law & Practice and Trends & Developments

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THAILAND



Law and Practice

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1. Introduction

1.1 Current Outlook and Recent Changes

Current Outlook

Gambling has remained illegal and restricted in Thailand for decades. Gambling is defined as games of chance wherein the outcome is unknown, and the result may win something of value. The primary gambling law, the Gambling Act 1935 (Buddhist Era 2478) (GBA), was enacted, as entitled, in 1935, making it over 88 years old. Remarkably, this legislation is still in force today. Recognising the necessity to adapt to the swiftly evolving landscape, especially due to notable technological advancements that significantly impact gambling platforms, Thailand has made efforts to reform its gambling laws to address current gambling developments. It should be noted that Thailand has robust e-sports and social gaming that is not considered gambling so long as the players are utilising skills in their performance. Third parties betting on the outcome of contestants utilising their skills would be considered as engaging in gambling under Thai law.

In 2016, a draft Gambling Act (“the Draft GBA”) was proposed by the cabinet to the National Legislative Assembly for consideration, acknowledging the urgency of updating gambling legislation encompassing control measures, inspections, advertising, gambling operations, penalties, and taxes levied on licensed gambling. The proposed draft aimed to align the accounting for gambling transactions with the contemporary scenario.

However, the Draft GBA has been under consideration since 2016. As of a recent update, the Draft GBA completed the public hearing process in December 2022. Throughout the drafting period until now, the situation has been continu-

ously evolving, particularly due to the ongoing development of online gambling, which seems to have no end in sight. It poses a challenge to determine whether the Draft GBA, initiated since 2016, will effectively address current and upcoming advancements in gambling.

While the Draft Act includes additional provisions that extend beyond the GBA in various sections, particularly regarding the definition of gambling, advertising, gambling activities, and higher penalties, it may not sufficiently address the existing and emerging forms of gambling that are prevalent today or anticipated soon, especially regarding online gambling. This is an aspect that both the Thai government and associated agencies are currently considering before formally announcing the implementation of the Draft GBA.

Recent Changes

In recent years, while Thailand’s laws have maintained a strict stance of illegality towards gambling, the Thai government has gradually shifted its perspective, recognising the potential benefits of organised gambling, especially within the context of tourism. This change in viewpoint signifies a critical juncture in Thailand’s approach to the gambling industry. Various forms of gambling, such as expansive entertainment complexes and regulated casinos, have the capacity to significantly bolster the country’s revenue streams. Given Thailand’s ongoing efforts to recover from the adverse impact of the COVID-19 crisis, exploring additional revenue sources is imperative for a complete recovery.

In 2021, the Thai government took proactive steps in this direction by establishing a special House Committee to study the feasibility of allowing an entertainment complex for casinos. This committee meticulously studied the feasibil-

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ity of introducing comprehensive entertainment complexes, legalising and imposing taxes on casino operations, devising strategies to combat illegal gambling practices, addressing the proliferation of electronic gambling machines, and managing the emergence of online gambling platforms.

According to the House Committee, the decision to legalise (or modify the legalisation) of gambling in Thailand is a complex one, necessitating careful deliberation from multiple vantage points, encompassing its socio-economic benefits and repercussions on the populace.

This evolving discourse on gambling legalisation in Thailand holds a prominent position on the nation's policy landscape, warranting vigilant attention and scrutiny in the foreseeable future. The Thai government must carefully weigh the decision to legalise gambling as a potential means to recover the Thai economy, which has been significantly affected by the COVID-19 pandemic.

2. Jurisdictional Overview

2.1 Online

In Thailand, online gambling is not specifically regulated in the GBA, given the law itself was passed in 1935, and there are no other dedicated regulations overseeing it. However, in practice, the authorities refer to the GBA to address online gambling. They deem it an offence under Section 4 and Section 4 Bis of the GBA, as it is not allowed in List A and List B under the GBA. Moreover, there is no ministerial regulation specifically mandating online gambling. Consequently, online gambling is prohibited, encompassing organising, participating in, or gambling in such activities.

The GBA classifies gambling into two main lists:

- List A involves gambling that is strictly prohibited, such as Domino, Poker, Puzzle, Pool, High-Low, Spin of Coin, Bagara, and other games that were common at the time the GBA was issued in 1935.
- List B involves gambling that requires prior permission and authorisation from the authorities before playing, encompassing activities like animal fights or races (eg, bullfighting, cockfighting, fish fighting, and horse racing), boxing, wrestling, boat racing, rowing, bingo, lottery, sweepstake, bookmaking, billiards, table football, and more.

In practice, the authorities are unlikely to grant licences for online gambling due to the absence of specific regulations that govern all kinds of online gambling. Therefore, betting, bingo, casinos, lotteries (excluding government lotteries), and other activities considered within online gambling, are expressly prohibited under the GBA.

Fantasy sports and social gaming are unlikely to be categorised as gambling by players under the GBA since the players are competing using skills and do not involve gambling for money and are generally allowed without prior permission. However, fantasy sports and social gaming that involve gambling for money by third parties are considered gambling and are prohibited under the GBA.

Moreover, online gambling is deemed an offence under the Computer Crime Act 2007 (the CCA), particularly outlined in Section 20. This section grants authorities the ability to petition the court to block or remove computer data from a computer system if the dissemination of such data would disrupt public order or good mor-

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als. Gambling is widely recognised as an offence that compromises public order and good morals in Thailand, justifying its classification offence under the CCA.

However, enforcing the CCA to regulate online gambling is met with significant challenges. Most online gambling hosts operate beyond Thailand's jurisdiction and outside its authority. The rapid advancement of online gambling technology has consequently rendered the Thai authorities with limited power to exercise control. While authorities can block access from Thailand, the pervasive use of technologies like VPNs allows individuals to bypass these restrictions, preventing Thai authorities from effectively curbing online gambling.

2.2 Land-Based

While the GBA does not specifically detail land-based gambling, considering its age and the technological advancements since its inception, it can be inferred that the GBA primarily pertains to land-based gambling. Here's an overview of various land-based gambling sectors in Thailand.

Betting

Betting is partially permitted under the GBA. Most permitted betting involves games such as animal fights or races (eg, bullfighting, cockfighting, fish fighting, and horse racing), which require prior permission and authorisation from the authorities. The approval depends on the discretion of the authority, considering the necessity of the occasion, such as traditional events or approval by the Ministry of Interior. All other forms of betting are generally prohibited.

Bingo

Bingo is regulated under the GBA as a gambling game in List B, number 15, which requires prior

permission and authorisation from the authorities before playing. However, Bingo has restrictions in that prizes cannot be awarded in the form of money. Additionally, awarded prizes cannot be returned, bought back, or exchanged within the premises where the event or play is taking place or in any contiguous area. Therefore, awarding Bingo prizes in the form of money is prohibited and considered illegal.

Casinos

Casinos are strictly prohibited under the GBA, as they are not regulated within List A and List B of the GBA, as stated in Section 4. Furthermore, there are no specific conditions or regulations for casino gambling specified in ministerial regulations under Section 4 Bis, which would permit such gambling. Hence, casinos are illegal in Thailand.

Lotteries

In Thailand, lotteries are gambling games listed in List B that require prior permission and authorisation from the authorities before organising and playing. However, lotteries are typically operated by the Government Lottery Office (the GLO) under the Government Lottery Office Act 1974, which is the only legally sanctioned form of lottery in Thailand. Other lotteries permitted under the GBA are mostly allowed for specific organisations approved by the Ministry of Interior, such as the Thai Red Cross Society and the Government Savings Bank. There is no record of other commercial lotteries being allowed under the GBA.

Fantasy Sports

Fantasy sports are not regulated in List A or List B of the GBA, and there are no other regulations governing fantasy sports. Fantasy sports are not as popular in Thailand as in Western nations, however, if fantasy sports involve no real money

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or possessions akin to money, they may not be recognised as gambling and may be allowed. On the other hand, if fantasy sports are considered a form of gambling under the GBA that involve gambling for money or other possessions, they may be considered gambling and not legally permitted in Thailand.

Social Gaming

Social gaming typically refers to games where no real money is involved, and as such, it is not considered gambling under the GBA. The games themselves do not typically involve gambling with money or other possessions and are generally allowed. However, if there is a transition into actual gambling involving real money or other real possessions, it may not be allowed.

Poker

Poker is categorised as gambling in List A No 11 under the GBA, making it strictly prohibited and illegal in Thailand.

- advertising of gambling;
- penalties for violations of the GBA; and
- gambling tax rates.

The Civil and Commercial Code (the CCC) (Gambling and Betting, Sections 853–855)

The compilation of the CCC about gambling has a fundamental principle that gambling does not create debt. In other words, regardless of whether the organising party facilitates gambling or the gambling participant, the winning party cannot demand the losing party to settle a gambling debt. This is because there is no legal basis to support such debt claims.

This provision is enacted to prevent the claiming of assets resulting from continuous gambling. Therefore, any contract or agreement related to gambling is considered void in accordance with the law and cannot be enforced, even in cases where the GBA has permitted gambling.

The Government Lottery Office Act 1974 (the GLOA)

The GLOA is the legislation that specifically governs the government lottery. The government lottery is a form of gambling permissible due to specific legal provisions. The issuance of the government lottery by the Government Lottery Office (GLO) under the GLOA shall be considered a lottery authorised by the government. Debts arising from the issuance of such government lottery may be claimed, which is an exemption from the CCC provision regarding debt from gambling.

The Anti-Money Laundering Act 1999 (the AMLA)

See 8.1 AML Legislation.

3. Legislative Framework

3.1 Key Legislation

The key legislation applicable to the gambling sector in Thailand are as follows:

The Gambling Act 1935 (the GBA)

The GBA is the primary law that directly regulates all gambling activities, aiming to suppress and control gambling activities. It contains provisions related to gambling, totalling 17 sections, which outline key aspects as follows:

- prohibited gambling;
- permissible gambling;
- requirements for obtaining a gambling licence;
- confiscation of assets from illegal gambling;

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The Computer Crime Act 2007 (the CCA)

The CCA is not a provision that directly governs gambling activities. However, in the current circumstances where there is no specific legislation addressing illegal online gambling, the CCA serves as one of the authorities' tools used to control illegal online gambling. It enables authorities to block access or remove computer data from systems within Thailand's jurisdiction when the computer data associated with online gambling disrupts public order or good morals under the CCA.

3.2 Definition of Gambling

Although the GBA is the primary law regulating gambling activities in Thailand, it does not provide a clear and explicit definition or context for the term "gambling". However, Section 4 Bis of the GBA indirectly sheds light on the meaning of gambling. It can be derived that gambling encompasses games, including guessing and predicting. This demonstrates that gambling includes games of chance.

Additionally, Section 5 states in relation to gambling that "Whoever organises a game in which it is normal to gamble money or other possessions shall be presumed to have organised it for his own benefit. And any person who plays the game shall also be presumed to have gambled money or other possessions." This further illustrates that gambling involves playing with the risk of gaining or losing money or assets.

3.3 Definition of Land-Based Gambling

In Thailand, there is no statutory definition of "land-based gambling" under the GBA.

3.4 Definition of Online Gambling

In Thailand, there is no statutory definition of "online gambling" under any law or regulations

related to gambling. Furthermore, in practice, online gambling is not legalised.

3.5 Key Offences

The GBA imposes key offences and penalties for unlawful gambling as follows.

- Organising, deceiving people, assisting in advertising, inviting people to participate in unauthorised gambling, or participating in unauthorised gambling. The penalties vary based on the type of game as follows:
 - (a) If the offence is related to gambling in No 1 to 16 of List A or similar games, the penalty is imprisonment for up to three months, not exceeding three years, or a fine of up to THB500, not exceeding THB5,000, or both.
 - (b) For offences related to other gambling games than mentioned above, imprisonment for no more than two years, or a fine not exceeding THB2,000, or both.
 - (c) For offences for gambling that are not indicated in the GBA, imprisonment not exceeding one year, or a fine not exceeding THB1,000, or both.
- Violating the prohibition on receiving, buying back, or exchanging prizes awarded for games that are not allowed to award money:
 - (a) The penalty is imprisonment for no more than three months, or a fine not exceeding THB500, or both.
- Unauthorised arrangements for offering free gifts or prizes in a game of chance as part of a business or occupation:
 - (a) The penalty is imprisonment for no more than one year or a fine ranging from THB50 up to THB2,000, or both.

3.6 Penalties for Unlawful Gambling

See 3.5 Key Offences.

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3.7 Recent or Forthcoming Legislative Changes

The GBA, having been enacted for 88 years, is considered relatively outdated. Its existing offences and associated penalties are viewed as insufficient. Offenders often show little hesitation in committing offences due to lenient punishments. In response, the Thai government has recognised the need for reform and has taken proactive steps by drafting a new Gambling Act to impose more stringent penalties.

This Draft Act introduces crucial provisions that encompass clear definitions of gambling activities and an array of enhanced control measures. These measures include the prohibition of minors from engaging in gambling, specific qualifications for gambling licensees, updates to gambling fees and tax rates, and a revision of the list of gambling games as outlined in the draft.

Although the draft was initially proposed in 2016, progress has been slow over the subsequent years. However, there remains a sense of optimism that the draft will be enacted in the near future. This enactment would signify a significant stride towards rectifying the current inadequacies in the regulation of gambling activities.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

According to the GBA, the Minister of Interior holds the responsibility for the provisions of the GBA and has the authority to issue Ministerial Regulations for the following purposes:

- appoint officials responsible for enforcing the GBA;
- determine gambling fees;

- impose conditions for gambling; and
- prescribe any related regulations for the effective implementation of the GBA.

Furthermore, the competent officials appointed through Ministerial Regulations are authorised to issue a gambling licence under List B annexed to the GBA, as well as a licence to organise a prize-winning game (game of luck). The competent officials are as follows:

- Director of the Investigation and Legal Affairs Bureau, Department of Provincial Administration, for Bangkok.
- Chief of District, or Deputy Chief of District, for other provinces apart from Bangkok. A “District” is a political subdivision.

4.2 Regulatory Approach

In Thailand, the regulatory approach can be described as prescriptive and prohibitionist, with laws and regulations clearly stipulating the prohibited forms of gambling and their respective penalties. The Thai government’s primary strategy in regulating gambling is prohibition. The GBA delineates a stringent and prohibitive stance towards gambling activities. Most forms of gambling are deemed illegal in Thailand, and those permitted are subject to heavy regulation. The government enforces these laws rigorously. Despite the relatively low penalties specified in the GBA, competent authorities diligently impose severe punishments for gambling-related offences, often integrating with other related laws such as anti-money laundering law or the computer crime law for effective enforcement and penalties.

However, there is no formal risk-based regulation in the sense of systematically assessing the risks associated with gambling activities. Instead, the primary focus is on restricting and

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prohibiting gambling to mitigate associated social and moral risks.

4.3 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes.

4.4 Types of Licences

Under the GBA, the types of licences applicable to gaming and gambling are restricted to the types of games listed in List B. This list comprises 28 types of games, which are as follows.

- Games in which animals are put to fight or to race such as bullfighting, cockfighting, fish fighting, and horse racing.
- Race of bulls and men.
- Boxing and wrestling.
- Boat racing and rowing.
- Image guessing.
- Quoit.
- Tossing of coins or any object in any kind of container.
- Fishing.
- Drawing lots by any means.
- Shooting.
- Pitching at facial representation, animals, or any object.
- *Tao-Kham-Dan*.
- *Mak-Kaew*.
- *Mak-Hua-Daeng*.
- Bingo.
- Lottery, raffle, or any game of luck promising money or other benefit to any of the players.
- Totalisator of any game.
- Sweepstake of any game.
- Bookmaking of any game.
- Sale of lottery, raffle, or sweepstake tickets which are not issued in Siam, but legally held in the issuing country.
- *Mah-jong*, dominoes, and card games.
- Backgammon.

- Billiards.
- *Khong-Oy*.
- Sabatoy.
- Sabashoot.
- Table football.
- Gaming machines using mechanics, electricity, light, or any other types of power, by touching, sliding, pressing, flicking, pulling, pushing, shooting, throwing, revolving, spinning, or any other ways which allow players to win or lose, regardless of whether points and such are counted.

4.5 Availability of Licences

The GBA does not impose restrictions on the number of licences that may be granted. Operating licences are readily available, subject to the fulfilment of application criteria for each type of game and the payment of the application fee.

4.6 Duration of Licences

The GBA does not specify the duration of gambling licences. However, it requires all gambling licences to have a specified duration. This duration must be proposed by the applicant and approved by the competent officers. Therefore, the available duration of the licences depends on the approval of the competent officers based on the proposed duration by the applicant on a case-by-case basis.

4.7 Application Requirements

As of now, the GBA does not have provisions that prescribe specific qualifications or application requirements for the operator, directors, owners, senior management, shareholders, or set thresholds for the applicant company. However, in practice, competent officers may require identification information from the applicant, such as an identification card in the case of an individual or a copy of the company certificate in the case of a company, a map indicating where

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the gambling activities will be held, and any other necessary documents upon request by the competent officer.

4.8 Application Timing

There is no legislation outlining the timescale for licence applications. However, in practice, the duration for the licence application process, from start to completion, usually does not exceed 90 days from the day the complete application is submitted.

4.9 Application Fees

The fees for granting gambling licences for various gambling activities as listed in List B of the GBA are determined in accordance with Sections 17 and 18 of Ministerial Regulation No 17 (1960), enacted under the provisions of the GBA. The licence fees for gambling activities listed in List B are as follows.

- Games within animal fighting or racing:
 - (a) fighting of bulls, buffalos, goats, or sheep – THB400 per day;
 - (b) fighting of animals other than bulls, buffalos, goats, or sheep – THB200 per day;
 - (c) horse racing:
 - (i) in Bangkok – THB500 per race; and
 - (ii) in other provinces – THB50 per race; and
 - (d) racing of animals other than horses – THB200 per race.
- Race of bulls and men – THB200 per day.
- Boxing and wrestling – THB200 per day.
- *Rue-pung* race or *rue-lor* race (race games using wooden boat toys and coins, respectively) – THB200 per day.
- *Chee-roob* (picture-pointing game) – THB200 per group, per day.
- Ring toss game – THB200 per group, per day.
- Game consisting of tossing coins or any other objects with a recipient – THB200 per group, per day.
- Fishing game – THB200 per group, per day.
- Prize draws in any form – THB200 per group, per day.
- Shooting game – THB200 per group, per day.
- Game consisting of throwing at objects representing a human face, an animal, or any other similar articles – THB200 per group, per day.
- *Tao-kam-dan* (game using dice) – THB200 per day.
- *Mak-gaew* (a kind of board game) – THB200 per day.
- *Mak-hua-daeng* (a kind of board game) – THB200 per day.
- Bingo – THB200 per day.
- Lottery, raffle, or any other gambling game in which one of the players will receive money or other benefits – THB5,000 per round.
- Totalisator for any kind of game:
 - (a) in Bangkok Metropolitan – THB10,000 per group, per day; and
 - (b) in other provinces – THB1,000 per group, per day.
- Sweep for any kind of game – THB1,000 per round.
- Bookmaking for any kind of game – THB5,000 per group, per day.
- Sale of lottery, raffle, or sweep tickets which are not issued in Thailand, but are legally organised under the law of the country where they are held – THB1,000 per round.
- Card games:
 - (a) *mahjong* – THB1,000 per group, per day;
 - (b) poker and Chinese poker – THB2,000 per group, per day;
 - (c) *Pai Pong* and *Pai Sesek* (Chinese card games) – THB1,000 per group, per day; and
 - (d) other card games – THB100 per group, per day.

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- Duad – THB100 per group, per day.
- Billiards – THB300 per table, per month.
- *Kong-aoy* – THB100 per group, per day.
- *Sabatoy* – THB100 per group, per day.
- Sabashoot – THB100 per group, per day.
- Table football – THB1,000 per table.
- Gaming machines using mechanics, electricity, light, or any other types of power, by touching, sliding, pressing, flicking, pulling, pushing, shooting, throwing, revolving, spinning, or any other ways which allow players to win and lose, regardless of whether or not there are counting points or any other symbols – THB2,000 per machine.

Fees for licence to organise a prize-winning game (game of luck):

- For a licence with a validity of one day – THB300.
- For a licence with a validity of up to seven days – THB600.
- For a licence with a validity of up to one month – THB1,500.
- For a licence with a validity of up to six months – THB6,000.
- For a licence with a validity of up to one year – THB9,000.

4.10 Ongoing Annual Fees

Under the GBA, there are no separate annual fees for gambling licences.

5. Land-Based Gambling

5.1 Premises Licensing

Under the GBA, there are no specific requirements for premises licensing. The GBA only requires that the place where gambling activities will be held is specified in the gambling licence.

5.2 Recent or Forthcoming Changes

There are no notable changes or legislative motions related to the land-based gambling sector.

6. Online Gambling

6.1 B2C Licences

In Thailand, no such licences are available.

6.2 B2B Licences (Suppliers, Software, Etc)

In Thailand, there are no specific licences available for B2B services.

6.3 Affiliates

Under the GBA, there is no specific regulation regarding affiliates.

6.4 White Labels

There are no specific licensing or regulatory requirements regarding the use of white-label providers.

6.5 Recent or Forthcoming Changes

There are no notable changes related to online gambling.

6.6 Technical Measures

See 3.1 Key Legislation under “The Computer Crime Act 2007 (the CCA)”.

7. Responsible Gambling (RG), Also Known as Safer Gambling (SG)

7.1 RG Requirements

In Thailand, there is no legislation or guideline that outlines key responsible gambling requirements.

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7.2 Recent or Forthcoming Changes

There have not been any significant recent changes or forthcoming changes to responsible gaming requirements.

7.3 Gambling Management Tools

See 3.1 Key Legislation.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The primary legislation relevant to anti-money laundering in the gambling sector in Thailand is the Anti-Money Laundering Act 1999 (AMLA). The AMLA is aimed at enforcing actions against money laundering offences and dealing with assets related to acts defined as offences under the AMLA.

Under the AMLA, a “predicate offence” is defined as the underlying offence that generates or provides the funds or assets resulting from the commission of an offence, subject to the application of laws for preventing and combating money laundering.

In the context of gambling, offences related to organising gambling activities without permission, with a total amount of money involved being THB5 million or above, or organising gambling through electronic means (ie, online gambling), are categorised as predicate offences under Section 3 (9) of the AMLA.

The AMLA is primarily enforced against any person who commits the following actions, which are considered offences of money laundering:

- Transferring, accepting a transfer, or converting assets connected with the commission of an offence to cover or conceal the origin

of that asset, or assisting other persons to evade criminal liability or receive a lesser penalty for a predicate offence, whether before or after the commission thereof.

- Acting in any manner whatsoever to conceal or disguise the true nature, acquisition, source, location, distribution, or transfer of the asset connected with the commission of an offence or the acquisition of rights.
- Obtaining, possessing, or using an asset, knowing that, at the time of obtaining, possessing, or using such asset, it was/is connected with the commission of a predicate offence.

Anyone committing a money laundering offence is subject to imprisonment for not less than one year to ten years, or a fine of not less than THB20,000 to THB200,000, or both a fine and imprisonment.

In practice, the AMLA is used in conjunction with the GBA, particularly against online gambling, as it is the only law that specifically addresses online gambling and imposes higher penalties compared to the GBA. Therefore, the AMLA is a key piece of legislation in combating online gambling and illegal gambling activities.

Furthermore, the AMLA has established significant measures to prevent money laundering. These measures include prevention steps by designating financial institutions and professionals as reporting entities and implementing effective asset management measures resulting from criminal acts, aligning with the AMLA.

8.2 Recent or Forthcoming Changes

There are no recent or forthcoming changes on AML legislation which are of relevance to the gambling sector.

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8.3 AML Requirements

Key components of Thailand's AML requirements include:

- Transaction reporting requirement:
 - (e) Financial institutions, land offices, and professionals such as advisors in investment or funds transactions, professionals in trading precious stones, professionals in car trading or hire-purchase, and those acting as brokers or agents in real estate transactions (among others as prescribed by the AMLA), must report the following transactions to the Anti-Money Laundering Office (AMLO):
 - (i) Cash transactions exceeding the threshold prescribed in the Ministerial Regulation.
 - (ii) Transactions connected with assets worth more than the value prescribed in the Ministerial Regulation.
 - (iii) Suspicious transaction.
 - (f) Currency declaration:
 - (g) Individuals entering or leaving Thailand must declare the amount of currency in their possession to AMLO.
- Customer due diligence (CDD):
- Financial institutions and professionals must conduct due diligence, requiring all customers to identify and verify their identities before conducting any transaction.
- Due diligence records retention:
- Financial institutions and professionals must retain customer due diligence records for ten years from the completion date of the transaction or termination of the relationship.

9. Advertising

9.1 Regulatory/Supervisory Agency

In general, the Advertising Committee (AC) under the office of the Consumer Protection

Board (OCPB) regulates consumer protections in the advertising industry through the Consumer Protection Act 1979 (CPA). The CPA primarily governs the context of advertisements for goods or services, ensuring they do not contain statements that are unfair to consumers or may have adverse effects on society. This includes false or exaggerated statements which may cause a fundamental misunderstanding regarding the goods or services, or statements that support the violation of law, morals, or contribute to the cultural depreciation of the nation.

Regarding gambling advertising, such advertising that invites any person to participate in unauthorised gambling is considered an offence and is subject to penalties under the GBA, as mentioned in **3.5 Key Offences**. The authority responsible for regulating gambling including advertising gambling, under the GBA, is the Department of Provincial Administration (DOPA), under the Ministry of Interior.

9.2 Definition of Advertising

The GBA does not explicitly define “advertising” within its provisions. However, the CPA, as the principal legislation in the advertising industry, provides a definition that can encompass the concept of advertising in Thailand. According to the CPA, “advertise” refers to any act that uses any means to inform the public about a statement for the purpose of trade.

Therefore, in the context of gambling, advertising may be interpreted to encompass any act that informs or makes the public aware of gambling through various means.

9.3 Key Legal, Regulatory and Licensing Provisions

The key legal and regulatory provision relevant to advertising within the gambling industry is Sec-

tion 12 of the GBA, which outlines the offence of advertising unauthorised gambling and prescribes penalties for offenders who violate this provision.

9.4 Restrictions on Advertising

See 9.3 Key Legal, Regulatory and Licensing Provisions.

9.5 Sanctions/Penalties

Infringing upon the advertising provision under the GBA results in criminal penalties. Offenders are liable for imprisonment and fines, as mentioned in 3.5 Key Offences.

9.6 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

There are no specific disclosure requirements mandated for acquisitions or changes of control within gaming and gambling companies.

10.2 Change of Corporate Control Triggers

As of now, there are no specific provisions that trigger changes of corporate control within gaming and gambling companies.

10.3 Passive Investors Requirements

The GBA does not provide any requirements for passive investors in acquisitions or changes of control regarding gaming and gambling companies.

11. Enforcement

11.1 Powers

The powers of enforcement that regulatory bodies typically have regarding unlawful gambling in Thailand are as follows.

- Gambling licensing – regulatory bodies, such as the Ministry of Interior and the competent authorities appointed by the Ministerial Regulations, are responsible for receiving gambling arrangement applications, investigating the qualification of each applicant, issuing licences for lawful gambling, and regulating the gambling industry.
- Law enforcement – unlawful gambling activities are criminalised under the GBA, granting authority to prosecutors such as the police – the authority responsible for investigation, prosecution, conducting raids, making arrests, and seizing assets connected to illegal gambling operations.
- Blocking access to gambling websites – Thai authorities are enabled to block access to unlawful online gambling websites that operate without the necessary licences or authorisation, a measure permitted under the Computer Crime Act (CCA) to maintain public order and uphold good morals.

11.2 Sanctions

Law enforcement authorities in Thailand, including the Department of Provincial Administrative Office and the Thai Police, initiate investigations based on reports or complaints from citizens suspecting illegal actions related to the GBA.

Upon receiving a complaint or suspected report, the authorities commence investigations to identify and apprehend individuals involved in illegal gambling activities. They seek solid evidence to determine the offence committed under the GBA

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and further investigate other potential offences; eg, gambling advertising or money laundering. After gathering sufficient evidence and confirming the offence, authorities may proceed to extend their investigation. In certain cases, they can confiscate assets related to illegal gambling activities, including seizing money, properties, and other assets linked to gambling operations as evidence for prosecution.

Upon accumulating adequate evidence, the case is forwarded to the public prosecutor to initiate criminal proceedings in court. This allows the court to adjudicate the offence and determine appropriate penalties for the offenders. However, penalties for gambling offences are imposed on offenders under the GBA. Depending on the specific offence, they may face fines, imprisonment, or both.

Currently, instances of online gambling violating the law are on the rise, resulting in increased arrests of website owners over the past year. In a recent case reported in September 2023 by the Department of Special Investigation (DSI), action was taken against the owners of an online gambling website involved in money laundering, known as AK47Max. The officers conducted inquiries, gathered evidence, examined financial transactions, and seized assets suspected to have been obtained from illegal gambling activities. Preliminary findings indicated violations related to illegal gambling through electronic means (operating an online gambling website), amounting to over THB70 million. The operation of an online gambling website is a predicate offence that serves as the basis for prosecuting legal action regarding money laundering.

11.3 Financial Penalties

Under the GBA, the only financial penalty enforced is the applicable fine as mentioned

in **3.5 Key Offences**, which is enforced for all responsible parties.

11.4 Personal Sanctions

Potential personal sanctions for the enforcement of the GBA in Thailand:

- Fines – individuals involved in illegal gambling may face financial penalties. The fines can vary depending on the type and severity of the gambling offence as mentioned in **3.5 Key Offences**.
- Imprisonment – individuals found guilty of engaging in illegal gambling activities can face imprisonment. The duration of imprisonment can vary based on the specific offence and related laws. See **3.5 Key Offences** for further details.

12. Tax

12.1 Tax Rate by Sector

According to Section 16 and Section 16 Bis of the GBA, it is stipulated that licensees are required to pay taxes for certain types of gambling activities as listed in the Ministerial Regulation. This tax is in addition to the gambling licence fees. The tax rates and fees for issuing licences are set by the Minister of the Interior based on the local conditions. Subsequently, ministerial regulations were enacted to determine the tax rates and fees for gambling activities in compliance with the GBA. The tax on gambling refers to the tax payable by licensees for specific gambling activities as listed in the Ministerial Regulation No 17 (1960) under the provisions of the GBA, as amended by the Ministerial Regulation No 43 (2000). The applicable rates are as follows.

Totalisator of any game:

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- In Bangkok, 10% of revenue before deduction of expenses.
- In other provinces, 5% of revenue before deduction of expenses.

Bookmaking of any game:

- In Bangkok, 10% of revenue after deduction of expenses.
- In other provinces, 5% of revenue after deduction of expenses.

Lottery, raffle, or any game of luck promising money or other benefit to any of the players, sweepstake of any game, and sale of lottery, raffle, or sweepstake tickets which are not issued in Siam, but legally held in the issuing country:

- In Bangkok, 10% of the selling price of lottery tickets, sweepstakes tickets, or lottery chances.
- In other provinces, 5% of revenue before deduction of expenses.

Lottery for charitable purposes, as approved by the Cabinet:

- The tax rate is 0.5% of the selling price of lottery tickets, sweepstakes tickets, or lottery chances before deduction of expenses.

In addition to the aforementioned taxes, licensees for gambling activities are subject to an additional tax of 2.5% of the taxable amount specified in Article 16 paragraph 2 of the GBA, to be allocated to the local administrative organisation where the licensed gambling takes place.

13. Anticipated Reform

13.1 Anticipated Reform

See 1.1 Current Outlook and Recent Changes.

Trends and Developments

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Formichella & Sritawat has been advising international clients on commercial transactions and regulatory matters within the online gaming industry and telecommunications, media, and technology sector for over 20 years. In addition to gaming, data privacy, cybersecurity, and TMT/corporate practices, the firm's litigation practice represents international corporations in complex business and commercial disputes

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THAILAND TRENDS AND DEVELOPMENTS

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The Potentially Beneficial Future of the Thai Gambling Industry

Introduction

At present, Thailand stands at the threshold of a pivotal transition. According to the Bank of Thailand's economic and financial report for the second quarter in June 2023, Thailand is progressing towards recovery. Notably, Thailand's tourism industry is critical to the country's economic growth and the tourism sector in this quarter is showing signs of improvement as international tourist arrivals increase. Thailand is on a path to recovery from the prolonged and multifaceted impact of the COVID-19 pandemic, which has left an indelible mark on Thai society and the economy for years.

As the recovery gains momentum, the government is orchestrating a concerted effort to stimulate economic growth and restore stability. Policies are being crafted to bolster various sectors, encourage investment, and promote innovation.

This transitional phase also serves as an opportune moment for Thailand to diversify its economic ventures and explore emerging sectors. The government is actively fostering an environment conducive to entrepreneurship and technological advancements. It envisions a nation at the forefront of innovation, harnessing its potential to make significant strides in various industries.

In recent times, Thailand has witnessed a rapid increase in gambling activities, particularly in remote or online gambling. A study conducted by the Gambling Problem Education Center (GPEC) revealed that 59.6% of the sampled Thai individuals aged 15 and above engaged in gambling in the year 2021, marking a 6.3% increase compared to 2019. The most common types of gambling included government lottery,

underground lottery, card games, football prediction, and others, in respective order. Furthermore, online gambling gained momentum during the pandemic when social distancing measures were put in place, leading to an increased reliance on technological devices. The GPEC also revealed that since 2019, during the initial outbreak of COVID-19, the online gambling industry had 800,000 users. Subsequently, in 2021, the number of users surged to a reported 2 million. This substantial increase translated into a notable boost in funds circulating within the online gambling market, escalating from THB20 billion in 2019 to an impressive THB100 billion in 2021.

However, it is essential to emphasise that despite this surge, online gambling remains illegal and strictly prohibited in Thailand. Only certain forms of gambling, such as government lotteries and horse racing, are permitted.

Overview of the draft Gambling Act

In response to the evolving gambling landscape, the Thai government has been considering amendments to the existing Gambling Act, which has been in effect for 88 years, consisting of 17 sections which are considered outdated. However, in 2016 the draft Gambling Act ("the Draft Act") was proposed to the National Legislative Assembly for consideration and has been under review by the Office of the Council of State since then. As of December 2022, the Draft Act has completed its public hearing, marking a significant milestone in its development. Over the course of ten years, from its drafting to the present day, the draft is continually refined to reflect the feedback from public hearings.

Furthermore, considering the fast-paced growth of the gambling industry, which has become more intricate, the Draft Act may require a thorough review to ensure its relevance to the cur-

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rent situation. The enforcement of the Draft Act may take several more years. Nonetheless, in this context, let us examine the essence of the Draft law to identify the additional aspects incorporated compared to the existing Gambling law.

Key aspects outlined in the Draft Act's 44 Sections

- Definition of gambling:
 - (a) Although Thailand has the Gambling Act 1935 (the GBA) governing gambling activities, the law itself does not clearly define what constitutes gambling. To address this ambiguity, the Draft Act proposes a clear and explicit definition of gambling. It defines gambling as a game of chance that relies on uncertain results or events, with the intention of gaining money, assets, or other benefits from such a game.
- Controlling of gambling:
 - (a) This provision in the Draft Act maintains that gambling remains prohibited and restricted. Gambling in games indicated in attachment List A is prohibited, and gambling in games indicated in attachment List B is prohibited unless authorised.
 - (b) The organisers of gambling are strictly prohibited from allowing or negligently letting minors under 20 years old engage in gambling.
- Gambling licensing:
 - (a) The Draft Act mandates licensing officers and specifying their duties:
 - (i) granting a licence;
 - (ii) ordering the licensee to suspend or act in compliance with gambling law;
 - (iii) revoking the licence; and
 - (iv) collecting gambling taxes.
 - (b) Furthermore, the qualifications and prohibitions of licensing are provided in the Draft Act, specifying that the licensee must be a Thai national, aged up to 35

years old, not a bankrupt person, not an incompetent person or quasi-incompetent person, and having never been sentenced to imprisonment by a final court judgment.

- Taxation and fees:
 - (a) The Draft Act has broadened the range of gambling activities subject to taxation, differing from the GBA. Additionally, it includes provisions outlining fines for late payment of gambling taxes.
- Punishment:
 - (a) The draft law has been updated to increase and add penalties for violations related to gambling. The penalties still include imprisonment and fines. The imprisonment penalty now ranges from six months up to five years. In terms of fines, the penalties range from THB10,000 and exceed THB200,000.

Opportunities regarding legalisation of casinos

In 2021, the Thai government took proactive measures by establishing a specialised House Committee to conduct a comprehensive study on the feasibility of permitting an entertainment complex with integrated casinos. Over the course of 2021 and 2022, the Thai government has gradually evolved its stance, acknowledging the potential advantages of organised gambling in Thailand, particularly within the framework of “entertainment complexes” designed to encompass casinos, hotels, shopping centres, convention facilities, and related amenities.

The House Committee conducted thorough studies during 2021–2022 presenting compelling survey results based on the perspectives of 3,796 individuals, showing that 80.67% of the public supports the establishment of comprehensive entertainment complexes in Thailand.

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Additionally, 36.38% of the respondents support the legalisation of casinos in Thailand. Moreover, 56.13% believe that Bangkok and the provinces within the Eastern Economic Corridor (EEC) are the most suitable areas to develop a comprehensive entertainment complex. The House Committee also believes that legalising casinos in Thailand could stimulate the economy, though it may pose social challenges.

Furthermore, The House Committee proposed to the previous government the establishment of comprehensive entertainment complexes, inclusive of legal casinos, through a collaborative effort involving both the government and the private sector. The committee also advocated for the legalisation of online gambling in eight distinct formats, including a variety of casino games, stock market or currency betting, online sports betting, event betting (eg, prime ministerial elections), online bingo, online lotteries (both domestic and international), online gaming, and e-sports betting.

According to the House Committee report, the recommended locations for these online casinos encompass three zones:

- Bangkok and the EEC (within a 100-kilometre radius from Don Mueang Airport, Suvarnabhumi Airport, and U-Tapao Airport);
- 22 major tourist provinces; and
- border provinces with immigration checkpoints, such as:
 - (a) Phuket, Phang Nga, and Krabi in the South;
 - (b) Chiang Mai and Chiang Rai in the North; and
 - (c) Udon Thani, Khon Kaen, Ubon Ratchathani, and Nong Khai in the Northeast.

Nevertheless, the legalisation of casinos presents formidable challenges. Striking a delicate balance between maximising economic benefits and addressing societal concerns is of paramount importance. Implementing responsible gambling measures, enforcing stringent regulations, and establishing a robust social support system are imperative to mitigate the potential negative impacts associated with increased gambling activity.

However, it's worth noting that the legalisation of casinos or comprehensive entertainment complexes is unlikely to occur in the immediate future. The presented report appears to have been generated for future consideration, awaiting the deliberation of a new government. As of the present writing, there have been no significant developments concerning the legalisation of casinos by the recent government.

Controlling game content

The control and regulation of games may become stricter under the Draft Film and Game Act ("the Draft FG Act"), as revealed in public hearings by the Department of Cultural Promotion in April 2023. This Draft FG Act provides a strong emphasis on overseeing and controlling the content of films and games and includes film and game advertisement media. The key aspects of the Draft FG Act are outlined as follows.

- Game oversight:
 - (a) Game content rating – games intended for release or distribution in Thailand must undergo a content rating process to determine the suitability for the age of audiences. This content rating can be carried out either through self-rating by the creator or by a Content Rating Com-

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- mittee. If self-rating, the creator must be registered with a central rating authority.
- (b) Games undergoing self-rating must not include content that is contrary to public order or good morals or may affect the security and dignity of Thailand. Additionally, it should not affect international affairs or contain content prohibited within Thailand.
 - (c) Export of games created in Thailand to other countries requires permission from the Content Rating Committee of the Department of Cultural Promotion, Ministry of Culture.
 - (d) Exemptions from content rating requirements – some games are exempt from the content rating requirement, including:
 - (i) games produced by government agencies, state enterprises, or educational institutions for educational purposes, or for promoting Thai culture, traditions, and good values in society;
 - (ii) games created for private use and not publicly distributed in Thailand; and
 - (iii) games exhibited during international gaming festivals as declared by the National Film and Game Industry Promotion Committee.
 - (e) Advertisement of games – advertising for games must be approved by the Content Rating Committee. If games or advertisements are found to contain content that is harmful to the stability or dignity of Thailand, regardless of whether they have been classified or not, they may be subject to legal action with respect to computer-related offences.
- Game business operations requirements:
 - (a) Notification of game business – individuals intending to operate a game shop or physical game distribution business must notify the central registrar or the provincial registrar of their operation and the location of their business.
 - (b) Customer screening – game shop and game distribution business operators must screen their customers to ensure they are appropriate for the age range of the game's content rating.
 - Sanctions:
 - Administrative measures:
 - (i) Withdrawal of game content rating – in cases where authorities find that a game or advertisement in Thailand contains false information that misrepresents the content and does not align with the rated content, they will notify the central registrar to withdraw the classification of the game.
 - (ii) Correction order – in cases where a game has been distributed in Thailand without displaying the correct content rating, or brief description of the game, the authorities may issue an order for correction within a specified timeframe.
 - (iii) Suspension of game distribution – in cases of non-compliance with orders for correction, the authorities may order the suspension of game distribution until the correction is made.
 - (a) Administrative penalties:
 - (i) Failure to comply with orders to suspend the distribution of games may result in administrative fines ranging from THB100,000 to THB5 million.
 - (b) The attempt to control the content of games by government agencies has been continuous over the past several years. Games are seen as content that reaches people in Thailand, especially minors, who can be easily influenced by

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game content. The effort to classify the content according to appropriate age ranges is viewed as a measure to help filter out potentially harmful content from being transmitted to society. However, the release of the Draft FG Law has been criticised, suggesting that it might lead to a reduction in creativity and entertainment value of game content in the future. Currently, after soliciting public opinions, government agencies are carefully considering striking a balance in the law to ensure effective control while not stifling the creative aspect of games.

In addition, Thailand's evolving gambling landscape presents both challenges and opportunities. Navigating this changing landscape requires a proactive and well-informed approach, ensuring compliance with the regulatory framework while addressing societal concerns. The future of gambling in Thailand will be influenced by thoughtful legislative changes, effective enforcement, and a dedication to responsible gambling, ultimately benefiting Thailand.

Conclusion

Potential amendments to Thailand's gambling laws and upcoming game content control are raising concerns within the gaming industry. Businesses eyeing opportunities in the Thai gambling market should carefully track these developments, considering legal, social, and economic aspects. The government's tightening regulations on game content, particularly age-appropriate classifications aimed at protecting underage audiences, are reflected in the Draft Film and Game Act. However, worries persist regarding the potential impact on creative freedom within the gaming industry.

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