
CHAMBERS GLOBAL PRACTICE GUIDES

Gaming Law 2024

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Contributing Editor

Bahar Alaeddini

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Chambers

Global Practice Guides

Gaming Law

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Harris Hagan

2024

Chambers Global Practice Guides

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Published by

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Web www.chambers.com

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INTRODUCTION

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Harris Hagan is the only City of London law firm dedicated exclusively to the provision of legal services to all sectors of the gambling and leisure industries in the UK and internationally. The firm was established in 2004 by Julian Harris and John Hagan, and is driven by the long-term sustainability and success of the industry it cherishes. The firm's business includes gambling law, compliance and regulation, and it advises many of the world's largest

land-based and online gambling businesses (B2C and B2B), as well as many private equity firms, other investors, leading international law firms and start-ups. The firm, which is known for its first-class team of lawyers, being trusted advisors in the regulated gambling industry and commercial awareness of the challenges faced by clients, is now led by John Hagan and Bahar Alaeddini.

Contributing Editors



Bahar Alaeddini is a partner at Harris Hagan and specialises in all aspects of online and land-based gambling law. She advises major B2C and B2B gambling businesses, start-ups,

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INTRODUCTION

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What Next for Gambling Regulation?

Harris Hagan is again pleased to introduce the Chambers Global Practice Guide to Gaming Law. Gaming Law 2024, while not an exhaustive text on gambling law, is a guide to the licensing and regulatory regimes in many of the major global markets. The author hopes that its geographical coverage and information on the regulatory frameworks globally will be a helpful guide to lawyers, gambling businesses and others.

As the global gambling industry continues to grow and evolve, the regulatory landscape is rapidly changing to address new challenges, opportunities and technologies. The next phase of gambling regulation is being shaped by several key trends and developments, all of which are likely to have a significant impact on how gambling is conducted and regulated worldwide.

Technology

Technology continues to grow rapidly and to touch almost every aspect of our lives in some shape or form. It is changing the way we behave, communicate, live, work, play, learn and gamble, as well as changing the world and our society.

Without a doubt, online gambling has metamorphosed since its infancy, alongside technological change. With people spending a third of their waking time on their mobile phones, the global mobile gambling industry is booming with growing demand. Businesses continue to innovate, seen most recently with several Las Vegas casinos diversifying into live casino. Legislators and regulators continue to see the benefits of the regulated market both in terms of ensuring they do not miss out on tax revenues and improving consumer protections.

The use of AI has continued to grow exponentially over the last 12 months, and its infiltration

into the industry is starting to be seen. AI is a powerful tool which is now being used to support safer gambling through tracking customer behaviours and assisting operators in intervening if there are signs of problem gambling, as well as in relation to banking and payments and associated security measures.

AI has also expanded into compliance. The UK's Advertising Authority, which regulates UK advertising, has been using AI to monitor gambling promotions to confirm they comply with their requirements. There is also the possibility to use AI to detect suspicious betting activity. AI will undoubtedly continue to be a big theme for the year ahead and perhaps we will start to see AI being used in more areas of compliance. For example, could the use of AI result in a decrease of problem gambling rates?

Last year saw the gambling industry being targeted by cybercriminals. Most notably, in September 2023, the cyber-attack on MGM Resorts cost the company USD100 million. Over the last 12 months, cybersecurity has become a global issue of much prominence. This was most recently seen in the much anticipated, and exciting, new gambling market – Brazil. Brazil introduced legislation on 2 May 2024, setting out technical and cybersecurity criteria that online gaming and sports betting operators must comply with within six months of receiving their licence.

Changing Times

2024 has witnessed significant regulatory change for a number of key jurisdictions, and there are still more changes that lie ahead.

Brazil, which was a prohibited gambling market and historically a lucrative grey market, has had legislative change on the horizon for several

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years, and draft bills that were being negotiated in Brazil's Senate were delayed due to political changes (presidential and governmental). However, on 30 December 2023, Brazil's gambling legislation authorising a new licensing regime for online gaming and sports betting received approval; a pivotal moment for both Brazil and those wishing to target the market. Revenue is projected to reach USD4 billion by 2029. Perhaps we will see a shift towards companies looking to expand in Brazil, but only if they can stomach the high tax rates and unattractive licence fees. At the time of writing, Brazil awaits a vote on its land-based gaming bill.

In Ireland, the gambling regulatory framework was overhauled in October 2024 when its Gambling Regulation Bill was passed. The new legislation introduces a regulatory framework for both land-based and online gaming in Ireland. It also introduces the establishment of a regulatory body, the Gambling Regulatory Authority of Ireland, advertising restrictions and a national self-exclusion register.

Meanwhile, the UK remains in the critical consultation phase to implement the proposals published in the highly anticipated government's gambling white paper in April 2023. The government and the Gambling Commission's ambitious and optimistic timeline for implementing most measures by summer 2024 has not been met, and progress has – at least at the time of writing – come to a standstill following the general election in July 2024.

Other changes include the introduction of supplier licensing in Denmark from 1 January 2025 with licence applications being accepted from October 2024, and the continued legalisation of sports betting in the USA, with the activity now permitted in 39 states.

Illegal Gambling

Illegal gambling remains a significant concern for the gambling ecosystem and its stakeholders, including legislators, regulators and gambling businesses, posing a risk to consumer protection, gambling businesses, regulatory integrity and tax revenues generated from gambling. 2024 has seen increased collaboration in the global response and approach to tackling the illegal market, particularly in the USA and the UK. Increased action and enforcement in this area is likely – the author hopes – to be a continued focus in the next 12 months, particularly given the significant risk to consumers. Gambling businesses are seeing increased pressure from the unlicensed market, and its prevalence is increasing, with estimated USD51 billion spent each year with illegal operators in the USA. International collaboration and a more integrated global approach are emerging, most notably through the International Association of Gaming Regulators' introduction of a working group on illegal gambling in 2024 and the memorandum of understanding entered between the America Gaming Association, the Betting & Gaming Council and European Casino Association at G2E in October 2024.

We are beginning to see signs of certain US state regulators and state agencies rising to the challenge of curtailing illegal operators, for example, by issuing cease and desist letters. However, it is pervasive in every state, often analogised as “whac-a-mole”, and requires effective action from federal agencies, which we are yet to see.

On the other side of the Atlantic, the British Gambling Commission raided, with police, an illegal gambling den and, more notably, in September 2024 the regulator commenced its own, rare, criminal prosecution against football-themed website Sorare, promoted by the Pre-

INTRODUCTION

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mier League, for providing unlicensed gambling. Further, the Dutch regulator also took enforcement action by fining three Curacao-based operators, and a Greek industry trade group wrote an open letter to the regulator, claiming that 40% of the market takes place offshore and appealed for greater protection for licensees against those operating illegally.

Continued Enforcement and Regulatory Challenge

Anti-money laundering, responsible/safer gambling and consumer protection, as ever, continue to be areas of key focus across international gambling sectors, however, there has been less high-profile enforcement action over the past 12 months. There has been a continued focus on the accountability of individuals within gambling companies (including CEOs).

Licence reviews can often take many months (even years), leaving gambling businesses in a prolonged state of uncertainty. The continued escalation in compliance assessments and licence reviews has resulted in significant financial penalty packages. In the UK, whilst there has been less enforcement action over the past 12 months, during the 2023-2024 financial year, the British Gambling Commission still issued almost GBP47 million by way of penalty packages.

M&A Activity

A rapidly evolving gambling industry presents significant opportunities and challenges. M&A has significantly accelerated in the last ten years, driven by the increasing cost of regulation and diminishing profits, along with the liberalisation of gambling laws in some jurisdictions, particularly the USA.

Last year saw a quieter period for M&As, however transactions bounced back again in 2024, more quickly than expected and despite the remaining regulatory uncertainty in several key jurisdictions. A number of key M&A trends have emerged globally over the past 12 months, including a continued expansion in the USA following legalisation of sports betting, M&A being seen in the previously unexploited B2B sector, and an increase in private equity companies taking large publicly listed brands private. The steady rise in M&A activity is anticipated to continue, particularly given a continued decrease in interest rates and the new global opportunities following regulatory change.

AUSTRALIA



Law and Practice

Contributed by:

Jamie Nettleton and Samuel Gauci

Addisons

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Addisons has a gambling team that advises businesses on all aspects of gaming and gambling law and regulation. This includes advice on business strategies for international gambling projects, both inbound into Australia and outbound to international markets. The firm's gambling industry clients in this area include gaming machine manufacturers, wagering operators, casino operators and other gambling service providers – whether online or land-based – as

well as gambling industry associations and other local and international gambling industry participants. The team also advises a number of leading participants in the games sector. Clients range from console games suppliers to social games websites, and also include a number of esports tournament organisers. Addisons delivers commercially sound legal solutions of the highest standard, which help drive the business success of Australian and international clients.

Authors



Jamie Nettleton heads the gambling law practice of Addisons. Both Australian and international businesses rely on Jamie's expert advice in all aspects of gambling operations,

including the potential application of gambling law to innovative products and concepts, as well as for their investments in gambling businesses. Jamie's advice includes licensing, regulatory and compliance issues, sports and racing integrity, consumer, advertising and privacy law issues, and new technologies. His position at the forefront of gambling law saw him elected as president of the International Masters of Gaming Law in 2018 and 2019. He is also a senior fellow at the University of Melbourne, where he has lectured on gambling law.



Samuel Gauci brings more than 15 years of legal experience to Addisons, which he joined in early 2019 when he moved to Australia from Malta. His background in gambling law

stems from roles with the Maltese regulator, the Malta Gaming Authority, and in private practice as a senior associate with a leading Maltese law firm. Samuel's experience of advising and assisting international land-based and online gambling operators – from start-ups to large companies – provides great value to Addisons' clients in relation to their operations both in Australia and internationally.

Furthermore, his regulatory background is beneficial for clients in their interactions with international and Australian regulators and for advising on compliance matters.

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1. Introduction

1.1 Current Outlook and Recent Changes Legislative and Regulatory Review

Consolidation of improved responsible gambling measures and suitability requirements has been the central aspect of changes in the Australian gambling regulatory framework in 2024. The implementation of the measures introduced as a result of the outcomes of inquiries relating to land-based casino operators and the National Consumer Protection Framework (NCPF) (for online wagering operators) continued throughout the year. Australian gambling regulators continued to implement the approach adopted in relation to the updated regulatory framework for gambling in Australia, consisting of a more comprehensive suitability review of individuals involved in the ownership, management and operations of a gambling business, and in relation to the introduction of further responsible gambling measures.

The Australian online wagering sector awaits the response of the Federal government to the recommendations of the Federal Parliamentary Committee report entitled “You win some, you lose more”. The report was published in June

2023, following the Committee’s inquiry into online gambling and its impact on those experiencing gambling harm. The report includes 31 recommendations, and it is anticipated that the Federal government will introduce measures reflecting at least some of the recommendations to further ensure responsible gambling.

Although the Federal government has yet to announce what measures will be adopted, there have been statements from officials of the Federal government and media reports which indicate that further restrictions on the advertising of online wagering services will be implemented; however, it is yet to be seen whether a complete prohibition will be implemented or if limited advertising prohibitions will be adopted.

The new Racing and Wagering Act 2024 (NT) and the Racing and Wagering Regulations 2024 (NT) (together the “New NT Wagering Laws”) came into effect on 1 July 2024. These new Northern Territory laws introduce a new regulatory framework for the licensing and regulation of Northern Territory online wagering operators.

The Australian Transaction Reports and Analysis Centre (AUSTRAC), the Australian federal regu-

lator responsible for ensuring compliance with Australia's Anti-Money Laundering and Counter-Terrorism Financing Act 2006 and the corresponding Rules (the "AML/CTF Laws") concluded two of the three enforcement actions that it had initiated against leading Australian casino operators following investigations into their compliance with the AML/CTF Laws.

In 2024, the Federal Court of Australia made orders confirming the settlement reached between AUSTRAC and SkyCity. SkyCity was ordered to pay a penalty of AUD67 million for breaches of the AML/CTF Laws. This decision follows the Federal Court of Australia proceedings in 2023, which resulted in an amount of AUD450 million being paid by Crown Melbourne and Crown Perth as part of the settlement with AUSTRAC in relation to claims brought in respect of serious and systemic non-compliances of their obligations under the AML/CTF Laws. The proceedings brought by AUSTRAC in the Federal Court of Australia against The Star in relation to alleged breaches of the AML/CTF Laws are ongoing.

AUSTRAC's review of the online wagering operators that commenced in 2022 has not been completed. The status of each case at the date of writing this chapter is as follows.

- **Entain Australia** – the enforcement investigation which commenced in September 2022 is ongoing. It has been reported that the parties continue to liaise in relation to implementing a detailed remediation plan, and that AUSTRAC is continuing its review to determine the appropriate outcome of its investigation.
- **Sportsbet** – following the report of the external auditor appointed to review Sportsbet's compliance with the AML/CTF Laws, AUSTRAC accepted an enforceable undertaking

from Sportsbet which binds it to an ongoing remedial plan to improve its AML/CTF programme. Sportsbet is required to appoint an auditor that is tasked with monitoring Sportsbet's progress with the remediation plan and providing periodic reports to AUSTRAC.

- **bet365** – following AUSTRAC's review of the report of the external auditor appointed to review bet365's compliance with the AML/CTF Laws, AUSTRAC commenced an enforcement investigation in March 2024.

It is anticipated that the final outcome of these reviews will be concluded in the coming months.

The New South Wales (NSW) government established the Independent Panel on Gaming Reform, which is tasked with advising the NSW government in relation to the cashless gaming trials in hotels and clubs in NSW, gaming reform implementation, and providing recommendations for the use of funds allocated to the harm minimisation fund. The trials on cashless methods for play on gaming machines (also referred to as pokies) include the use of systems which eliminate the use of cash in gaming machines in clubs and hotels, and which permit the use of technology for verifying customer details.

The NSW government has also introduced a suite of responsible gambling measures addressed at the use of gaming machines in hotels and clubs.

The New Zealand (NZ) government has announced that it will introduce a regulatory regime to license online casino operators to provide services to customers located in NZ. This regulatory regime is anticipated to come into effect in 2026.

A number of these recent changes are discussed in further detail below.

AUSTRAC Proceedings

The Star proceedings

The civil penalty proceedings in the Federal Court of Australia commenced by AUSTRAC on 30 November 2022 against The Star Pty Limited and The Star Entertainment QLD Limited (the “Star Entities”) for alleged breaches of the AML/CTF Laws are ongoing. The court hearings have been adjourned for a further case management hearing.

On 2 May 2024, the Federal Court set the matter for a three week hearing commencing on 2 June 2025.

SkyCity proceedings

The civil penalty proceedings brought by AUSTRAC against SkyCity Adelaide Pty Limited (“SkyCity Adelaide”) have been settled. This has been confirmed in orders made by the Federal Court of Australia under which SkyCity Adelaide is required to pay a AUD67 million penalty in respect of breaches of the AML/CTF Laws. The court decision was handed down on 7 June 2024.

SkyCity Adelaide’s AML/CTF programme was considered to have failed to meet the requirements of the AML/CTF Laws, and SkyCity Adelaide was considered to not have carried out appropriate ongoing customer due diligence, enabling high-risk customers to obscure the source and ownership of funds. It was also considered to have failed to establish appropriate frameworks to provide the necessary oversight by the board and senior management of its AML/CTF programme.

Updates Following the Casino Reviews in Victoria, Western Australia, NSW, and Queensland

Victoria

A key recommendation of the Report of the Royal Commission in Victoria (delivered on 15 October 2021) was the appointment of a special manager to oversee the operations of Crown Melbourne, and to monitor whether Crown Melbourne was taking steps to address the issues and failings identified by the Royal Commission. Stephen O’Bryan KC was appointed as special manager for a two-year period effective from 1 January 2022.

In his final report (published in December 2023), the special manager indicated that he considered that Crown Melbourne had addressed the systemic failings identified by the Royal Commission and set out evidence of Crown Melbourne’s transformation.

Subsequently, in its decision published on 26 March 2024, the Victorian Gambling and Casino Control Commission (VGCCC) concluded that Crown Melbourne had returned to suitability to hold the licence to operate the casino in Melbourne and that it was in the public interest that the Crown Melbourne casino licence remain in force.

Western Australia

The term of the Office of the Independent Monitor to oversee, monitor and report on the two-year remediation plan at Crown Perth was extended to 30 April 2025. The role of the Independent Monitor commenced on 31 October 2022.

Crown Perth has been granted until 31 January 2025 to implement its remediation plan. The Independent Monitor will assess the implementation of the remediation plan to confirm whether

it satisfies the findings and recommendations of the final report of the Royal Commission in Western Australia.

New South Wales

The Star

The NSW Independent Liquor & Gaming Authority appointed Adam Bell SC in September 2021 to conduct an inquiry of The Star Casino in Sydney. The report of this inquiry was published on 31 August 2022 (the “Bell Report”) and found that The Star Casino in Sydney was not suitable to be concerned in or associated with the management and operation of a casino in NSW. The Bell Report made 30 recommendations directed at addressing issues identified during the inquiry.

In February 2024, the NSW casino regulator, the NSW Independent Casino Commission (NICC), appointed Adam Bell SC to conduct a second independent inquiry into the operations and remediation of The Star in Sydney after the NICC considered that, following the Bell Report, the casino operator had failed to make the required remediation. The second inquiry was requested to examine whether sufficient progress had been made to implement structural changes required for it to be considered suitable to hold a casino licence in NSW.

Adam Bell SC’s second report of his 2024 independent inquiry was published on 30 August 2024 (the “Bell 2 Report”). The Bell 2 Report found that The Star continued not to be suitable to be concerned in or associated with the management and operation of The Star Sydney Casino.

Although the Bell 2 Report acknowledged that there had been substantial reform of The Star, including a substantial expansion of The Star’s

financial crime and risk teams, the development and implementation of revised internal control manuals, and it was noted that there had been a material improvement in The Star’s risk management resources, systems, and culture; the Bell 2 Report made key findings to justify its conclusion that The Star remained unsuitable.

The key findings made in the Bell 2 Report were:

- six of the 30 recommendations made in the Bell Report had not been implemented or implementation had not yet been completed;
- The Star was falling short of what is required from a suitable casino operator;
- whilst the development of the remediation plan adopted by The Star following the Bell Report involved a great deal of thought and work, the deadlines were too ambitious, and implementation of the remediation plan had been faced with difficulties and delays;
- whilst there had been a material improvement in risk management culture, cultural reform was still at an early stage and had not been satisfactory;
- The Star’s group leadership team had been dysfunctional and marked with a number of departures and resignations, particularly between 1 September 2022 and 31 July 2024;
- The Star lacked effective governance processes and was not sufficiently independent from its parent company, Star Entertainment; and
- The Star’s relationship with the NICC was poor and underpinned by a new culture of antagonism.

On 17 October 2024, the NICC announced its response to the Bell 2 Report. The NICC imposed a pecuniary penalty in the order of AUD15 million against The Star.

The Star's Sydney casino licence will also remain suspended until early 2025.

The term of the special manager appointed to supervise The Star's operations has been extended to 31 March 2025.

The NICC stated that the cancellation of The Star's licence would have significant economic implications but that more work needed to be done by the operator before it could be considered to be a "compliant and responsible operator."

The NICC will continue to monitor The Star's operations.

Crown Casino

Following a finding of unsuitability, Crown Casino commenced operations in its Sydney property under a conditional licence in June 2022.

In April 2024, the NICC determined that Crown Sydney was suitable to retain its NSW restricted gaming licence.

The NICC released its Suitability Assessment Decision and noted in the Decision that a new regulatory agreement had been entered into between the NICC and Crown Sydney and that the licence had been amended to reflect further conditions.

Queensland

The Star's casino licence in Queensland remains suspended on a deferred basis to 20 December 2024, and the term of the special manager has been extended until 8 December 2024. These measures were implemented as a result of the second Bell inquiry in NSW, to provide the Queensland regulator and the special manager with the necessary time to review the Bell

2 Report. The special manager appointed in NSW was also appointed to oversee The Star in Queensland.

The response of the Queensland authorities to the outcomes of the Bell 2 Report has not yet been announced.

National Consumer Protection Framework

Implementation of all of the measures of the NCPF has required a considerable effort by the Australian licensed online wagering sector.

On-going compliance with the measures introduced under the NCPF is being monitored by gambling regulators in the Australian states and territories. There have been numerous requests by regulators requiring wagering operators to provide evidence of their compliance with the various measures.

On the first anniversary of BetStop – the National Self-Exclusion Register – in August 2024, over 28,000 individuals had applied for a ban on their wagering. It was reported that approximately 40% of the individuals that had registered with BetStop opted for a life-time ban.

The implementation and effectiveness of BetStop is due to be reviewed, with a report expected to be tabled in parliament within 18 months from commencement of the review.

Another responsible gambling measure which came into effect on 11 June 2024 was the prohibition on the use of credit cards and digital currency (including cryptocurrency) to participate in online wagering.

This prohibition also prohibits the use of an account, service or facility which allows payment

for wagering purposes to be made by means of a credit card.

Any online wagering operator who contravenes this prohibition by permitting the use of credit cards and/or digital currencies for customers to use their services is subject to fines of up to AUD234,750.

Northern Territory – New Gambling Laws

1 July 2024 saw the coming into effect of the New NT Wagering Laws. The New NT Wagering Laws replace the Racing and Betting Act 1983 (NT). A main purpose of the New NT Wagering Laws is to update the online wagering regulatory regime that applies in the Northern Territory.

The New NT Wagering Laws introduced a number of changes, including:

- the formation of a new commission entitled the Northern Territory Racing and Wagering Commission (NTRWC);
- the term of a licence being extended to a maximum of 20 years;
- the term of a key person licence being extended to a maximum of five years;
- the introduction of a Racing and Wagering Fund (RWF); and
- a requirement for monthly contributions to the RWF by means of a new levy.

The annual tax payable by online wagering operators licensed in the Northern Territory under the New NT Wagering Laws is capped at AUD1,410,000 and is calculated as 5% of the total amount of wagers accepted by the licensee minus the total amount of wagers paid-out by the licensee.

The New NT Wagering Laws confirm continuity for the licences granted under the Racing and

Betting Act 1983, and for Codes of Practice and Novelty Events Guidelines issued under the Racing and Betting Act 1983.

NSW Responsible Gambling Measures for Hotels and Clubs

With effect from 1 July 2024, responsible gambling measures were introduced in NSW by amendments to the Gaming Machines Regulation 2019, which apply to clubs and hotels which conduct gaming through the operation in their licensed premises of gaming machines (also known as pokies).

The measures include the following.

- The requirement to have a Responsible Gambling Officer (RGO) on duty in the gaming area where gaming machines are available – this requirement applies to clubs and hotels that have 21 or more gaming machines available in their venue. The number of RGOs that are required to be on duty depends on the number of gaming machines that are in operation. The role of the RGO includes the following duties;
 - (a) promote harm minimisation measures in the venue;
 - (b) identify and inquire with customers that display gambling harm behaviour;
 - (c) notify senior management of serious gambling incidents;
 - (d) assist customers that request to be self-excluded;
 - (e) assist other staff in relation to harm minimisation measures; and
 - (f) record gambling incidents in the incident register;
- The requirement to have a Gambling Incident Register which keeps a record of incidents relating to gambling and gambling harm, including self-exclusion requests, a breach by

a customer of a self-exclusion arrangement and incidents involving minors.

- The provision of Advanced Responsible Conduct of Gambling training for RGOs, managers who supervise RGOs, hotel licensees, approved managers and club secretaries. Directors of clubs and hotel companies also need to undergo Responsible Conduct of Gambling training.
- The requirement to have a Gaming Plan of Management (GPM) for each venue which guides staff on the venue's responsible conduct of gambling obligations. This requirement came into effect on 1 September 2024. The GPM is to be a document that is updated when necessary, in response to changes in the venue, and must be reviewed annually.
- Signage to automated teller machines (ATMs) must not be visible from a gaming machine or any part of the gaming area, and advertising of gaming machines must not be visible from an ATM.

The NSW government is consulting in relation to the introduction of facial recognition to assist with the implementation and enforcement of player exclusions.

Classification of Social Games and Computer Games

From 22 September 2024, in accordance with the Guidelines for the Classification of Computer Games (the "Guidelines"), computer games containing loot boxes or simulated gambling (including social casinos) are subject to mandatory classification requirements..

The Guidelines require that computer games:

- featuring paid loot boxes and other forms of in-game purchase linked to chance will be subject to a minimum classification of

M (Mature – not recommended for children under 15 years of age); and

- being social casino games and other games containing simulated gambling will be subject to an R18+ classification (for adults only).

As a result of the new classification requirements, game providers must implement a change to the manner in which their products are presented, categorised and advertised.

NZ Update

The NZ government announced in July 2024 that it had agreed to commence the process that will result in the licensing of online casino operators to provide services to customers in NZ.

Although no draft bills or laws are available at the date of writing this chapter, it has been reported that:

- the licence will be specific to the provision of online casino games;
- the number of licences which will be granted will be capped at 15;
- licences will be allocated by means of an auction;
- the term of the licence will be three years; and
- the licensing regime will be in effect by mid-2026.

It is anticipated that there will be a consultation on the new regime in the first half of 2025.

Once the new law is enacted, all online casino operators that are not licensed under the new licensing regime and are providing services to customers located in NZ will be considered illegal.

Earlier in the year, on 28 March 2024, the NZ Taxation (Annual Rates for 2023-24, Multina-

tional Tax, and Remedial Matters) Act containing amendments to the Gaming Duties Act 1971 was passed and introduced a new type of gambling duty, known as the “offshore gambling duty”.

The offshore gambling duty came into effect on 1 July 2024, requiring offshore gambling operators providing online gambling services (ie, online casino type games) to customers located in NZ to pay a 12% duty in addition to goods and services tax (GST).

Offshore gambling operators are required to lodge returns and pay offshore gambling duty on a quarterly basis in a manner that aligns with their current GST returns.

Recent Trends

Social gaming

Social gaming updates can be found in 4.3 **Recent or Forthcoming Changes**.

Esports

Esports regulation in Australia

Sports bookmakers licensed in the Northern Territory are permitted to take bets on certain esports official tournaments and/or competitions. However, some states do not permit betting on esports.

Esports continues to be an activity that is growing in popularity in Australia, and developments regarding esports betting should be expected with the growth of the esports sector. This was enhanced by the COVID-19 pandemic, during which esports gained more prominence, as events could continue to be provided, and more operators invested in understanding and providing betting on esports.

Australian police have prosecuted individuals for match-fixing offences relating to esports events.

Fantasy sports

Where recognised as a gambling service, fantasy sports in Australia are usually provided under a sports bookmaker licence in order to be legal, and, as such, are regulated under the same provisions as apply to online betting services.

Skill gaming

The regulatory approach to skill gaming in Australia varies significantly depending on the state or territory in which the offering is made. It is, therefore, important for an operator to review the applicable legislation and the regulator’s policy in each state and territory when considering whether it is legal or permitted to offer skill games.

The different approaches adopted to skill gaming make it difficult for an operator to offer skill games throughout Australia and an in-depth understanding of the regulatory framework is required prior to making skill games available. In some states or territories, online games of skill are prohibited, which may be a reason why operators are hesitant in making their skill games available in Australia.

Blockchain or cryptocurrency

The use of blockchain technology in gambling is not permitted in Australia and the use of cryptocurrency or any other digital currency is prohibited with effect from 11 June 2024.

2. Jurisdictional Overview

2.1 Online

Online gambling is regulated at the federal level in Australia under the Interactive Gambling Act 2001 (IGA). However, in accordance with the principles established in the IGA, Australian states and territories separately regulate online

gambling in their respective jurisdictions under the relevant legislation.

Betting

Under the IGA, betting is considered to be an “excluded wagering service”. Accordingly, online betting may be provided legally under the IGA as a “regulated interactive gambling service” when offered by an operator that holds a licence granted by an Australian state or territory.

Bingo

The treatment of online bingo games is unclear under the IGA. The authorities, however, view online bingo as being prohibited under the IGA and as unable to be provided legally to persons present in Australia.

Casinos

The offering of online casinos is prohibited under the IGA and cannot be offered legally to persons physically present in Australia.

Lotteries

Under the IGA, a lottery will be considered an “excluded lottery service” if it is a service for the conducting of a lottery or a service for the supply of lottery tickets.

Accordingly, online lotteries may be conducted legally as a “regulated interactive gambling service” when offered by an operator that holds a licence granted by an Australian state or territory.

Online scratch lotteries and any other online instant lotteries are specifically excluded from the definition of “excluded lottery service” and are, therefore, prohibited under the IGA.

The Federal government released an Issues Paper in July 2024 to seek feedback to assist

the government in understanding the impact of keno-type lotteries and foreign-matched lottery products and their gambling harm risks.

Fantasy Sports

Fantasy sports are treated as a betting activity under Australian law.

Social Gaming

A game constitutes a gambling service if the following three elements are present:

- prize element – the game is played for money or anything else of value;
- chance element – the game is a game of chance or of mixed chance and skill; and
- consideration element – a customer of the service pays, or agrees to pay, to play or enter the game.

Generally, the prize element and/or consideration element will not be present in a social game. In such circumstances, social games would not constitute a gambling service under the IGA and would not require a licence to be offered.

Classification requirements were introduced on 22 September 2024 in relation to computer games and social games containing gambling-like content (see **1.1 Current Outlook and Recent Changes**).

Poker

Under the IGA, poker is considered a gambling service and is prohibited. It cannot be offered legally online to persons physically present in Australia.

2.2 Land-Based

Land-based gambling is regulated at the state and territory level. Unlike online gambling, there is no legislation regulating land-based gambling

specifically at the federal level. Each state and territory has specific legislation for the regulation of land-based gambling.

Betting

Land-based betting can be provided on-course by licensed bookmakers in all Australian states and territories. (Some of these bookmakers also provide services online or over the telephone.)

In each state and territory, licensed entities can conduct off-course betting. However, a subsidiary of Tabcorp Holdings Ltd (a company listed on the Australian Securities Exchange) holds the off-course betting licence in all states and territories, except for Western Australia. The licensee is also granted a statutory monopoly to conduct totalisator betting. In Western Australia, the licence is held by a government entity.

Poker

Licensed casinos can conduct land-based poker. Poker may also be played in hotels and clubs, provided that no third party collects a share or percentage from the amounts paid by the players to participate in the poker game.

Bingo

Land-based bingo games are treated differently under the laws of each state and territory. Generally, a licence will not be required if the prize is below a threshold established in the applicable legislation.

Casinos

Casino games are offered in land-based casinos under the licence(s) issued in each state and territory. The games that may be offered under a casino licence are table games (including poker) and gaming machines.

Gaming Machines

Gaming machines that offer slots games – known as poker machines in Australia – are permitted in land-based casinos licensed in each state and territory. Slots are also permitted in clubs and hotels in all states and territories (except Western Australia) under the relevant legislation.

Lotteries

Land-based lotteries can be conducted in Australia under a licence issued by each state and territory. An exclusive licence is granted in each state and territory to conduct a lottery. The Lottery Corporation Limited (a company listed on the Australian Securities Exchange), through its subsidiaries, holds the lottery licence in each state and territory, except for Western Australia. Lottery tickets are available for purchase through newsagents and convenience stores, as well as online.

3. Legislative Framework

3.1 Key Legislation

The following list of Australian gambling legislation at various levels is not exhaustive.

Various rules, guidelines, directions, orders and standards that are issued by the regulator and/or the responsible minister also apply to the gambling sector and must be complied with.

Federal

The following laws apply at the federal level:

- Interactive Gambling Act 2001;
- Interactive Gambling Regulations 2019;
- Interactive Gambling (National Self-exclusion Register) Register Rules 2022;
- Anti-Money Laundering and Counter-Terrorism Financing Act 2006; and

- Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1).

New South Wales

The following laws apply in New South Wales:

- Betting and Racing Act 1998;
- Betting and Racing Regulation 2022;
- Betting Tax Act 2001;
- Casino Control Act 1992;
- Casino Control Regulation 2019;
- Community Gaming Act 2018;
- Community Gaming Regulation 2020;
- Gambling (Two-Up) Act 1998;
- Gaming and Liquor Administration Act 2007;
- Gaming and Liquor Administration Regulation 2016;
- Gaming Machines Act 2001;
- Gaming Machines Regulation 2019;
- Gaming Machine Tax Act 2001;
- Public Lotteries Act 1996;
- Public Lotteries Regulation 2016;
- Totalizator Act 1997;
- Totalizator Regulation 2012;
- Totalizator Agency Board Privatisation Act 1997;
- Unlawful Gambling Act 1998;
- Unlawful Gambling Regulation 2021; and
- Bookmaker Declared Betting Events Betting Rules.

Queensland

The following laws apply in Queensland:

- Betting Tax Act 2018;
- Breakwater Island Casino Agreement Act 1984;
- Brisbane Casino Agreement Act 1992;
- Cairns Casino Agreement Act 1993;
- Casino Control Act 1982;
- Casino Control and Other Legislation Amendment Act 2024;

- Casino Control Regulation 1999;
- Casino Gaming Rule;
- Charitable and Non-Profit Gaming Act 1999;
- Charitable and Non-Profit Gaming Regulation 1999;
- Charitable and Non-Profit Gaming Rule 2010;
- Gaming Machine Act 1991;
- Gaming Machine Regulation 2002;
- Interactive Gambling (Player Protection) Act 1998;
- Interactive Gambling (Player Protection) Regulation 1998;
- Jupiters Casino Agreement Act 1983;
- Keno Act 1996;
- Keno Regulation 2007;
- Keno Rule 2010;
- Lotteries Act 1997;
- Lotteries Regulation 2007;
- Lotteries Rule;
- Queen's Wharf Brisbane Act 2016;
- Queen's Wharf Brisbane Regulation 2016;
- Racing Act 2002;
- Racing Regulation 2023;
- Racing Integrity Act 2016;
- Racing Integrity Regulation 2016;
- Wagering Act 1998;
- Wagering Regulation 1999; and
- Wagering Rule 2010.

Victoria

The following laws apply in Victoria:

- Casino (Management Agreement) Act 1993;
- Casino Control Act 1991;
- Casino Control (Fees) Regulations 2015;
- Gambling Regulation Act 2003;
- Gambling Regulations 2015;
- Gambling Regulation (Pre-commitment and Loyalty Scheme) Regulations 2014;
- Gambling Taxation Act 2023;
- Racing Act 1958;

- Victorian Responsible Gambling Foundation Repeal and Advisory Councils Act 2024;
- Victorian Ministerial Direction for Responsible Gambling Codes of Conduct dated 31 March 2023; and
- Victorian Ministerial Direction for Harm Minimisation dated 6 July 2022.

Northern Territory

The following laws apply in the Northern Territory:

- Gaming Control Act 1993;
- Gaming Control (Community Gaming) Regulations 2006;
- Gaming Control (Gaming Machines) Regulations 1995;
- Gaming Control (Internet Gaming) Regulations 1998;
- Gaming Control (Licensing) Regulations 1995;
- Gaming Control (Reviewable Decisions) Regulations 2014;
- Gaming Control (Taxes and Levies) Regulations 2015;
- Gaming Machine Act 1995;
- Gaming Machine Regulations 1995;
- Gaming Machine Rules 2001;
- Racing and Wagering Act 2024;
- Racing and Wagering Regulations 2024;
- Totalisator Licensing and Regulation Act 2000;
- Totalisator Licensing and Regulation Regulations 2000;
- Totalisator Licensing and Regulation (Arbitration) Regulations 2000;
- Northern Territory Code of Practice for Gaming Harm Minimisation 2023;
- Northern Territory Code of Practice for Responsible Gambling 2022;
- Northern Territory Code of Practice for Responsible Online Gambling 2019; and
- Northern Territory Code of Practice for Responsible Service of Online Gambling 2019.

Australian Capital Territory

The following laws apply in the Australian Capital Territory:

- Casino Control Act 2006;
- Casino Control Regulation 2006;
- Casino (Electronic Gaming) Act 2017;
- Casino (Electronic Gaming) Regulation 2018;
- Gambling and Racing Control Act 1999;
- Gambling and Racing Control (Code of Practice) Regulation 2002;
- Gaming Machine Act 2004;
- Gaming Machine Regulation 2004;
- Gambling Machine (Offset Amounts) Regulation 2018;
- Interactive Gambling Act 1998;
- Interactive Gambling Regulation 1998;
- Lotteries Act 1964;
- Pool Betting Act 1964;
- Race and Sports Bookmaking Act 2001;
- Race and Sports Bookmaking Regulation 2001;
- Racing Act 1999;
- Racing Regulation 2010;
- Totalisator Act 2014;
- Unlawful Gambling Act 2009; and
- Unlawful Gambling Regulation 2010.

South Australia

The following laws apply in South Australia:

- Authorised Betting Operations Act 2000;
- Authorised Betting Operations Regulations 2016;
- Casino Act 1997;
- Casino Regulations 2013;
- Gambling Administration Act 2019;
- Gambling Administration Regulations 2020;

- Gaming Machines Act 1992;
- Gaming Machines Regulations 2020;
- Gaming Offences Act 1936;
- Gaming Offences Regulation 2021;
- Lotteries Act 2019;
- Lotteries Regulation 2021;
- Problem Gambling Family Protection Orders Act 2004;
- State Lotteries Act 1966;
- Gambling Codes of Practice Notice 2013;
- Gaming Machine Code of Practice 2020;
- State Lotteries Gambling Code of Practice 2021;
- Casino Gambling Code of Practice 2022; and
- Authorised Betting Operations Gambling Code of Practice.

Western Australia

The following laws apply in Western Australia:

- Betting Control Act 1954;
- Betting Control Regulations 1978;
- Betting Tax Act 2018;
- Betting Tax Assessment Act 2018;
- Casino (Burswood Island) Agreement Act 1985;
- Casino Control Act 1984;
- Casino Control Regulations 1999;
- Casino Control (Burswood Island) (Licensing of Employees) Regulations 1985;
- Gaming and Wagering Commission Act 1987;
- Gaming and Wagering Commission Regulations 1988;
- Gaming and Wagering Commission (Continuing Lotteries Levy) Act 2000;
- Gaming and Wagering Commission (Continuing Lotteries Levy) Regulations 2000;
- Gaming and Betting (Contracts and Securities) Act 1985;
- Racing and Wagering Western Australia Act 2003;
- Rules of Wagering 2005;

- Racing and Wagering Western Australia Regulations 2003;
- Racing Restriction Act 2003;
- Racing Bets Levy Act 2009;
- Racing Bets Levy Regulations 2009;
- Racing Penalties (Appeals) Act 1990; and
- Racing Penalties (Appeals) Regulations 1991.

Tasmania

The following laws apply in Tasmania:

- Gaming Control Act 1993;
- Gaming Control Regulations 2014;
- Gaming Control Amendment (Gaming Operator) Regulations 2023;
- TT Line Gaming Act 1993;
- TT Line Gaming Regulations 2014; and
- Responsible Gambling Code of Practice for Tasmania.

3.2 Definition of Gambling

As explained in **2.1 Online**, only online gambling is defined at the federal level, under the IGA.

The laws of the Australian states and territories broadly define the term “gambling” to capture land-based and online gambling that has a connection with the relevant state or territory. In some cases, skill-based games are treated as gambling.

3.3 Definition of Land-Based Gambling

It is necessary to refer to the relevant legislation in each state and territory for a definition of land-based gambling. Sources of legislation in various Australian states and territories make reference to an “unlawful game”, rather than specifically define “gambling”.

3.4 Definition of Online Gambling

Section 4 of the IGA defines a “gambling service” as a service:

- for the placing, making, receiving or acceptance of bets;
- the sole or dominant purpose of which is to introduce individuals who wish to make or place bets to individuals who are willing to receive or accept those bets;
- for the conduct of a lottery;
- for the supply of lottery tickets;
- for the conduct of a game, where the game is played for money or anything else of value, the game is a game of chance or of mixed chance and skill, and a customer of the service gives – or agrees to give – consideration to play or enter the game; or
- that is not covered by any of the above but is understood to be a gambling service within the ordinary meaning of that expression.

3.5 Key Offences

The key offences vary from one jurisdiction to another. However, generally, key offences comprise the conduct, offering, provision, and/or facilitation of unlawful gambling services or prohibited gambling services.

3.6 Penalties for Unlawful Gambling

Penalties that apply in respect of the conduct, offering, provision and/or facilitation of the provision of unlawful gambling or prohibited gambling services vary between Australian jurisdictions.

The penalties for a contravention of the IGA are substantial. The following penalties apply under the IGA:

- criminal offence – for an individual, up to AUD1.565 million per day, or up to five times that for a corporation (ie, AUD7.825 million per day); or
- civil offence – for an individual, up to AUD2,347,500 per day, or up to five times

that for a corporation (ie, AUD11,737,500 per day).

3.7 Recent or Forthcoming Legislative Changes

Most of the Australian legislative reform relating to gambling that has occurred in the past year results from the implementation of the NCPF measures relating to online wagering services. Each state and territory legislated the necessary amendments to their gambling laws to implement these responsible gambling measures (see **1.1 Current Outlook and Recent Changes** for updates relating to the NCPF).

Northern Territory

The New NT Wagering Laws came into effect on 1 July 2024. The New NT Wagering Laws modernise the online wagering regulatory regime in the Northern Territory.

The New NT Wagering Laws introduced new measures and, where required, provided continuity between the repealed regulatory regime and the New NT Wagering Laws for operators licensed under the repealed law (see **1.1 Current Outlook and Recent Changes** for further information relating to the New NT Wagering Laws).

NSW

Responsible gambling measures relating to clubs and hotels that provide gaming machines were introduced in NSW with effect from 1 July 2024 (see **1.1 Current Outlook and Recent Changes**).

Federal

As a result of amendments to the IGA that came into effect on 11 June 2024, the use of credit cards and digital currency for licensed online wagering services is prohibited (see **1.1 Current Outlook and Recent Changes**).

A Private Members Bill was tabled in the Federal parliament on 9 October 2024 which proposes amendments to the IGA to introduce a ban on advertising of online wagering services. This Bill is a result of the Federal Parliamentary Committee Inquiry Report recommendations (see **1.1 Current Outlook and Recent Changes**). It is likely that this Bill will be superseded by the position that will be taken by the Federal government in response to the report's recommendations.

Queensland

On 25 October 2023, the Queensland government introduced the Casino Control and Other Legislation Amendment Bill 2023, which proposed a range of changes to casino, gaming machine, keno and wagering laws in Queensland. The Bill was granted assent on 28 March 2024. The Casino Control Act 1982 was amended to introduce the following:

- increases in penalties for breaches;
- the introduction of a supervision levy to fund the regulation of casinos, and the conducting of programmes aimed at reducing gambling harm;
- the potential enactment of regulations to introduce:
 - (a) limits on the amount of cash a person can use in a casino in a 24-hour period;
 - (b) a requirement for a player card to be used by customers of a casino, and the requirements of the player card;
 - (c) a requirement for casinos to introduce a pre-commitment system; and
 - (d) a code of conduct for casino operators;
- the introduction of an obligation for casino operators to:
 - (a) give the chief executive full access to electronic systems; and
 - (b) be subject to a full review at intervals of no longer than five years;

- a new definition of a “person experiencing harm from gambling”;
- requirements relating to the collection of information about play and providing certain de-identified data to the Office of Liquor and Gaming Regulation;
- requirements relating to the exclusion of customers and information sharing about exclusions; and
- restrictions on direct marketing.

The Gaming Machine Regulation 2022 was amended to introduce the requirement that licensees must display a sign on the premises advertising services available to help persons experiencing, or at risk of experiencing, harm from gambling.

Victoria

The Gambling Legislation Amendment Bill 2023 (Vic) received assent on 8 November 2023. The Bill made various amendments to the Casino Control Act 1991 (Vic) and the Gambling Regulation Act 2003 (Vic) (see **7.3 Recent or Forthcoming Changes**).

Western Australia

On 14 August 2024, the Western Australia government introduced the Gambling Legislation Amendment Bill 2024 which proposes amendments to various gambling laws in Western Australia. The amendments are a result of the reform that is being implemented following the Perth Casino Royal Commission.

The amendments in the Bill include:

- granting further powers to the Western Australian gambling regulator (ie, the Gaming and Wagering Commission);
- providing the Gaming and Wagering Commission power to issue infringement notices

- to address non-compliance with legislative requirements; and
- increasing the penalty that may be imposed by the minister on Racing and Wagering Western Australia from a maximum of AUD100,000 to AUD1,000,000.

Tasmania

In September 2024, the Tasmanian Liquor and Gaming Commission commenced consultation in relation to implementing a mandatory account-based cashless card system for gaming machines in hotels, clubs and casinos. This is a result of the Tasmanian government's direction to implement a state-wide player card gaming system.

The proposed implementation of the new card system will allow customers to have a single account to use on all gaming machines available in Tasmania, and provide customers with default pre-commitment limits.

The consultation process closed on 18 October 2024, and the feedback would be considered to progress the plan to implement the new card system.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The key regulatory bodies responsible for supervising gambling in Australia are:

- Australia (ie, the federal regulator) – the Australian Communications and Media Authority (ACMA) and Australian Transaction Reports and Analysis Centre (AUSTRAC);

- Australian Capital Territory – the Australian Capital Territory Gambling and Racing Commission;
- New South Wales – Liquor & Gaming NSW, the Independent Liquor & Gaming Authority and the NICC;
- Northern Territory – the NTRWC and Licensing NT;
- Queensland – the Office of Liquor and Gaming Regulation;
- South Australia – Consumer and Business Services;
- Tasmania – the Liquor and Gaming Commission;
- Victoria – the VGCCC and the Department of Justice and Community Safety; and
- Western Australia – the Gaming and Wagering Commission and the Department of Local Government, Sport and Cultural Industries.

4.2 Regulatory Approach

The IGA takes a prohibitionist approach regarding the regulation of online gambling in Australia. The IGA is drafted in a manner that prohibits all online gambling in Australia except for those activities that:

- are considered regulated interactive gambling services that may be licensed; or
- are not considered to be prohibited interactive gambling services.

Generally, the state and territory regulatory authorities adopt a more prescriptive and interventionist approach in their legislative scheme in order to minimise gambling harm.

4.3 Recent or Forthcoming Changes

The most material changes relate to:

- the amendment to the IGA that came into effect on 11 June 2024 to introduce a ban on

the use of credit cards and digital currency (including cryptocurrency) in online wagering (see **3.7 Recent or Forthcoming Legislative Changes**);

- the classification of social games and computer games containing gambling-like content (see **1.1 Current Outlook and Recent Changes**);
- possible legislative amendments as a result of the recommendations contained in the Federal Parliamentary Committee Inquiry Report relating to online gambling and its impact on those experiencing gambling harm (see again **1.1 Current Outlook and Recent Changes**);
- amendments in Victoria introducing mandatory closure periods for all gaming machine areas in a venue (excluding the casino) between 4am and 10am (see **7.3 Recent or Forthcoming Changes**).
- amendments in NSW for the introduction of responsible gambling measures applicable to clubs and hotels that provide gaming machines (see again **1.1 Current Outlook and Recent Changes**); and
- amendments to the casino law in Queensland as a result of the Casino Control and Other Legislation Amendment Bill 2023 (see **3.7 Recent or Forthcoming Legislative Changes**).

4.4 Types of Licences

The licences that are issued by states and territories to conduct online or land-based gambling (as defined in the respective state or territory) are generally B2C licences.

A personal licence may be required at the state and territory level. For the installation and repair of gaming machines in the land-based market, for example, gaming machine technician licences may be required (see **13.1 Types of Authorisations and Licences**).

Companies may also be required to obtain a B2B licence in the land-based market to offer their services – for example:

- a gaming machine dealer's/supplier's licence;
- a service technician's licence; or
- a gaming machine testing facility licence.

Permits or approvals must be granted by the regulatory body in most states or territories to operate gaming machines in licensed premises.

4.5 Availability of Licences

Land-based licences relating to casinos, lotteries and betting are not readily available. The licences for these activities are granted for a long term and may be granted on an exclusive basis. These licences are subject to an onerous and lengthy licensing process and to the payment of substantial licence fees and taxes.

Approvals or permits to provide land-based poker machines in clubs and/or hotels are more readily available; however, there may be restrictions or a cap on the number of poker machines available in the state or territory. The authors note that poker machines in Western Australia are installed only in the casino.

Online licences for sports bookmakers and/or lotteries are more readily available. The Northern Territory is the leading online gambling licensing authority in Australia, and there is no limit on the number of online licences that may be granted by the Northern Territory regulator. An increasing number of New South Wales and Victorian on-course bookmakers have also moved online since early 2020.

4.6 Duration of Licences

Land-Based

The duration of the licences issued for land-based activities vary in each state and territory, but are usually for a long duration. The following examples detail the duration of licences that have been granted.

- Casino licence – licences have been granted for a term of up to 99 years. Certain licences have been granted on an exclusive basis for a substantial period and/or exclusivity for a certain area of the state or territory – for example, the licence granted in the Australian Capital Territory was issued in 1992 for a term of 99 years, which included a period of exclusivity.
- Lottery licence – the licence in New South Wales expires in 2050, and the South Australian licence expires in 2052. Both are granted on an exclusive basis.
- Gaming machine licence – licences for gaming machines are not usually granted for a specified period and are valid until the gaming machine licence is surrendered or cancelled.
- Wagering licence – the expiry dates for some of the exclusive wagering licences are:
 - (a) 2044 in Victoria;
 - (b) 2098 in Queensland;
 - (c) 2064 in the Australian Capital Territory;
 - (d) 2097 in New South Wales; and
 - (e) 2100 in South Australia.
- Two keno licences in Victoria were granted, each for a 20-year term commencing 15 April 2022.

Online Gambling Licence

The duration of an online gambling licence varies; however, for sports bookmakers licensed in the Northern Territory, it is generally a maximum term of 20 years under the New NT Wagering Laws.

4.7 Application Requirements

The basic documentation requirements when applying for either a land-based gambling licence or an online gambling licence are similar.

Due diligence will be conducted to determine the suitability of the applicant company, its shareholders and directors, and that of the holding companies and ultimate beneficial owners. Furthermore, the business plan, financial documents and forecasts, technical documentation, and the contribution the gambling business will make to the state or territory will all be assessed in respect of any gambling licence (whether land-based or online).

Further detailed information – for example, details of the premises to be used to offer the gambling services and the impact the operation will have on the state and territory – may also be required in respect of any land-based licence application.

Further documentation may be required in the case of an application for a gambling licence where the gambling service is part of a larger project.

The documents that directors and owners are required to submit include:

- details of their employment history;
- a statement of their assets and liabilities;
- involvement and experience in the gambling industry;
- supporting documents; and
- police clearance certificates.

The disclosure thresholds for shareholders differ between the states and territories (and the types of gambling licence); generally, the applicable

percentage is 10%, but in certain cases it may be 5% or lower.

4.8 Application Timing

Land-Based Licence Applications

The timescale for a land-based licence application will vary between the states and territories, and depends on the type of licence for which the application is being made. For example, the Department of Justice and Community Safety in Victoria issued expressions of interest:

- in 2021, seeking prospective applicants for the next wagering and betting licence to be granted upon the August 2024 expiration date of the licence – the licence was granted to Tabcorp for a 20-year term commencing on 16 August 2024; and
- on 24 October 2024, to initiate the process to identify the next operator of the monitoring licence, which expires on 15 August 2027.

Online Licence Applications

The period that will elapse before the application for an online sports bookmaker licence in the Northern Territory is granted is usually nine months (but may be a shorter or longer period).

4.9 Application Fees

Land-Based Licences

The licence application fee for land-based licences depends on the relevant state or territory and on the gambling activity to which the application relates. As explained at 4.5 Availability of Licences, land-based licences for casinos, lotteries, and wagering activities are granted (in the majority of cases) on an exclusive basis; therefore, any fees are usually substantial.

Online Gambling Licences

The application fees applicable in the Northern Territory are:

- for a sports bookmaker or an online gaming licence – AUD28,200; and
- for a betting exchange licence – AUD282,000.

4.10 Ongoing Annual Fees

Land-Based Licences

Fees payable with regard to land-based licences vary depending on:

- the type of land-based licence (casinos or other gambling venues);
- the relevant state or territory in which the licence is granted;
- whether exclusivity is granted; and
- the manner of payment (upfront or on an annual basis).

This varies materially. In New South Wales, for example, a one-off payment of AUD256 million was paid in 1995 for a 12-year exclusivity period for a casino licence, and a further AUD100 million was paid in 2007 for a 12-year extension of the exclusivity period.

Online Gambling Licences

In the Northern Territory, online sports bookmakers and online gaming licensees pay an annual licence fee of AUD28,200, whereas betting exchange licensees pay an annual licence fee of AUD282,000.

5. Land-Based Gambling

5.1 Premises Licensing

The licensing requirements relating to premises will vary depending on the form of land-based gambling, and on the state or territory.

For casinos, most states and territories will include the location of the casino and any con-

ditions relating to the premises in the casino licence conditions.

Clubs and hotels may, under their respective licence, operate gaming machines; however, the gaming machines must be approved in order for them to be operated in the premises.

5.2 Recent or Forthcoming Changes

The conduct of land-based gambling has been materially affected by the casino inquiries and the legislative amendments introduced as a result of their outcome.

NSW has undergone changes in relation to promoting responsible gambling measures in clubs and hotels (see **1.1 Current Outlook and Recent Changes** and **7.3 Recent or Forthcoming Changes**).

Victoria has also undergone changes to promote responsible gambling measures in the land-based environment and has issued fines to operators failing to comply with responsible gambling measures (see **7.3 Recent or Forthcoming Changes**).

6. Online Gambling

6.1 B2C Licences

B2C operators may be licensed in Australia to offer a regulated interactive gambling service (ie, lotteries and betting). A licence that is issued in any state or territory in Australia enables the licensee to provide the licensed services throughout Australia without the requirement of obtaining a licence from any other state or territory.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B providers will not generally require a licence to offer their services to Australian operators. The B2B's systems may, however, be subject to review or approval processes as a condition of the licence granted to the B2C operator that uses their system.

Affiliate services and white-label operators are likely to require approval by the NTRWC to provide services to bookmakers and/or betting exchanges licensed in the Northern Territory (see **6.3 Affiliates** and **6.4 White Labels**).

6.3 Affiliates

A licensed bookmaker or betting exchange must request the NTRWC's prior approval for any partnerships entered into where the licensed operator provides compensation to the other party for the referral of customers to the licensed activities of the licensed bookmaker or betting exchange. Therefore, if the arrangement with an affiliate satisfies these requirements, prior approval is required from the NTRWC.

6.4 White Labels

Generally, white-label providers are not required to be licensed; however, agreements between bookmakers and white-label providers will need to be approved by the NTRWC if they meet the requirements set out in **6.3 Affiliates**.

6.5 Technical Measures

Australian ISPs are required to block illegal offshore gambling websites notified by the ACMA.

The ACMA has been active in using this measure. Since its implementation in November 2019, the ACMA has requested that more than 1,000 websites (including of affiliates) be blocked. A list

of all these websites is available on the ACMA's website.

6.6 Recent or Forthcoming Changes

In relation to amendments to the IGA relating to the introduction of the ban on the use of credit cards and digital currency in online wagering, and the proposed amendment relating to the prohibition on advertising online wagering services, see the Federal commentary in **3.7 Recent or Forthcoming Legislative Changes**.

Amendments to the classification of computer games containing gambling-like content came into effect on 22 September 2024 (see **1.1 Current Outlook and Recent Changes**).

Amendments have been introduced in NZ to have a requirement for offshore online gambling operators providing online gambling services to customers located in NZ to pay an offshore gambling duty. Further, it was announced that a regulatory regime for the licensing of online casino operators will be introduced in NZ (see **1.1 Current Outlook and Recent Changes**).

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

7.1 RG Requirements

Responsible gambling requirements that apply to land-based gambling operators vary depending on the type of licence held by the operator, and on the state and/or territory in which the operator is licensed.

Generally, a gambling service provider will be required to display certain responsible gambling messages and warnings in designated areas, and to provide customers with:

- an option to self-exclude from the gambling services provided by an operator;
- options for imposing voluntary pre-commitment limits; and
- information about responsible gambling support services.

In South Australia, there is a requirement that venues operating more than 30 gaming machines must have facial recognition technology to identify problem gamblers.

For further information relating to responsible gambling measures in the land-based gambling environment see **7.3 Recent or Forthcoming Changes**.

For online gambling, each state and territory has differing requirements; however, there has been harmonisation of the requirements for online wagering operators through the implemented NCPF measures (see **1.1 Current Outlook and Recent Changes**). Further details regarding other responsible gambling measures are referred to in **7.3 Recent or Forthcoming Changes**.

7.2 Gambling Management Tools

The tools available to players for managing their gambling activities are referred to in **7.1 RG Requirements**.

7.3 Recent or Forthcoming Changes

The NCPF was the catalyst for the introduction of various responsible gambling measures affecting the online wagering sector during the past five years. There were ten NCPF measures, all of which have been implemented. The NCPF measures include:

- a restriction on inducements;
- an obligation to verify customers;

- a requirement to provide responsible service of online gambling training to staff;
- a requirement to provide activity statements to customers;
- the implementation of consistent gambling messaging;
- voluntary opt-out and pre-commitment tools; and
- BetStop.

The inquiries into the operations of land-based casinos also resulted in the introduction of responsible gambling measures in casinos, and hotels and clubs that provide gaming machines.

In NSW, a trial was conducted in clubs and hotels in which customers were allowed to use cashless methods to play on gaming machines. The technology that was being trialled connected the gaming machine to a customer's mobile phone, from which the customer would access their digital wallet to transfer money for their game play. The customers could also make use of responsible gambling tools that would allow them to:

- set time or spending limits;
- take a break;
- self-exclude from gambling; and
- access real-time data regarding their spending.

This trial was intended to promote responsible gambling and minimise the risk of money laundering.

This trial concluded in September 2024, and is due to be considered soon by the Independent Panel on Gaming Reform. A report to the NSW government is expected to be provided in November 2024.

Further initiatives in NSW include:

- the removal of external signage from hotels and clubs relating to the advertising of gaming machines or gaming rooms;
- the reduction of the cash input limit in gaming machines from AUD5,000 to AUD500, with effect from 1 July 2023;
- establishing the Independent Panel on Gaming Reform (see **1.1 Current Outlook and Recent Changes**); and
- the implementation of responsible gambling measures in clubs and hotels that provide gaming machines (see **1.1 Current Outlook and Recent Changes**).

Various initiatives have been announced by the Victorian government. These include:

- pre-commitment to become mandatory with effect from 1 December 2025;
- the maximum amount deposited in a gaming machine will be reduced from AUD1,000 to AUD100;
- mandatory closure of venues (excluding Crown Casino) between 4am and 10am, which came into effect on 30 August 2024; and
- a three-second spin rate on new gaming machines.

In January 2024, the VGCCC issued a statewide directive prohibiting Tabcorp's betting terminals from accepting cash bets on Electronic Betting Terminals unless patrons are within five metres and in the line of sight of the venue's counter. This regulatory action is part of a broader shift towards cashless gambling in Victoria and Australia.

On 13 June 2024, Tabcorp was fined AUD370,417 by the Melbourne Magistrates' Court for failing

to prevent a minor from gambling at multiple Victorian venues, and for inadequate supervision of its electronic betting terminals.

On 23 August 2024, the VGCCC fined the Tabcorp entity licensed to operate in Victoria, AUD4.6 million for several instances of non-compliance with its regulatory obligations under its licence and the code of conduct on responsible gambling. The non-compliance related to a failure to adequately train staff in responsible gambling, and to the sending of direct marketing material to a customer who had opted out of receiving such material.

The VGCCC fined Crown Melbourne AUD2 million on 15 October 2024 for allowing individuals who were self-excluded from gambling to place bets at the casino. The breaches occurred between October 2023 and May 2024. The VGCCC also directed Crown Melbourne to engage an independent expert to review and make recommendations for improving the management of the self-exclusion programme of the casino.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML legislation in Australia is the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (the “AML/CTF Act”). This is supplemented by the Anti-Money Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1) (the “AML/CTF Rules”), which provides further detail in relation to specific requirements under the AML/CTF Act.

There have been recent amendments to the AML/CTF Rules, and, following the consultation processes, the Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill

2024 (the “AML/CTF Bill”) was introduced into Federal parliament (see **8.3 Recent or Forthcoming Changes**).

8.2 AML Requirements

Gambling (excluding the provision of a lottery service) is considered a “designated service” under the AML/CTF Act. As a result, licensed operators are considered “reporting entities” and are subject to obligations under the AML/CTF Laws. These include:

- enrolling with AUSTRAC;
- preparing and implementing an AML/CTF programme;
- adopting risk-based systems and controls for mitigating and managing money-laundering and terrorism-financing risks associated with the designated service, including adopting know-your-customer (KYC) requirements;
- reporting suspicious transactions, and certain business activities and transactions;
- keeping records;
- submitting annual reports to AUSTRAC; and
- staff training.

8.3 Recent or Forthcoming Changes

Following changes to Australia’s AML/CTF Laws, which came into effect on 29 September 2023, online wagering operators are required to verify a new customer prior to providing a designated service.

This requires online wagering operators to conduct customer identity verification prior to opening an account for a new customer.

The AML/CTF Act was amended to allow for parties to rely on KYC checks conducted by third parties on the basis that such checks abide by the requirements present under the AML/CTF regime. This also applies to KYC procedures

conducted by external jurisdictions if the procedure meets all the requirements prescribed under the AML/CTF Rules.

There have been two rounds of consultation regarding the modernisation of Australia's AML/CTF regime. The most recent consultation closed on 13 June 2024. The purpose of the consultation was to consider what needs to be addressed and implemented to modernise and simplify Australia's AML/CTF regime, and to introduce the Tranche 2 requirements (which relate to non-financial businesses such as real estate agents and professional services – eg, accountants and lawyers).

Following the consultation processes, the AML/CTF Bill was introduced into Federal parliament on 11 September 2024.

The AML/CTF Bill has three main objectives:

- to extend the AML/CTF regime to additional services provided by Tranche 2 entities (eg, lawyers, accountants, trust and company service providers, real estate professionals, and dealers in precious metals and stones);
- to modernise the regulation of virtual assets and payments technology; and
- to simplify and clarify the AML/CTF regime in order to increase flexibility, reduce regulatory impacts, and support businesses to prevent and detect financial crime.

The AML/CTF Bill also introduces material amendments relating to AML/CTF programme requirements, risk assessment requirements, internal AML/CTF policies, initial/ongoing customer due diligence processes, and increases AUSTRAC's investigative powers.

The majority of the amendments are proposed to commence on 31 March 2026.

As at the date of writing this Chapter, the AML/CTF Bill has passed in both houses of the Federal parliament and is awaiting Royal Assent.

AUSTRAC has remained active in its review and enforcement of gambling operators. It has concluded Federal Court of Australia proceedings and other enforcement action and reviews are ongoing (see **1.1 Current Outlook and Recent Changes**).

The trial using cashless methods to play on gaming machines in clubs in NSW (see **7.3 Recent or Forthcoming Changes**), if implemented, is intended to reduce the risk of money laundering arising from the use of gaming machines in clubs and hotels.

9. Advertising

9.1 Regulatory/Supervisory Agency

The relevant regulatory and supervisory agencies in respect of gambling advertising include:

- federal – ACMA, and the Australian Competition & Consumer Commission;
- Australian Capital Territory – ACT Gambling and Racing Commission;
- New South Wales – Liquor & Gaming NSW;
- Northern Territory – NTRWC;
- Queensland – Office of Liquor and Gaming Regulation;
- South Australia – Consumer and Business Services;
- Tasmania – Tasmanian Liquor and Gaming Commission;
- Victoria – VGCCC;

- Western Australia – Department of Local Government, Sport and Cultural Industries; and
- industry bodies – Ad Standards, and the Australian Association of National Advertisers (AANA).

9.2 Definition of Advertising

Land-Based Gambling Advertisements

Land-based gambling advertisements are regulated under the relevant state and territory laws. The definition of advertising in the respective legislation in the states and territories also captures online gambling advertisements.

In New South Wales, a “gambling advertisement” is defined in the Betting and Racing Act 1998 (NSW) (the “Betting and Racing Act”) as meaning an advertisement that gives publicity to – or otherwise promotes or is intended to promote – participation in gambling activities. Other state and territory statutes provide similar definitions of “gambling advertisement”.

Online Gambling Advertisements

The IGA prohibits “designated interactive gambling service advertisements”. This is defined as any writing, still or moving picture, sign, symbol or other visual image, or audible message (or any combination of two or more of these things) that either gives publicity to or is intended to promote:

- prohibited or unlicensed online gambling services;
- the whole or part of a trade mark in respect of a prohibited or unlicensed online gambling service;
- a domain name or URL that relates to a prohibited or unlicensed online gambling service; or
- any words that are closely associated with a prohibited or unlicensed online gambling

service (whether or not they are also closely associated with other kinds of services or products).

This prohibition generally applies to the advertising of gambling services that are prohibited or unlicensed, or of offshore gambling operators.

9.3 Key Legal, Regulatory and Licensing Provisions

The key legal and regulatory provisions with regard to advertising vary depending on the type of gambling services being provided, and on the state or territory in which they are provided. There are no licensing provisions in respect of advertising.

Gambling operators’ advertising is also subject to federal laws, including:

- the Australian Consumer Law;
- the Spam Act 2003 (Cth); and
- the Broadcasting Services Act 1992 (Cth).

9.4 Restrictions on Advertising

Land-Based Gambling

Land-based gambling advertisements are generally permitted in Australia. However, there are strict restrictions with regard to what can be included in an advertisement and when advertising is permitted.

As outlined in **9.2 Definition of Advertising**, the advertising of gambling services is regulated at the state and territory level and the requirements vary from one jurisdiction to another. There are also industry codes of practice that outline the manner in which gambling services can be advertised on various media platforms.

Generally, gambling advertising will be prohibited or considered unlawful if, among other things, the advertisement:

- encourages a breach of the law;
- depicts or targets persons under the age of 18;
- misrepresents the likelihood of winning;
- relates to a gambling service that is unlawful;
- does not include the requisite responsible gambling messages;
- represents gambling as a means of financial betterment; and/or
- depicts the consumption of alcohol.

Further advertising restrictions are imposed on wagering operators in respect of, among others:

- the offering of inducements to participate in wagering activities or to open a betting account;
- the advertising of live odds during sporting events; and/or
- the promotion of gambling services on television and radio during peak times.

Land-based operators are also required to display responsible gambling messages. However, the requirements around the display of such messages vary significantly from one jurisdiction to another.

Online Gambling

The above-mentioned restrictions also apply to online gambling operators. However, further advertising restrictions are imposed on online wagering operators by means of the NCPF, particularly through the consistent gambling messaging requirements.

Online wagering operators are required to utilise prescribed responsible gambling taglines in the

advertising of their online wagering services, and on their websites and apps.

The taglines that the online wagering operators must publish are:

- “Chances are you’re about to lose.”
- “Think. Is this a bet you really want to place?”
- “What’s gambling really costing you?”
- “What are you prepared to lose today? Set a deposit limit.”
- “Imagine what you could be buying instead.”
- “You win some. You lose more.”
- “What are you really gambling with?”

The taglines to be used differ depending on the platform used for the advertising. The taglines must be rotated equally over a 12-month period.

The taglines must also include a call to action which differs depending on the platform used and the duration of the advertisement. The shortest call to action is “Set a deposit limit”, and the full call to action is “For free and confidential support call 1800 858 858 or visit gamblinghelponline.org.au”.

There are various requirements relating to the taglines prescribed and the call to action which online wagering operators must consider when advertising, including the:

- colours to be used for the tagline and call to action;
- size and font to be used;
- length of the message to be displayed; and
- speed at which the tagline and the call to action are read.

Pure branding (ie, the display of a logo) is not usually considered advertising, but this will depend on context.

The South Australian Authorised Betting Operations Gambling Code of Practice came into effect on 31 March 2023. The Code of Practice applies to all South Australian licensed bookmakers, and to registered interstate betting operators. It contains a broader range of requirements relating to inducements and the manner in which they can be advertised. Operators are also required to keep a copy of their advertising material for 12 months following the conclusion of the campaign.

9.5 Sanctions/Penalties

The sanctions and penalties that apply with regard to breaches of advertising restrictions vary significantly depending on the laws of the relevant jurisdiction and on the nature of the contravention.

In New South Wales (NSW), for example, the maximum penalty prescribed for an online betting operator that publishes a gambling advertisement in contravention of the Betting and Racing Act is AUD11,000 for an individual and AUD110,000 for a corporation.

At the federal level, contraventions of the provisions relating to advertising in the IGA may result in fines of up to AUD56,340 for an individual and AUD281,700 for a corporation.

A penalty notice scheme was introduced in NSW enabling the LGNSW to issue a criminal penalty notice, which requires the payment of a fine if a breach occurs. This differs from the previous scheme under which penalties would only be imposed by the regulator through action in court proceedings. A similar scheme has been introduced in Victoria. This supplements the procedure under which penalties were only imposed by the regulator through action in court proceedings.

On 14 April 2023, LGNSW announced that wagering operator Betr had been fined AUD210,000 in relation to odds offers offered and advertised during major sporting and racing events in October 2022, in breach of the NSW gambling law prohibitions on the advertising of inducements to participate in gambling activity, including inducements to open a betting account. The fine against Betr was the first time that the LGNSW's power to issue a penalty notice had been used.

In May 2023, Betchoice (trading as Unibet) was fined AUD60,000 by a Sydney Court for promotions which contained inducements to participate in gambling activity and to open a betting account in breach of NSW gambling law.

On 12 August 2024, PlayUp Interactive was ordered by the NSW Local Court to pay a fine of AUD586,000 for offering free bets and inducements to open a betting account.

In June 2024, the ACMA announced that it had issued a remedial direction to Hubbl Pty Limited (Hubbl) Kayo due to the presentation of gambling advertisement during live sports events outside the permitted times. If Hubbl fails to comply with the ACMA's remedial direction, it may be ordered by the Federal Court to pay penalties of up to AUD626,000 per day.

9.6 Recent or Forthcoming Changes

Following the recommendations of the Federal Parliamentary Committee report "You win some, you lose more", which included a complete ban on online wagering advertising, the industry is awaiting the Federal government's position on whether a ban or further restrictions will be implemented (see 1.1 Current Outlook and Recent Changes).

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

The disclosure requirements for acquisitions of an interest and/or a change of control in respect of a gambling operator vary from one jurisdiction to another. Accordingly, it is necessary to refer to the provisions of the relevant legislation in the state or territory in which the relevant entity holds a licence.

Land-based casino licences cannot be transferred. Another company may, however, acquire shares in the licensee. In this scenario, if the share sale exceeds a certain threshold (usually 5% or 10% of the issued shares), the purchaser will need to notify and obtain approval from the relevant regulator. In NSW, for example, the purchaser must disclose all information required for the regulator to investigate the suitability of the purchaser.

Online lottery and wagering licences cannot be transferred. Another company may, however, acquire shares in the licensee. If the transfer of shares exceeds a certain threshold (usually 5% or 10% of the issued shares), the purchaser will need to notify and obtain regulatory approval in the relevant jurisdiction. The licensee and the purchaser in any transfer of shares that exceeds the threshold (eg, 10%) must disclose the information that the regulator needs to consider whether approval should be granted for the transfer of shares in the licensed company.

10.2 Change of Corporate Control Triggers

Generally, an acquisition of shares (directly or indirectly) that exceeds 5% or 10% of the issued shares in the licensee will trigger change-of-interest provisions that require the notification

to or approval of the relevant gambling regulator for the purchaser and associated persons.

10.3 Passive Investor Requirements

Passive investors will not usually be excluded from the requirements relating to change of control if they exceed the percentage threshold.

10.4 Recent or Forthcoming Changes

The inquiries into the suitability of persons associated with licensed land-based casino operators across Australia has introduced a heightened threshold to satisfy gambling regulators that individuals are suitable to hold a licence and/or be associated with the licensed company. As a result, gambling regulators conduct more in-depth probity and suitability reviews of individuals associated with a licensed operator.

11. Enforcement

11.1 Powers

The ACMA has broad investigative and enforcement powers under the IGA, including powers for:

- issuing formal warnings;
- issuing infringement notices;
- notifying the Department of Home Affairs (Australia's immigration and border protection agency) of the names of directors to be included on the Movement Alert List;
- pecuniary penalties;
- directions;
- cease-and-desist orders;
- notifying foreign regulators of the operator's breaches of the IGA; and/or
- seeking an order from the Federal Court of Australia for the imposition of substantial civil penalties.

The regulatory bodies' enforcement powers vary between the states and territories. In general, state and territory regulators have broad investigatory and enforcement powers and can:

- commence civil and criminal proceedings (where relevant);
- conduct licence reviews; and
- where required, vary licence conditions, or suspend or cancel the licence.

11.2 Sanctions

Regulators are vigilant about ensuring that operators comply with the applicable laws, and will proceed to take enforcement action when required.

When considering whether to impose sanctions (eg, suspending or revoking a licence, or varying licence conditions), regulators will consider the administrative and legislative tools that they have at their disposal for implementing and enforcing these sanctions.

11.3 Financial Penalties

All state-based regulators have the authority to undertake enforcement action against wagering operators. The NSW regulator, Liquor & Gaming NSW, is the most active regulator when it comes to taking enforcement action regarding advertising breaches. When determining the penalty, a court will take into consideration various factors, such as:

- the medium of the publication;
- the intended audience and context of the advertisement;
- whether persons were actually induced by the advertisement (ie, whether they signed up for an account);
- the offending history/record of the publisher; and

- the number of people in NSW who viewed the advertisement.

A separate penalty may be imposed for each separate publication and, therefore, a separate breach. Recently, amendments have been made to the relevant statute to permit Liquor & Gaming NSW to issue fines in respect of advertising breaches.

Penalties for an advertising breach under the IGA are imposed following civil or criminal court proceedings, and the amount of the penalty is determined by the court in accordance with the amount of the penalty under the relevant provision of the IGA.

Following the various casino inquiries that found that each of the relevant casinos acted in an inappropriate manner, amendments were made to relevant legislation to provide for a substantial increase in penalties. Fines of up to AUD100 million may now be imposed (and have been).

Fines have been issued in NSW for breaches of advertising prohibitions (see **9.5 Sanctions/ Penalties**).

11.4 Recent or Forthcoming Changes

Amendments were made to relevant laws over the last few years to substantially increase the penalties that regulators could issue to licensees for breaches of the law. These amendments were made following the casino inquiries.

12. Tax

12.1 Tax Rate by Sector Land-Based Gambling

The rate of gambling tax payable by operators varies depending on the state and/or territory in

which the operator is licensed, and on the type of land-based gambling activity being provided. For an indication of the tax rates, reference is made to the following examples.

Casino tax

New South Wales

The Star Entertainment Group (“The Star”) and the NSW government reached an updated agreement regarding gaming taxes applicable on gaming machines. The updated agreement, which amends the agreement with the previous NSW government, will result in a gradual tax increase. The applicable tax is:

- 20.91% from 1 July 2023 to 30 June 2024;
- 21.91% from 1 July 2024 to 30 June 2027; and
- 22.91% from 1 July 2027 to 30 June 2030.

From 1 July 2030, the below tiered tax rate will apply:

- 0 on gaming machines with less than AUD2,666 average poker machine revenue;
- 37.6% on gaming machines with AUD2,666 to AUD6,667 average poker machine revenue;
- 42.1% on gaming machines with AUD6,667 to AUD12,500 average poker machine revenue; and
- 51.6% on gaming machines with over AUD12,500 average poker machine revenue.

This updated agreement includes obligations on The Star:

- to maintain more than 3,000 jobs for the next six years;
- to participate in the NSW cashless gaming trial; and
- for all gaming machines in The Star to be cashless by 30 August 2024.

Lotteries tax

Queensland

Under the Lotteries Regulation 2007 (Queensland), the lottery tax payable is 73.48% of the lottery operator’s gross monthly revenue minus the lower of:

- the global goods and services tax (GST) amount; or
- the gross tax amount for the month.

Victoria

The following applies in Victoria.

- Under the Gambling Taxation Act 2023 (Victoria), the tax payable by online keno operators is 24.24% on net keno revenue in respect of that month.
- Under the Gambling Regulation Act 2003 (Victoria), the lottery tax payable by the lottery operator is:
 - (a) 79.4% of the player loss in respect of supplies on which GST is payable; and
 - (b) 90% of the player loss in respect of supplies on which GST is not payable.

Wagering tax

New South Wales

Under the Betting Tax Act 2001 No 43 (NSW), the tax payable in respect of totalisator on-course and off-course betting from 1 July 2022 is 3.49% of totalisator commissions on fixed-odds racing.

Race-fields fees

The applicable rates vary between each state and territory. Certain states and territories have established a fixed rate for the applicable fees; however, in other states and territories the applicable rates vary depending on the category of race on which bets are taken.

Online Gambling

The gambling tax that is applicable in the Northern Territory is as follows.

- For online gaming – the tax rate is determined by formal agreement with the relevant minister.
- For the bookmaker – the tax payable is:
 - (a) 5% of gross monthly revenue; and
 - (b) currently capped at AUD1.410 million per financial year.

An online betting operator, irrespective of the jurisdiction in which it is licensed, will also be subject to a point-of-consumption tax. This is charged based on net wagering revenue in the following states and territories (subject to certain thresholds being achieved):

- South Australia – 15%;
- New South Wales – 15%;
- Victoria – 15%;
- Queensland – 20%;
- Australian Capital Territory – 25%;
- Western Australia – 15%; and
- Tasmania – 15%.

All the above taxes are calculated in a slightly different manner. Further enquiries should be made to obtain details of the calculations.

12.2 Recent or Forthcoming Changes

The NSW government is considering whether it is warranted to increase the point of consumption tax.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

A personal licence may be required at a state and territory level, for example, in respect of gambling operators/venues which are in the land-based market, for – eg, gaming machine technician licences.

A personal licence is required in the Northern Territory for individuals that are deemed key individuals in relation to the online sports bookmaker licence. The key person licences are required by:

- directors or executive officers of the licensed operator; and
- individuals in managerial positions or who have a managerial function in the business of the licensed operator and has a significant influence over the licensee's business.

A key person licence is granted for a maximum period of five years and may be renewed.

An individual must be approved by the NTRWC to be appointed as the nominee of the licensed sports bookmaker and whose role is to represent the licensee.

Refer to 4.7 Application Requirements in relation to requirements of individuals that are required to undergo a probity review to be associated with a licensed operator.

13.2 Application Process

The application process for a personal licence requires the completion of an application form providing responses to personal details. The details that are required for a personal licence (eg, a key person licence issued by the NTRWC)

are less onerous than the details required in an application relating to a probity review to be associated with the ownership or directorship of a licensed operator. The application process is likely to also require that fingerprinting is provided for the purposes of conducting background checks and providing police certificates.

Refer to **4.7 Application Requirements** in relation to requirements of individuals that are required to undergo a probity review to be associated with a licensed operator.

A key person licence application fee is currently AUD211.50. The process to be granted the key person licence is usually completed in approximately two months.

13.3 Ongoing Annual Fees

There are usually no annual fees associated with personal licences; however, renewal of the personal licence will require the payment of a fee, eg, the key person licence issued by the NTRWC requires the payment of the same amount as if applying for a new licence (currently AUD211.50).

13.4 Ongoing Requirements

The ongoing requirements generally associated with a personal licence is that the individual remains suitable to hold the licence and to notify the regulator if situations arise which could affect the individual's suitability.

A personal licence may include conditions with which the individual must comply.

13.5 Personal Sanctions

Regulators have the power to suspend or cancel a personal licence granted to an individual if the person is no longer deemed to be suitable or fit and proper to hold the licence.

13.6 Recent or Forthcoming Changes

With the coming into effect of the New NT Wagering Laws, the term of key person licences was extended from being for a period of one year (renewable annually) up to a maximum period of five years.

Trends and Developments

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Senet

Senet is a multidisciplinary group with senior level industry experience and deep knowledge and expertise across the gambling sector. The firm works across all sectors of the gambling industry, and its clients include some of the world's largest and most successful gambling and gaming operators, many of which are publicly listed in Australia and internationally. The team provides top-tier law firm, significant in-house and senior advisory experience, and its principals have worked at executive level within

the industry. The gambling advisory team comprises three principals and four lawyers, with offices in Melbourne. The team's advice helps to deliver regulatory, corporate, and commercial solutions that not only meet but surpass client expectations. The firm advises the International Association of Gaming Regulators on a pro bono basis. The team are members of the International Association of Gaming Advisors and host Australia's annual Wagering and Racing Conference, "Backing The Punt".

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AUSTRALIA TRENDS AND DEVELOPMENTS

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Regulatory Scrutiny of the Casino Sector Remains Heightened Throughout 2024 and Into 2025

In the past 12 months, Australian casino operators have continued to face intense regulatory scrutiny, with a number of important developments throughout the year. It is anticipated that this focus will continue as licensees embed remediation programmes amidst the competing challenges of managing cost pressures and difficult trading conditions.

The Star (Sydney)

Following the finding in August 2022 that The Star was unsuitable to be associated with the operation and management of The Star Casino, the New South Wales Casino regulator (NICC) appointed an independent manager to carry out a second independent inquiry into The Star in February 2024.

Most recently, in October 2024, the NICC advised that the licence will remain suspended until at least March 2025 (with independent supervision also to continue until at least that time) citing that a decision to revoke the licence would have serious economic impacts on staff and connected businesses and stakeholders. The NICC did, however, impose a fine of AUD15 million on account of four breaches of regulatory requirements, including one that resulted in a cash fraud against The Star related to the malfunction of gaming machines, a failure to run source of wealth checks on hundreds of members flagged as high risk, and fraudulent guest welfare entries that put already vulnerable customers at higher risk of harm.

Separately, the outcome of the AML/CTF regulator's action against the Star Entertainment Group and actions by the corporate regulator, ASIC, against 11 former directors and officers

of the Group remains uncertain at the time of writing.

The Star (Queensland)

In October 2022, The Star was found unsuitable to hold a casino licence or operate a casino in Queensland. Its casino licences in relation to The Treasury Brisbane and The Star Gold Coast were suspended on a deferred basis, a significant fine was imposed, and a special manager was appointed (the same manager as for The Star Sydney) for 12 months. The appointment was subsequently extended to 8 December 2024 and The Star has been afforded additional time to implement changes and demonstrate improvements in its operations before a final decision regarding its licence is made.

The Star opened the brand new The Star Brisbane Casino at Queen's Wharf in August 2024. The Queen's Wharf development is a joint venture between The Star Entertainment Group, Chow Tai Fook Enterprises and Far East Consortium. However, shortly after launch it was reported that The Star was in discussions with the Queensland government regarding tax payment deferrals to navigate financial challenges faced by the Group.

SkyCity Adelaide

On 7 June 2024, SkyCity, the Adelaide-based casino, was ordered by the Federal Court of Australia to pay AUD67 million in civil penalty proceedings brought by the Australian Transaction Reports and Analysis Centre (AUSTRAC) for breaches of AML/CTF legislation. The Court also ordered SkyCity to pay AUSTRAC's costs of AUD3 million.

Following the conclusion of the AUSTRAC proceedings, the South Australian regulator directed that its review into SkyCity's suitability to oper-

ate the SkyCity Adelaide Casino would recommence. The review is expected to be completed before the end of the year.

The independent monitor appointed in August 2023 to oversee SkyCity's compliance with its AML/CTF and gambling harm minimisation obligations continues in place.

Victoria

In January 2024, the Special Manager of Crown Melbourne submitted his final report to the Victorian regulator setting out his assessment of the effectiveness and sustainability of Crown Melbourne's reforms. The Victorian regulator subsequently announced in March 2024 that it was satisfied that Crown Melbourne was suitable to operate the casino and that it was in the public interest for the casino licence to remain in force.

More recently, in October 2024, the Victorian regulator fined Crown Melbourne AUD2 million for allowing 242 people who had self-excluded from gambling to gain access to Crown to gamble on 451 separate occasions over an eight-month period between October 2023 and May 2024, which highlights that enhanced oversight will continue despite the licensing decision having been made.

Foreign-Matched Lotteries and Online Keno Review

In recent times, there has been an increase in the number of operators adopting a "courier style" model to offer entries into prominent foreign lotteries and to compete for sales with local state and territory licensees. This involves the licence holder entering into arrangements to acquire corresponding tickets issued by the local operator (whether in the United States of America or another jurisdiction). Most states and territories in Australia continue to operate with exclusive or

sole licence regimes under which the licensees had operated for many years without material competition and so these businesses have the potential to create a disruptive impact.

At the time of writing, both foreign-matched lotteries and also online keno are subject to a Federal government review. In announcing the review, the Federal government commented that the review will allow the government to better understand the impact of these types of lotteries on the community, including from a gambling harm perspective, and explore whether changes to regulations are required. It is possible, for example, that such products may be made subject to the same bans on the use of credit cards and digital payments (including cryptocurrency) that took effect during 2024 for wagering products or that further regulatory reform may be enacted.

AUSTRAC Issues Revised Risk Assessments

The federal money-laundering regulator, AUSTRAC, released its Money Laundering in Australia and Terrorism Financing in Australia National Risk Assessments in July 2024, which cover all sectors within their regulatory remit, including gambling. The assessments present both a rating and outlook for risk across the sector and assist in building an understanding of some of the key risks that businesses may be exposed to and, in turn, the development of awareness and controls to manage those risks. It is noteworthy that Australia is now in the process of implementing significant transformative change to its anti-money laundering and counter-terrorism legislation, which will extend the regime to an expanded range of service providers and is intended to simplify and modernise the framework to reflect new technologies, illicit financing methodologies and changes to business structures. In doing so, Australia will close regulatory

gaps and align with the Financial Action Task Force (FATF) international standards. Gambling service providers will remain an important focus for AUSTRAC.

In the gambling sector, it is unsurprising that casinos have been assessed as posing the highest money laundering risk in the gambling sector (with a rating of high and outlook of stable). AUSTRAC notes that despite industry reforms and sustained regulatory and law enforcement efforts, exploitation of casinos by criminal entities continues on a large scale with both sophisticated transnational crime groups and opportunistic, low-level offenders participating in this activity. AUSTRAC cites structuring, chip exchange between parties and the trade in tickets from electronic gaming machines (EGMs) as being the key methodologies used. These vulnerabilities were highlighted in a number of high-profile examinations of industry practices by both AUSTRAC and Royal Commissions and the inquiries as referred to above.

In the wagering vertical (which covers tote operators, betting exchanges and corporate bookmakers), the risk has been assessed as medium with a stable outlook. AUSTRAC cites the relative ease with which funds can move into and out of operators with particular mention made of cash bets and electronic betting terminals and vouchers on account of those methods having less visibility and lower monitoring. The Assessments confirm that operators should ensure that their AML/CTF programmes and risk assessments are responsive to strategies to launder funds which include the use of third-party betting accounts (also known as bowler accounts) and placing structured cash wagers through electronic betting terminals and retail betting outlets.

Pubs and clubs which often offer cash betting and electronic gaming machines have also been assessed as posing a medium risk and a stable money laundering vulnerability over the next three years (which arises primarily on account of a high volume and value of transactions (including cash) as well as exposure to high-risk customers). AUSTRAC has stated that AML/CTF capability and capacity across the sector could be improved and that a number of entities are highly vulnerable to money laundering. The ability to detect and report suspicious transactions to AUSTRAC is stated to remain low.

AUSTRAC has also assessed that the money laundering risks presented by online offshore gambling is medium and stable. Criminal exploitation of online offshore platforms by Australians is noted as occurring but without evidence that it is widespread. The platforms are often based in locations which have varying degrees of licensing or regulatory sophistication and oversight. The growth in the use of digital currencies by these platforms is noted as also being a complicating factor in identifying and addressing money laundering activity.

The National Self-Exclusion Register Gains Traction

Australia's National Self-Exclusion Register, BetStop, launched in August 2024. Prior to the introduction of BetStop, customers experiencing gambling related harm had two options regarding self-exclusion:

- customers could approach each individual wagering provider and exclude themselves; or
- customers could apply for a state or territory-based exclusion, should such a service be offered in the state or territory that they lived in, eg, the South Australian BOEN system.

This presented a fragmented approach for consumers experiencing gambling harm to navigate in order to preclude gambling with the over 100 online betting sites operating in Australia.

The introduction of BetStop created an additional option where Australians can enter their details and self-exclude from all Australian licensed online and phone wagering providers for a minimum of three months up to a lifetime. BetStop covers all Australian licensed interactive wagering service providers, prohibiting them from opening a new account or accepting bets from self-excluded individuals, or sending them marketing material. Wagering providers are also required to close existing betting accounts for registered individuals. In many respects this has significantly simplified the process for a customer experiencing gambling-related harm.

The Australian Communication and Media Authority (ACMA) recently published a report examining the first year of BetStop's operation. This report outlined the following.

- In the first year of operation, more than 30,000 Australians have registered to self-exclude via BetStop.
- There was significant demand in the weeks immediately following launch, with more than 3,000 registrations in the first week. Registration numbers have remained largely consistent, with an average 1,600 registrations a month over the period from February to August 2024.
- There has been a high uptake among younger people, with almost half (49%) of registrations in the first year being by those aged 30 or younger, with almost four fifths (79%) being aged 40 or younger.

- The most common exclusion period has been for a period of three months to two years (40%) followed by a lifetime exclusion (39%).

Whilst the initial uptake was surprising for certain industry participants, the continued uptake of BetStop indicates that it is a viable option for customers experiencing gambling-related harm. The introduction and operation of the platform has not been without complexity and controversy, however, with feedback from the experience of both consumers and industry in interacting with the platform to be considered as part of a scheduled statutory review of the service commenced in October 2024.

Potential Advertising Restrictions for Online Wagering and Other Reforms

As reported in the 2023 Trends and Developments article, recommendations had been tendered by a House of Representatives Standing Committee on Social Policy and Legal Affairs (the "Committee") to implement significant reforms impacting gambling advertising and regulation of the online wagering sector more broadly to address gambling harm.

In June 2023, the recommendations of the Committee in the "You win some, you lose more" report included:

- the implementation of a single Commonwealth government minister dedicated to online gambling harm reduction;
- the establishment of national regulation and a national online gambling regulator with the sole purpose of gambling harm reduction and with responsibility for all licensing and regulation;
- the disclosure of de-identified customer data on gambling participation and other metrics

- to the regulator and to approved researchers on a systematic basis;
- the imposition of a harm reduction levy on all online wagering service providers to support a national regulator; and
- a phased ban on advertising for online gambling and a ban on all online gambling inducements and inducement advertising.

The report, specifically the phased ban on online gambling advertising, has attracted significant attention from participants in the sector, politicians and members of the public throughout 2024. However, at the time of writing, the Federal government is yet to formalise its response to the Committee's report despite a number of indicative deadlines having now elapsed. Reform in this space faces myriad political and economic challenges given the potential impacts on sports and racing stakeholders and media organisations under profit pressures and the forceful advocacy of anti-gambling and gambling reform groups.

It is anticipated that further restrictions on advertising will ultimately be implemented but it appears unlikely that these will be adopted to the full extent advocated by the Committee.

Cashless Gaming Trials and Implementation

As at the date of writing, cashless gaming trials have just concluded in New South Wales. The outputs of the trials across 32 participants are being reviewed by an independent panel on gaming reform which will make recommendations to government.

Mandatory pre-commitment and carded play is, following further stakeholder consultation, also shortly to take effect in Victoria outside of casinos where it already operates for electronic gaming machines and in Tasmania (although

there have been some delays in implementation). These restrictions necessarily extend to the design, functionality and support required from gaming machine and other equipment manufacturers, software developers and technical services suppliers.

Cashless gaming has been advocated for by gambling harm-focused groups and by the NSW Crime Commission who identified the technology as a means to prevent or mitigate money laundering.

Growth of Membership-Based Trade Promotion-Style Lotteries

In recent years, the authors have observed a wave of operators entering the Australian gaming market adopting a "trade promotion" or sweepstakes-style entry mechanic.

In Australia, a trade promotion is a competition or "giveaway" operated to promote the goods or services of a business. It involves the giving away of prizes to customers by any means that include an "element of chance" at any stage of the competition. A key requirement in each state and territory of Australia to conduct a lawful trade promotion is that the competition for the draw of prizes is free to enter. A traditional example is where a business offers its customers the free chance to enter a prize draw as a reward for a customer purchasing a good or service at its retail price.

However, a model involving membership-based subscriptions associated with prize draws (typically for exotic cars, boats, cash and real estate) has gained traction in the broader market with the founder of one high-profile operator having recently entered Australia's list of youngest billionaires published by the Australian Financial Review. These businesses typically offer sub-

scribers discounts to services provided by a range of third-party businesses.

The regulatory status of such businesses is reported to be under consideration by authorities in at least two Australian states for potentially constituting “gambling” for the purposes of those regulatory regimes. Lotteries are subject to significantly stricter obligations than trade promotions, including a requirement to remit state taxes and to comply with a range of other responsible gambling, reporting and integrity-related obligations.

Whether Australian state and territory-based regulators take any further action against existing operators or whether there is a legislative response to this business model remains to be seen and will be tracked by many observers, including the authors, with interest.

BELGIUM

Law and Practice

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Edson is an independent law firm based in Brussels. Edson is truly unique in the marketplace, owing to its integrated approach across four crucial pillars in the life cycle of any business – namely, data, markets, technology and innovation (DMTI). The firm supports businesses, entrepreneurs and governments in all areas of Belgian business law and EU law matters. Edson is one of very few Belgian law firms with in-depth gaming expertise. Of note is the firm's

broad regulatory expertise and wide experience in gaining and, if necessary, enforcing market entry. The team also provides day-to-day operations support to its gaming clientele. This covers a wide variety of areas, including sponsorship deals, advertising, due diligence, acquisitions and divestments, IP, joint ventures and partnerships, data transactions, and consumer complaints litigation. The gaming team is fully integrated into Edson's core practice areas.

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EDSON.

1. Introduction

1.1 Current Outlook and Recent Changes

Since 2011, it has been an essential characteristic of Belgian gambling policy that online gaming licences can only be obtained by a company holding an offline licence. In a noteworthy judgment of 28 February 2018 concerning Hungarian gambling legislation, the CJEU held that a restriction reserving access to the online gambling market to casino operators situated on national territory is disproportionate and therefore contrary to the EU freedom to provide services.

Amended Gaming Act

In 2019, the Belgian legislature substantially amended the country's most important piece of gambling legislation, the Federal Act of 7 May 1999 regarding games of chance, wagers and protection of the players (the "Gaming Act") (see **3.1 Key Legislation**). The Gaming Commission was given the power to prohibit bets if the fairness of the event cannot be guaranteed or where certain betting mechanics are considered prone to fraud.

The following are among the important new rules for betting shops.

- Betting shops must sign an agreement ("covenant") with the municipality in which they are established. That covenant must determine the address of the betting shop, its opening and closing hours, its opening and closing days, and the "conditions" under which it can be operated. The requirement to have such a covenant has also become a condition for obtaining an F2 licence (see **4.4 Types of Licences**).

- Betting shops are now obliged to keep all data related to their gaming machines in a permanent establishment in Belgium.
- An undertaking that wishes to organise bets on horse races must obtain the newly created F1P licence. Only the holders of an F1 licence can obtain an F1P licence. The F1P licensing conditions have been set in a Royal Decree.

In 2024, the Gaming Act was once again substantially amended. The main changes are as follows:

- A minimum age of 21 years has been established for participation in all games of chance, including betting.
- Different categories of games of chance (such as online casino games, online slots, and online bets, each offered under distinct gambling licenses) can no longer be offered on the same website; they must now be hosted on separate websites.
- It is now prohibited to use the same player account to play games of chance operated under different licenses ("split accounts").
- Transactions between different player accounts are also now prohibited.
- Redirecting players to or exposing them to games of chance under a different license is now forbidden.
- Offering bonuses for online games of chance has been banned. The Gaming Act now specifies that "free participation in games, gaming credits, and any form of incentive offered to influence player' gaming behaviour or to attract or retain players" can no longer be provided.

Powers of the Gaming Commission

The Council of State has had the opportunity to clarify the scope of the Gaming Commission's power. In a judgment of 12 March 2019,

the Council of State held that the Gaming Commission is not allowed to exercise “regulatory power”, which the Gaming Act reserved for the executive power. On this basis, the Council of State annulled the passage of two informal notices by the Gaming Commission, in which the term “newspaper shop” was defined as premises that are eligible to obtain an F2 licence.

Recent Changes

Following the amendments in 2019, the Gaming Act was amended twice in 2024. In addition, a Royal Decree of 27 February 2023 has introduced very strict rules on advertising for games of chance (see 9.3 Key Legal, Regulatory and Licensing Provisions).

2. Jurisdictional Overview

2.1 Online

Offering online games of chance and bets requires a licence. There are three categories of online gaming licences:

- an A+ licence for online casino games;
- a B+ licence for online arcade (dice) games; and
- an F1+ licence for online bets.

As a general rule, the Gaming Act stipulates that an online licence holder (A+, B+ or F1+) can only operate games of chance “of the same nature” as those offered offline. An F1+ licence holder can offer online bets and an A+ licence holder has the right to commercialise online casino games. The National Lottery holds the monopoly on offering online lotteries.

2.2 Land-Based

Offering land-based games of chance and bets requires a licence. There are five categories of land-based gaming licences:

- an A licence for casinos;
- a B licence for gaming arcades;
- a C licence for bars;
- an F1 licence for organising bets; and
- an F1P licence for organising bets on horse races.

Holders of an A, B or C licence can offer explicitly enumerated games of chance and F1 licensees can commercialise all (sports) bets. But bets on horse races have been more strictly regulated. Certain bets are – or can be – prohibited.

Betting

As previously mentioned, the holder of an F1 licence can commercialise (sports) bets. Bets can be organised on sports events and non-sporting events. It is prohibited to organise bets on events or activities where:

- they are contrary to public order or morality;
- the outcome is known;
- most of the participants are less than 21 years old; or
- the uncertain act has already occurred.

The Gaming Commission can prohibit bets in two specific circumstances:

- where the fairness of the event on which a bet is organised cannot be guaranteed; and
- where it considers that specific bets are prone to fraud.

The Gaming Act explicitly lists which bets on horse races can be offered.

Live betting is authorised, insofar as the uncertain act has not already occurred.

Poker

The Gaming Act itself does not mention poker specifically. However, poker will usually qualify as a game of chance (see **3.2 Definition of Gambling** for the definition of a game of chance), unless it is a free poker game. Under specific conditions, two types of gaming establishments can offer poker:

- casinos that operate under licence A as a class I gaming establishment; and
- gaming arcades that operate under licence B as a class II gaming establishment.

Bingo

Bingo is a table game that may be offered in a casino (class I gaming establishment). In addition, bingo machines are also allowed in class III gaming establishments (bars) – for which C licences are required. Bars are premises where drinks are sold to be consumed on the spot and where no more than two automatic machines are allowed (bingo and one-ball).

Casino

A Royal Decree of 19 July 2001 lists the games of chance that can be offered in casinos (class I gaming establishments). These games are subdivided into two categories:

- table games (eg, baccarat, big wheel, blackjack, poker, chemin de fer, craps, mini punto banco, midi punto banco, maxi punto banco, French roulette, American roulette, English roulette, sic bo and bingo); and
- automatic games (eg, reel slot-type games, video slot-type games, Wheel of Fortune-type games, horse races with several terminals

where at least 12 players can play, keno-type games and interactive poker games).

Casinos can therefore offer poker both as a “table game” and as an “automatic game”. They also have the right to organise one poker tournament per year, in close co-operation with the Gaming Commission.

Gaming Machines

As previously mentioned, casinos have the right to commercialise certain gaming machines. In addition, a Royal Decree of 26 April 2004 lists the gaming machines that can be offered in gaming arcades (class II gaming establishments) and these can be divided into two categories – namely, automatic games without players’ cards and automatic games with players’ cards. The category of automatic games without players’ cards contains the following five types of games:

- blackjack;
- horse bets;
- dice games;
- poker games; and
- roulette.

Interactive poker is currently the only game of chance that class II gaming establishments can offer as an automatic game with players’ cards.

Bars having a C licence (class III gaming establishments) can have a maximum of two gaming machines (bingo and one-ball) and two “automatic gaming machines with very limited stakes” (also called “Article 3.3 gaming machines”). A recent legislative proposal intends to change the above numbers, by limiting the overall number of gaming machines (bingo, one-ball or machines with very limited stakes) to two (as opposed to the previous four).

Lotteries

Article 1 of the Lotteries Act (see **3.1 Key Legislation**) states that all lotteries are prohibited. There are nevertheless certain limited exceptions to this general prohibition. Furthermore, the National Lottery has been granted a monopoly on offering public lotteries, which should be offered “in the general interest and in accordance with commercial methods”.

3. Legislative Framework

3.1 Key Legislation

The regulatory framework for games of chance and lotteries in Belgium consists of a number of laws:

- the Gaming Act – this is the most important law for private operators and was amended in 2010 to adopt a strict licensing regime for online games of chance and bets;
- the Federal Act of 31 December 1851 regarding lotteries (the “Lotteries Act”); and
- the Federal Act of 19 April 2002 to rationalise the functioning and the management of the National Lottery (the “National Lottery Act”).

3.2 Definition of Gambling

Article 2, Section 1 of the Gaming Act broadly defines a game of chance as “any game in which a stake of any kind is committed – the consequence of which is either loss of the stake by at least one of the players or a gain of any kind for at least one of the players or organisers of the game – and in which chance is an even ancillary element in the course of the game, the designation of the winner or the determination of the gain”.

A “game of chance” therefore requires the presence of:

- a game;
- a stake of any kind;
- a loss or a gain; and
- a minimal degree of chance that determines the outcome of the game, as well as the winner or the gain.

Article 2, Section 5 of the Gaming Act defines a “bet” as a specific subcategory of games of chance “in which each player wagers an amount that generates a gain or loss that does not depend on an act of the player, but depends on the realisation of an uncertain event happening without the intervention of the players”. The Gaming Act explicitly distinguishes between:

- “totaliser” or mutual betting (in which “an organiser acts as the intermediary between various players who play against each other and the bets are collected and distributed among the winners, after deduction of a percentage to cover the taxes on gambling and betting, the costs of the organisers and the profits they gain from it”); and
- “odds betting” (in which “a player places stakes on the result of a certain act, the amount of earnings is determined according to fixed or conventional odds, and the organiser is personally liable to pay winnings to players”).

Free games do not qualify as games of chance under the Gaming Act, as they do not involve any kind of stake.

The Gaming Act explicitly excludes the following games of chance from its scope of application:

- sports games;

- games in which the player can only win up to five additional plays (free of charge); and
- the following games with very limited stakes that can only result in a gain of low monetary value:
 - (a) card, board and parlour games played outside class I and II gaming establishments;
 - (b) games operated in attraction parks or by industrial fairgrounds – for example, in connection with carnivals and trade fairs; or
 - (c) games organised occasionally (ie, not more than four times per year) by:
 - (i) a local association in the context of a particular event;
 - (ii) an association with a social or charitable purpose; or
 - (iii) a non-profit association for the benefit of a social or philanthropic project.

In addition, the Gaming Act explicitly states that it does not apply to lotteries (within the meaning of the Lotteries Act and Articles 301-303 of the Belgian Criminal Code) or to public lotteries and certain games referred to in the National Lottery Act.

A lottery is any transaction offered to the public that is meant to procure a gain by means of chance (Article 301 of the Belgian Criminal Code). A lottery requires that the loss or gain is exclusively determined by chance and without any active involvement or intervention from the player, regardless of the player's skill. There is, however, no requirement that the player commit a stake. As a consequence, free transactions may also qualify as a lottery.

3.3 Definition of Land-Based Gambling

There is no separate definition of “land-based” games of chance. The general definition of a “game of chance” applies.

3.4 Definition of Online Gambling

Online games of chance are games of chance offered via an “instrument of the information society”. An instrument of the information society is defined in Article 2, Section 10 of the Gaming Act as “electronic equipment for processing (including digital compression) and storing data that is entirely transmitted, conveyed and received by wire, radio, optical means or other electromagnetic means”.

3.5 Key Offences

The Gaming Act contains a very broad prohibition clause. Not only is it prohibited to “operate in any place, in any form and in any direct or indirect manner, games of chance or gambling establishments without a licence” (Article 4, Section 1), but (as per Article 4, Section 2) it is also prohibited to:

- participate in illegal (ie, offered without a licence) games of chance;
- facilitate the operation of illegal games of chance or gaming establishments;
- advertise illegal games of chance or gaming establishments; or
- recruit for illegal games of chance or gaming establishments if it is well known that the game of chance or gaming establishment is not authorised under the Gaming Act.

Players are also banned from participating in a game of chance if they can have a direct impact on the result (Article 4, Section 3 of the Gaming Act).

All these acts are punishable with criminal sanctions.

3.6 Penalties for Unlawful Gambling

The operation of illegal games of chance or gaming establishments can be sanctioned with a criminal fine of between EUR208 and EUR960,000. Previously, a prison sentence could also be imposed. However, this provision was abolished by the Act of 7 May 2024, which came into effect on 1 June 2024. Since most violations are committed by legal entities, the legislature has decided to increase the maximum fine to EUR960,000 under the same Act.

A criminal fine ranging from EUR208 to EUR576,000 will be imposed on persons found guilty of:

- participating in and facilitating the operation of illegal games of chance or gaming establishments; or
- advertising or recruiting for illegal games of chance or gaming establishments.

In cases of recidivism or where the infringement involves a person younger than 21 years, these sanctions can be doubled.

Any person participating in any game of chance in which, by its nature, they could have a direct influence on the result could face a criminal fine of between EUR208 and EUR960,000 if found guilty.

Administrative Sanctions

The Gaming Act also contains an administrative sanctioning mechanism. Under certain conditions, if the public prosecutor decides not to bring a criminal case but does not question the existence of certain (serious) infringements, the Gaming Commission has the power to impose

administrative sanctions. If, however, the public prosecutor informs the Gaming Commission that it will prosecute the facts or that there are insufficient grounds to prosecute, the Gaming Commission cannot impose an administrative sanction.

The Gaming Commission can impose an administrative fine corresponding to the minimum and maximum amounts of the criminal fine. The administrative fine must be imposed based on reasoned decision. The notification of that decision prevents a criminal prosecution for the same facts. The Gaming Act contains a specific procedure to challenge an administrative fine legally.

In the case of an infringement, the stakes and other material will be confiscated. A court may order the definitive or temporary closure of the gaming establishment. In this case, the Gaming Commission must withdraw the gaming licence. Natural persons and directors, managers, decision-making bodies, employees and agents of legal entities are liable in civil law to pay any damages, fines, costs, confiscations and administrative fines issued for breaching the Gaming Act.

Prohibited Websites

For many years, the Gaming Commission has published a blacklist of “prohibited” websites on its website, and most Belgian ISPs have blocked access to these sites from Belgian IP addresses. The legal basis for this blacklisting mechanism was formally established with the Act of 7 May 2024, which amended the Gaming Act. Under the new provisions, the Gaming Commission is explicitly required to maintain a list of URLs for websites offering unlicensed games of chance in Belgium. This updated list is published in the Belgian Official Gazette, and the listed websites

are reported to internet service providers, who can then block access to these websites “as quickly as possible”.

Article 1 of the Lotteries Act stipulates that all lotteries are prohibited. Article 302 of the Belgian Criminal Code provides that organisers, entrepreneurs, directors, representatives and agents of lotteries that are not legally allowed will be punished with a prison sentence ranging from eight days to three months and with a criminal fine ranging from EUR50 to EUR3,000. In addition, the movable property staked in the lottery can be seized.

3.7 Recent or Forthcoming Legislative Changes

Advertising for games of chance is now generally prohibited, except where explicitly authorized. The Royal Decree of 27 February 2023 specifies the permitted forms of advertising (see **9.3 Key Legal, Regulatory and Licensing Provisions**).

It is now expressly prohibited to offer bonuses, online and offline, except in land-based casinos, where it is still allowed to offer bonuses up to EUR400 per player every two months.

Additionally, the minimum age to participate in games of chance, including betting, is now uniformly set at 21 years. The legislature has also prohibited online gaming providers from offering games of chance under different licenses (a joint offering) on one and the same domain name and URLs. This means that betting, online casino games and online slots can no longer be offered on one and the same website. Furthermore, players must maintain separate accounts for each type of license (eg, separate accounts for online casino games, online arcade games, and online bets). Transfers of funds or credits between players’ accounts are no longer per-

mitted. As a result, a player with money in their online betting account cannot transfer those funds to their online casino account.

Regarding taxation, the law passed on 28 December 2023 concerning various tax provisions has amended the Belgian Federal Code of Income Tax. As a result, starting in 2024, the regional tax on games of chance and bets will no longer be considered a deductible expense. This applies to the tax on online games of chance, currently set at 11% of Gross Gaming Revenue (with a potential increase mentioned in the coalition agreement of the Flemish government), as well as the regional tax on gaming machines. These taxes will now be included in the list of non-deductible business expenses.

New rules regarding deposit limits were introduced by the Royal Decree of 20 June 2022. The standard weekly deposit limit has been reduced from EUR500 to EUR200, meaning players can now top up their accounts by no more than EUR200 per week for each licensed website. Players have the option to set stricter limits immediately.

Players can request an increase in their deposit limit; however, they may only use this higher limit after a waiting period of three days. The online license holder must inform the Gaming Commission of these requests. The Gaming Commission will then determine whether the deposit limit can be increased after consulting the Central Individual Credit Register (CICR). Additionally, the Gaming Commission is required to check with the National Bank each month to ensure that players granted an increase in their deposit limit are not listed in the CICR. If a player is found in the CICR, the authorisation for the increased deposit limit must be revoked. These new rules took effect on 20 October 2022.

Three recent legislative proposals, if adopted, may come into effect in 2025:

- One proposal amends the Gaming Act to introduce additional Responsible Gaming obligations for operators, focusing on monitoring and preventing addictive behaviours among players.
- Another proposal aims to increase the number of members on the control committee of the Gaming Commission, suggesting greater enforcement powers for the Commission.
- The final proposal requires applicants for a C license to obtain a positive opinion (ie, agreement) from their municipality in order to secure their license.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gaming Commission is the regulatory authority for games of chance and essentially has a threefold task, whereby:

- it offers advice on legislative or regulatory issues;
- it is responsible for the granting of gaming licences; and
- it monitors compliance with the Gaming Act and the royal decrees implementing the Gaming Act.

The Gaming Commission can (or must) impose certain sanctions in the event of infringement.

4.2 Regulatory Approach

The regulation of games of chance and bets is based on a “channelling approach”. In order to satisfy the human need to play, the illegal offer of games of chance is countered by providing

a limited, strictly controlled and regulated – but attractive – offer of games of chance and bets. Hence, the Gaming Act contains a broad prohibition on offering (online and offline) games of chance and bets – that is, only companies that hold the required licence can commercialise games of chance and bets.

In a 2021 judgment, the Constitutional Court stated that the possibility of operating games of chance is, by definition, the exception and precarious. Furthermore, the Belgian legislature has limited the number of available gaming licences (numerus clausus).

4.3 Recent or Forthcoming Changes

The Act of 18 January 2024 has abolished the licence requirement for media games. As a result, the G1 and G2 licences are no longer in effect.

4.4 Types of Licences

The following land-based and online gaming licences are available:

- licence A – a class I gaming establishment (casinos);
- licence A+ – an online casino;
- licence B – a class II gaming establishment (gaming arcades);
- licence B+ – an online gaming arcade;
- licence C – a class III gaming establishment (bars);
- licence D – exercising a professional activity within class I, II or IV gaming establishments;
- licence E – sale, rental, supply, making available, import, export, manufacture, maintenance, reparation and equipment of games of chance;
- licence F1 – a class IV gaming establishment (organisers of bets);
- licence F1+ – offering online bets;

- licence F1P – allows the F1 licence holder to organise bets on horse races (only an F1 licence holder can obtain an F1P licence);
- licence F2 – licence to take on bets on behalf of an F1 licence holder; and
- licences G1 and G2 – media games.

4.5 Availability of Licences

The following licences are readily available:

- licence A – there are nine available licences and, as of October 2024, nine active licences;
- licence A+ – there are nine available licences (available for A licence holders only) and, as of October 2024, nine active licences;
- licence B – there are 180 available licences and, as of October 2024, 175 active licences;
- licence B+ – there are 180 available licences (available for B licence holders only) and, as of October 2024, 48 active licences;
- licence C – the number of licences is not limited and, as of October 2024, there are 4,332 active licences;
- licence D – the number of licences is unlimited and the number of active licences is unknown;
- licence E – the number of licences is unlimited and, as of October 2024, there are 173 active licences;
- licence F1 – there are currently 30 available licences and, as of November 2023, 30 active licences;
- licence F1+ – there are currently 30 available licences (available for F1 licence holders only) and, as of October 2024, 23 active licences;
- licence F1P – unknown; and
- licence F2 – there are 600 fixed and 60 mobile licences available and, as of October 2024, there are 444 active licences for betting shops and 28 for bookmakers.

4.6 Duration of Licences

The duration of the available licences is as follows:

- licence A – a renewable period of 15 years;
- licence A+ – the same as an A licence;
- licence B – a renewable period of nine years;
- licence B+ – the same as a B licence;
- licence C – a renewable period of five years;
- licence D – unspecified in the Gaming Act;
- licence E – a renewable period of ten years;
- licence F1 – a renewable period of nine years;
- licence F1+ – the same as an F1;
- licence F1P – the same as an F1; and
- licence F2 – a renewable period of three years.

4.7 Application Requirements

The application requirements vary for each type of licence. All applications should be filed with the Gaming Commission.

Only EU citizens and EU/EEA-registered companies can apply for an A, B, E, F1 or F1P licence. In general, a licence applicant must submit fiscal and financial information, as well as demonstrate that it and its directors do not have a criminal history. There are solvency criteria to be satisfied and must be demonstrated by a Belgian certified auditor or accountant. A legal person must include additional information about its directors and shareholders, together with supporting evidence. Failure to meet any conditions set out in the application form or to submit the requested information will result in the application being denied.

For online games of chance (licences A+, B+ and F1+), two Royal Decrees of 21 June 2011 are noteworthy. The first Royal Decree lists the quality requirements to be met by an applicant for an online licence. The applicant must:

- have a solvency ratio of 40%;
- provide a plan that guarantees the security of all payments between the operator and the player;
- provide details about advertising policy; and
- provide proof that there are no tax debts.

The applicant is also responsible for a permanent data connection between the website and the Gaming Commission.

The second Royal Decree states that applications for an online licence must be submitted to the Gaming Commission either by registered post or electronically. It further specifies that the application must indicate “where the website will be managed”. This means that the Gaming Commission needs to be informed of the exact location in Belgium where the servers used to operate the website will be located.

4.8 Application Timing

The Gaming Commission is required to make a decision on applications for A, B, F1, F1P, and E licences within six months of receiving the application or the submission of a complete application file. Similarly, applications for an online licence must also be processed within six months from the date the application is submitted.

4.9 Application Fees

There are no fees associated with submitting a licence application; however, a guarantee deposit is required. This deposit must be paid to the Deposits and Consignments Fund (*Caisse des dépôts et consignations*, or CDC). Guarantee deposits are necessary for most licences and vary in amount: EUR250,000 for an A or A+ licence, EUR75,000 for a B, B+, or F1+ licence, and EUR10,000 for an F1 licence.

4.10 Ongoing Annual Fees

Additionally, licence holders are required to pay an annual fee, the exact amount of which is determined each year by Royal Decree.

5. Land-Based Gambling

5.1 Premises Licensing

A “casino” (class I gaming establishment) is defined as an establishment “in which are operated games of chance, whether or not automatic, that are authorised by the King and in which there are at the same time organised socio-cultural activities, such as shows, exhibitions, congresses and hotel and catering activities”. Only nine casinos are allowed on Belgian territory. The Gaming Act lists the territories of the communes/cities where a casino can be operated as Blankenberge, Chaudfontaine, Dinant, Knokke-Heist, Middelkerke, Namen, Oostende, Spa and Brussels. The casino must conclude a concession agreement with the council of the municipality or city.

A Royal Decree of 3 December 2006 contains the operating rules and additional requirements concerning the supervision and control of games of chance that can be offered in class I gaming establishments. A Royal Decree of 15 December 2004 provides that class I (and II) gaming establishments must have an access register. A Royal Decree of 23 May 2003 lays down the rules for the supervision and control of the games of chance offered in casinos, including control through an IT system. All casinos must have a local area network (LAN) that is connected to the LAN of the Gaming Commission.

“Gaming arcades” (class II gaming establishments) are “establishments in which only games of chance authorised by the King are operated”.

Gaming arcades may not be located in the vicinity of hospitals, prisons, schools, ceremonial places and places where young people regularly meet. The operating rules for the automatic games of chance that can be offered in class II gaming establishments are laid out in a Royal Decree of 8 April 2003. A Royal Decree of 23 May 2003 sets out the rules for supervising and controlling the games of chance offered in class II gaming establishments. This includes the control through an IT system, whereby the class II gaming establishment has a LAN that is connected to the LAN of the Gaming Commission.

The licensing system for bets distinguishes between the organisation of bets (F1 licence) and the acceptance of bets (F2 licence). Class IV gaming establishments are places exclusively permitted to accept bets on behalf of an F1 licence holder. It is prohibited to accept bets outside a class IV gaming establishment. There are, however, a limited number of exceptions to this prohibition.

A class IV gaming establishment can be fixed or mobile. A fixed class IV gaming establishment is a clearly demarcated permanent establishment where bets are offered. A mobile class IV gaming establishment is a temporary establishment – also clearly demarcated – where bets are offered during and at an event, a sports game or a sports competition. There must be a distance of 1,000 metres between each betting office. F2 licences may also be granted to newspaper shops, which can offer bets as an ancillary activity (see **5.2 Recent or Forthcoming Changes**).

5.2 Recent or Forthcoming Changes

Advertising for games of chance and land-based gaming establishments has become heavily restricted (see **9.3 Key Legal, Regulatory and Licensing Provisions**).

The Act of 7 May 2024, which introduces a new Article 54/1 to the Gaming Act, mandates that all land-based gaming license holders must identify individuals entering the gaming areas of their establishments or wishing to participate in gaming activities. This requirement now applies to all land-based casinos, gaming arcades, betting shops (including mobile betting shops), and race tracks where betting is offered. As part of this obligation, license holders must consult the Excluded Persons Information System (EPIS). The expanded scope of identity verification and EPIS consultation will take effect on 1 May 2025, with the exception of F2 license holders offering betting in mobile betting shops or operating outside type IV gaming establishments, for whom the obligations will apply starting 1 May 2016.

The Act of 7 May 2024 also introduces a specific identification requirement for newspaper shops permitted to offer sports betting as an ancillary activity (holders of an F2 licence). This identification must be conducted through an “appropriate IT system” that can verify the player’s age and check if the individual is listed in the EPIS. The IT system will require certification. This identification obligation will take effect on 1 May 2026.

6. Online Gambling

6.1 B2C Licences

Since 1 January 2011, the Gaming Act has contained a legal framework for offering online games of chance and bets in Belgium. Before that date, online games of chance and bets were not explicitly regulated.

The Belgian legislature has set up a closed licensing system. Offering online games of chance and bets requires an online licence (licence A+ for online casinos, licence B+ for online gaming

arcades and licence F1+ for online bets). The number of online licences available is limited to nine A+ licences, 180 B+ licences and 30 F1+ licences.

In addition, an online licence requires a mandatory physical connection to Belgian territory. Only those operators licensed to operate in the real world (and holding a principal A, B or F1 licence) can obtain a licence to offer the same games of chance and bets online (an additional A+, B+ or F1+ online licence). The Gaming Act thus introduces a parallel between the offline and online licences.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B operators should hold an E licence. The following activities are subject to an E licence requirement: sale, rental, supply, making available, import, export, manufacture, maintenance, reparation of and equipment of games of chance. The Gaming Act does not distinguish between land-based games of chance and online games of chance. It follows that all undertakings providing one of these services to an A+, B+ or F1+ licence holder should obtain an E licence.

It is prohibited for a natural or legal person to hold an A, A+, B, B+, C, D, F1, F1+ F1P or F2 licence and an E licence at the same time – either directly or indirectly, or through another natural or legal person. An infringement of this prohibition can give rise to criminal sanctions.

6.3 Affiliates

The Gaming Act does not specifically regulate affiliates but certain activities of affiliates – eg, marketing – fall within the scope of application of the Gaming Act. Pursuant to Article 4, Section 2 of the Gaming Act, for example, it is prohibited for anyone (including affiliates) to:

- facilitate the operation of unlicensed games of chance;
- advertise for unlicensed games of chance; or
- recruit players for unlicensed games of chance.

6.4 White Labels

The Gaming Commission publishes a list of all licence holders (except D and F1P licence holders) on its website. All “licensed” websites can be found on the Gaming Commission’s website.

6.5 Technical Measures

Advertising for online games of chance has become heavily restricted (see 9.3 Key Legal, Regulatory and Licensing Provisions).

The blacklisting mechanism was given an explicit legal basis with the Act of 7 May 2024. The Gaming Commission is now explicitly required to maintain a list of URLs for websites offering unlicensed games of chance in Belgium. This updated list is published in the Belgian Official Gazette, and the listed websites are reported to internet service providers, so that they can “block access to them as soon as possible”.

The joint exploitation of different classes of online gaming licences on the same domain name and the related URLs is now prohibited by the Gaming Act.

6.6 Recent or Forthcoming Changes

In Belgium, there are currently no legally binding technical requirements for online games of chance and bets.

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

7.1 RG Requirements

Persons below the age of 21 are prohibited from participating in games of chance and bets. The same age restrictions apply for online games of chance and bets. The Gaming Act contains additional prohibitions on particular persons (eg, magistrates) accessing casinos and gaming arcades.

The EPIS is a database containing the names of excluded and self-excluded persons. Online operators must consult the EPIS database before allowing customers to play. Online licence holders must impose compulsory deposit limits and offer the option of temporary self-exclusion. They must also use notifications and pop-up windows to inform players of the potential risks of participating in online games of chance. All advertising for games of chance and bets must also include a warning message and the minimum legal age to participate in games of chance and bets. Online licence holders must also refuse any intervention by electronic payment systems authorising the use of a credit card by the player as a transfer method.

Giving credit or a loan and engaging in a financial or other transaction in casinos to pay for a stake or a loss is prohibited, except via credit and debit cards. However, payment by credit card is not allowed in class II, III and IV gaming establishments or for online games of chance and bets. It is also prohibited to have Automated Teller Machines in class I, II, III and IV gaming establishments.

7.2 Gambling Management Tools

In 2024, several amendments to the Gaming Act introduced additional restrictions and prohibitions to protect players. A minimum age of 21 years has been established for participation in all games of chance, including betting. It is now prohibited to use the same player account to play games of chance operated under different licenses (“split accounts”). Transactions between different player accounts are also now prohibited. Offering bonuses for online games of chance has been banned.

7.3 Recent or Forthcoming Changes

There is a wide variety of measures that aim to create a safe and responsible gambling environment. For gaming machines, there are detailed rules on maximum stakes, losses and gains. The average hourly loss is also regulated – for example, gaming machines in casinos must have a theoretical redistribution percentage of at least 84%. Only gaming machines with an average hourly loss not exceeding EUR25 are allowed in class II gaming establishments.

Other essential measures to protect players are EPIS and mandatory age requirements. Some of these measures are discussed in **7.1 RG Requirements**. Other measures include the following:

- all advertising for online games of chance must mention the minimum age requirements to participate; and
- online licensees must offer the option of self-exclusion and use notifications and pop-up windows to inform players of the potential risks of participating in online games of chance.

A recent legislative proposal that has yet to be adopted is introducing additional responsible

gaming obligations for operators to monitor and prevent addictive behaviours from their players.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key legislation is the Law of 18 September 2017 on preventing money laundering and terrorist financing (“AML Law”). The Act of 20 July 2020, which amends the AML Law, implements Directive (EU) 2018/843 (the Fifth Anti-Money Laundering Directive) into Belgian law. The amended AML Law took effect on 15 August 2020.

8.2 AML Requirements

Most Belgian banks continue to use AML as grounds to terminate agreements or refuse licensed Belgian operators as clients. Such a practice is known as “de-risking”. In January 2022, the European Banking Authority published an opinion on de-risking, wherein it was confirmed that “gaming operators” are faced with these practices. The National Bank of Belgium issued a circular on the same topic in February 2022.

8.3 Recent or Forthcoming Changes

The AML Law applies to “all natural and legal persons operating one or more games of chance, except those natural and legal persons meant in Articles 3 and 3bis of the Gaming Act”. All gambling operators are subject to due diligence obligations, which consist of:

- the identification and verification of players and financial beneficiaries;
- monitoring suspicious transactions; and
- other vigilance obligations in co-operation with the Belgian Financial Intelligence Pro-

cessing Unit, the police and the Public Prosecutor’s Office.

The gaming operator is required to identify clients who either place bets or withdraw winnings of EUR2,000 or more. The AML Law also imposes limits on the use of cash money – that is, no gift or payment in cash can be made or accepted when the amount exceeds EUR3,000 (or the equivalent amount in another currency). A Royal Decree of 30 January 2019 exempts C licence holders from the application of the AML Law.

9. Advertising

9.1 Regulatory/Supervisory Agency

There is no specific agency responsible for gaming advertising. Instead, the Gaming Commission monitors compliance with the Gaming Act and its implementation of Royal Decrees, including the advertising restrictions that can be found therein.

9.2 Definition of Advertising

The Gaming Act broadly defines “advertising” as “any form of communication intended, directly or indirectly, to promote or encourage games of chance, regardless of the location, communication methods used, or techniques employed. The display of a brand name or logo, or both, is also considered advertising.” Similarly, the Royal Decree of 27 February 2023, which establishes the advertising conditions for games of chance, offers a comparable definition.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising land-based and online games of chance and bets is prohibited if it is known that those games of chance or gaming establish-

ments are not authorised (not licensed) under the Gaming Act. Violating this prohibition may result in criminal sanctions.

For licensed games of chance, both land-based and online, the Gaming Act and Royal Decree of 27 February 2023 state that all advertising is generally prohibited, except when expressly authorised. All other forms of advertising for licensed games of chance are not allowed.

Incidental advertising in connection with the coverage of sports competitions and events is authorised. Sports sponsorship is authorised for non-professional sports associations and for professional sports associations (until 1 January 2028).

Sports sponsorship is permitted only through the display of the brand name and/or logo in the following ways: (i) on the sports clothing of players, excluding underage players, and sports teams; and (ii) at the location where the sport is practiced (until 1 January 2025).

9.4 Restrictions on Advertising

License holders may broadcast sports sponsorship messages using their brand name and/or for (i) international and European sports competitions and (ii) Belgian sports competitions, but only until 1 January 2025. Any broadcast of sports sponsorship messages must adhere to the following conditions:

- the duration of each sports sponsorship message may not exceed five seconds;
- no more than two sports sponsorship messages may be broadcast per hour; and
- the sports sponsorship message must air during the fifteen-minute period before and the fifteen-minute period after the live coverage of the sports competition, specifically

from the actual start to the actual end of the event.

Online licence holders can only advertise on their own website and their own social media accounts, provided that:

- no interaction is permitted in connection with this advertising;
- no compensation is offered to a third party for advertising; and
- the duration of any advertising using moving images does not exceed five seconds.

Furthermore, a number of general restrictions have been laid down for all explicitly authorised forms of advertising for games of chance. Advertising may not be directed specifically at socially vulnerable groups. All “personalised” advertising is prohibited. Advertising can no longer involve physical persons or fictitious characters. All forms of advertising must contain an indication of the minimum age for participation and contain a preventive message.

9.5 Sanctions/Penalties

An infringement of the prohibition on advertising unlicensed games of chance and unlicensed gaming establishments can lead to criminal sanctions – ie, a fine of between EUR208 and EUR576,000. Under certain conditions, the Gaming Commission can also impose an administrative fine of between EUR208 and EUR576,000.

In addition, the Royal Decree of 27 February 2023 does not contain sanctions for violation of the restrictions and prohibition on advertising. However, it refers to Article 64 of the Gaming Act, which states that any violation will be subject to a fine up to EUR576,000.

9.6 Recent or Forthcoming Changes

An amendment to the Gaming Act in 2024 established a general ban on advertising for games of chance, unless explicitly authorised.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Transferring gaming licences is prohibited. The Gaming Commission must be notified scrupulously of any changes to the shareholding structure of the A, B, E and F1 licence holder at all times and it must be able to verify the transparency of the exploitation. Whereas the Gaming Act only refers to the identity of the “shareholders”, it is the Gaming Commission’s practice to extend this to all persons or entities that directly or indirectly exercise control over the company (including the ultimate beneficial owner).

10.2 Change of Corporate Control Triggers

The Gaming Act does not contain any specific triggers for notifying the Gaming Commission. Instead, the Gaming Act requires that A, B, E and F1 licence holders notify the Gaming Commission of any changes to the shareholder structure.

10.3 Passive Investor Requirements

There are no specific passive investor requirements mentioned in the Gaming Act. As explained in **10.1 Disclosure Requirements**, the Gaming Commission must be informed of all changes in the shareholder structure of an A, B, E and F1 licensee.

10.4 Recent or Forthcoming Changes

There have been no recent changes on this topic.

11. Enforcement

11.1 Powers

The Gaming Commission is the administrative authority that monitors compliance with the Gaming Act and its implementing decrees. The Gaming Commission’s Control Unit has been given broad investigative powers. It can carry out inspections in gaming establishments and IT systems, conduct investigations, make any findings it deems useful and request to be handed all documents that may be useful for its investigation. It can also seize all documents, gaming machines and exhibits that may be used to demonstrate an infringement of the Gaming Act. The Control Unit has the power to draft an “official report”, which will be sent to the public prosecutor. Under certain conditions, the Gaming Commission can impose administrative sanctions.

11.2 Sanctions

Whenever the Gaming Commission finds that there is an infringement of the Gaming Act or its implementing Royal Decrees, it must make a reasoned decision to:

- issue a warning;
- suspend or withdraw a gaming licence for a certain period; or
- impose a temporary or final ban to operate one or more games of chance.

For specific infringements of the Gaming Act (eg, offering unlicensed games of chance or advertising unlicensed games of chance), the Gaming Commission may issue administrative fines under certain circumstances. In 2023, the Gaming Commission decided to initiate 137 formal sanctioning procedures, and 123 decisions were issued. Of the decisions issued, 48 of them originated from procedures open in 2022, and 75 from procedures started in 2023. In 2023, the

Gaming Commission took 85 sanctioning decisions (56 of which were fines).

The Gaming Commission blacklists websites that offer unlawful games of chance in Belgium. The blacklist is also published on the Gaming Commission's website.

11.3 Financial Penalties

There is no established method to calculate penalties. The Gaming Act merely stipulates that an administrative sanction must be proportional in light of the seriousness of the infringement. More recently, the Gaming Commission has begun to effectively impose administrative sanctions on companies offering unlicensed games of chance. One of the criteria used to calculate the fine is the length of time for which the games have been available to players resident in Belgium.

11.4 Recent or Forthcoming Changes

Since 1 June 2024, the amount of the fines that can be imposed has been amended, and violations of the Gaming Act are no longer punishable by imprisonment.

A legislative proposal that has yet to be adopted seeks to increase the number of members of the control committee of the Gaming Commission and police officers working for the Gaming Commission, which is expected to lead to an increase in enforcement actions in the future.

12. Tax

12.1 Tax Rate by Sector

A gaming tax is applied to all types of games of chance and bets (ie, all transactions characterised by the fact that the participants wager a sum, with the risk of loss, in the hope that it will

benefit in specie or in kind). The way participation takes place – whether verbally, in writing, by telephone, internet, email, text or via the internet – is of no importance. The tax on games and bets is also payable for games of chance and bets that are unlicensed and for which the organisers are subject to criminal sanctions. It is therefore not necessary for a transaction to be permitted by law for the tax to be due.

Betting

In the Flemish Region and the Brussels-Capital Region, bets on horse races, dog races and sports events taking place in Belgium or in a European Economic Area (EEA) member state are taxed at a rate of 15%, which is calculated on the actual gross margin realised with that wager. Bets on horse races, dog races and sports events taking place outside the EEA are taxed at a rate of 15% on the gross amount of the sums or stakes involved. In the Walloon Region, bets are generally taxed at a rate of 11% on the actual gross margin realised upon the bet.

Casino Games

In the Brussels-Capital Region, casino games are taxed as follows:

- roulette without zero – at 2.75% on the gambler's winnings;
- other casino games – at 33% on the gross gaming revenue and at 44% on the part of the gross gaming revenue that exceeds EUR1.36 million; and
- machines – at a percentage (ranging from 20% to 50%) per bracket of gross revenue (eg, 20% on the bracket up to EUR1.2 million).

In the Flemish Region, all casino games are taxed on the gross amount of the stakes. Casino games are taxed at 33% on the gross gam-

ing revenue up to EUR865,000 and 44% on the part of the gross gaming revenue that exceeds EUR865,000.

In the Walloon Region, casino games are taxed as follows:

- roulette without zero – at 2.75% on the gambler's winnings; and
- other casino games – at 33% on the gross gaming revenue up to EUR1.36 million and at 44% on the part of the gross gaming revenue that exceeds EUR1,360,000.

Gaming Machines

Gaming machines are subject to a gambling tax in the form of a fixed amount per machine per year. This also varies depending on region, type of gaming machine, and whether class A, B, C, D or E.

Online Games of Chance and Bets

The three Belgian federated regions (the Walloon Region, the Flemish Region and the Brussels-Capital Region) have the ability to determine the tax rates applicable to online games of chance and bets. Although these regions could have set different tax rates, in practice they have set the same tax rate (11% of the actual gross margin realised with the game of wager – that is, the gross amount of the sums staked minus the profits that have actually been distributed).

Lotteries

Winnings from lotteries are exempt from taxes. The National Lottery pays gambling taxes on its sports betting activities.

VAT

Under Article 44, Section 3, paragraph 13 of the Belgian VAT Code, offline and online games of chance, bets and lotteries are VAT-exempt. This

is subject to the conditions and limitations specified in a Royal Decree.

12.2 Recent or Forthcoming Changes

Starting in 2024, the regional taxes mentioned above will no longer be deductible expenses. The Flemish government, in its coalition agreement for 2024-2029, has expressed its intention to raise the tax on gambling and betting, subject to approval by the other two regions.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There are no specific personal authorisations or licences for individuals (see 4.7 Application Requirements).

13.2 Application Process

See 4.7 Application Requirements. Directors and shareholders of B2C licence applicants cannot have a controlling interest in a B2B licence, and vice versa. A controlling interest has been defined by the Gaming Commission as either having a certain shareholding power (classically set at 20% of the shares of the company) or as having a mandate in said company. Directors of licence applicants cannot have a criminal history and must provide their criminal records to the Gaming Commission.

13.3 Ongoing Annual Fees

See 4.10 Ongoing Annual Fees.

13.4 Ongoing Requirements

Change of directors or shareholders of licence applicants (see 4.7 Application Requirements) and licence holders must be notified to the Gaming Commission.

13.5 Personal Sanctions

Licences can be refused, suspended or revoked.

13.6 Recent or Forthcoming Changes

There are no foreseeable changes with regard to personal authorisations and licences.

Trends and Developments

Contributed by:

Pieter Paepe

Edson

Edson is an independent law firm based in Brussels. Edson is truly unique in the marketplace, owing to its integrated approach across four crucial pillars in the life cycle of any business – namely, data, markets, technology and innovation (DMTI). The firm supports businesses, entrepreneurs and governments in all areas of Belgian business law and EU law matters. Edson is one of very few Belgian law firms with in-depth gaming expertise. Of note is the firm's

broad regulatory expertise and wide experience in gaining and, if necessary, enforcing market entry. The team also provides day-to-day operations support to its gaming clientele. This covers a wide variety of areas, including sponsorship deals, advertising, due diligence, acquisitions and divestments, IP, joint ventures and partnerships, data transactions, and consumer complaints litigation. The gaming team is fully integrated into Edson's core practice areas.

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Introduction

Land-based games of chance have been regulated in Belgium since 1999, whereas online games of chance have been regulated in the country since 2011. Belgian gambling policy is premised on a strict channelling policy. Instead of prohibiting the commercialisation of games of chance, the Belgian legislature chose to ensure that players resident in Belgium have access to a limited, safe and strictly regulated offer of games of chance – both offline and online.

At the same time, channelling comes with a certain and limited commercial freedom for the licensed operators. As was emphasised in a judgment by the Council of State in a case concerning gaming law, “according to one of the principles governing a democratic state, everything that is not prohibited is permitted”.

That balancing act requires constant fine-tuning and turns out to be more challenging than many would have predicted in 1999 or 2011. This is illustrated by several recent trends and developments – some of which are discussed here.

Fragmentary Regulation of Online Games of Chance

Even though online games of chance have been allowed under Belgian gambling law since 2011, they remain to a large extent unregulated. In an opinion published in March 2022, the Belgian Gaming Commission acknowledges that the regulation applicable to online games of chance is very fragmentary, even ten years after they became regulated.

The Belgian Gaming Act allows the government to issue rules regulating online games of chance – for example, to impose the conditions under which the games can be offered, the rules of the game, payment methods, and which games

can be offered online. The government can also determine the maximum amount of the stakes for each participation in an online game of chance, as well as the loss and the gain of the players. More than ten years after the government was given this power, no use has been made thereof. That explains why the regulatory framework applicable to online games of chance remains very fragmentary.

This is in sharp contrast to land-based games of chance, which are regulated in detail. A Royal Decree enumerates the games of chance that can be offered in a casino (A licence) and a gaming arcade (B licence). Other Royal Decrees contain detailed “operating” rules for those games of chance. The Belgian Gaming Commission has published “protocols” with detailed information on the gaming machines that can be commercialised in casinos and gaming arcades. Betting shops can have a maximum of two gaming machines and are also extensively regulated – for example, the legislature decided that the average hourly loss cannot exceed EUR12.50.

In March 2022, the Belgian Gaming Commission published a “preliminary opinion” with recommendations that should be taken into account by the government when regulating online games of chance. An essential characteristic of the Belgian gambling policy is that there exists a certain degree of parallelism between the regulation of land-based and online games of chance. The Gaming Act provides that only those operators licensed to operate in the real world (and holding a principal A, B or F1 licence) can obtain a licence to offer the games of chance and bets online (an additional A+, B+ or F1+ online licence) and an online licence holder can, in principle, only offer the “same” games of chance that are offered offline. Noteworthy in the March 2022 opinion is that the Gaming Commission suggests that the

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“offline regulations” should not be blindly made applicable to online games of chance, as they have become outdated or are simply unsuitable to be applied to online games of chance.

Some of the policy proposals made by the Gaming Commission to regulate online games of chance are:

- strengthening the registration and identification of players and establishing a link with reliable financial data;
- imposing individualised and obligatory playing limits;
- introducing a duty of care for licence holders;
- introducing stricter rules for licence holders to deal with players’ complaints;
- introducing stricter obligations for operators to pay out winnings and refund money on player accounts;
- ensuring players are better informed by introducing quality labels;
- introducing additional protection measures for younger players (particularly those between the ages of 21 and 25), whereby any bonuses are banned and maximum playing limits are introduced; and
- having the same minimum age for participating in any category of online games.

General Amendments to the Gaming Act

In early 2024, the Belgian legislature made several major amendments to the Gaming Act:

- prohibition of advertising for licensed games of chance and bets, except when expressly authorised by Royal Decree;
- prohibition of joint offering (“cumul”) of games of chance of different licences on one domain name and URL, and requirement to have separate player accounts (split wallets);

- setting the minimum age for participating in all games of chance and bets at 21; and
- official ban on bonuses for land-based and online operators, with a limited exception for land-based casinos.

Strict Regulation for Advertising Games of Chance

The Belgian government introduced very strict advertising rules for licensed games of chance, both land-based and online, in a Royal Decree of 27 February 2023. The Royal Decree stipulates that all advertising of games of chance is, in principle, prohibited (except when expressly authorised). In 2024, the Belgian legislature introduced this prohibition in the Gaming Act. The Royal Decree also introduces horizontally applicable restrictions on advertising for games of chance. Personalised advertising, for example, is prohibited. All advertising should mention the minimum age for participation and contain a prevention message.

The advertising rules apply to all games of chance and bets offered by Belgian licence holders, both land-based and online. The adoption of the Royal Decree has been criticised, as it was not preceded by a wider discussion within the Belgian government. The government has also suggested that no specific studies were conducted in relation to the strict advertising restrictions. As was reported in the Belgium press, it appears that the National Lottery, which enjoys a monopoly when it comes to lotteries, has lobbied for stricter advertising rules for games of chance and bets. In return for its monopoly, the National Lottery pays a monopoly interest to the government. When the Belgian government called for a higher monopoly interest, the National Lottery insisted that stricter advertising rules for games of chance should be imposed in

return, as this would prevent a “further erosion” of its lottery monopoly.

Many licence holders have challenged this Royal Decree before the Belgian courts. Several annulment cases are pending before the Belgian Council of State. Another case is pending before the Belgian Constitutional Court. These cases may ultimately lead to the annulment of the strict advertising rules.

De-risking of Licensed Gaming Operators by Belgian Banks

To fulfil their role as an instrument in Belgium’s channelling policy, licensed gaming operators need access to essential banking services. In fact, Belgian law requires all companies to have a bank account with a credit institution “established in Belgium”. However, licensed gaming operators are finding it increasingly difficult – and often impossible – to open or maintain bank accounts with Belgian banks, secure financing for new investments, or obtain necessary guarantee letters. Licensed gaming operators are increasingly shown the door by Belgian banks – a practice referred to as “de-risking”.

Some banks justify this approach as the logical consequence of legitimate risk management under applicable AML legislation. In a noteworthy opinion of 5 January 2022 on de-risking, the European Banking Authority (EBA) recalls that de-risking of entire categories of customers – without due consideration of individual customers’ risk profiles – can be unwarranted and a sign of ineffective risk management in the fight against money laundering and financing of terrorism. The National Bank of Belgium (NBB) has followed suit. On 1 February 2022, the NBB published a circular detailing the “prudential expectations in relation to de-risking”. The NBB clearly states that it is neither appropriate nor consist-

ent with legal and regulatory AML requirements for a financial institution’s customer acceptance policy to exclude by rule all business relationships with potential or existing clients on the basis of general criteria, such as the fact that these clients belong to a “particular industry”. There are several procedures pending before Belgian courts where it is argued that banks infringe AML legislation, given that they exclude as much as possible all companies active in the gambling industry.

But there is more. Another trend is that banks also rely on ESG considerations to terminate agreements with licensed gaming operators or to refuse to deal with them. One major Belgian bank, for instance, has set a policy whereby all companies deriving a certain percentage of their total revenues from ownership or operation of gambling-related activities are “excluded” from all investment products, loans and other non-investment-related activities. If all banks adopt the same or similar policies, access to (essential) banking services will become virtually impossible for licensed operators and the question arises whether they can still play their instrumental role – as desired by the legislature – in Belgium’s channelling policy.

Stricter Enforcement

Since the regulation of online games of chance in 2011, the Belgian Gaming Commission has blacklisted websites offering games of chance and bets without the required licence. Most Belgian ISPs block access to the blacklisted websites. In March 2022, the Gaming Commission agreed on a co-operation with the Belgian telecommunications regulator, which will provide its expertise and technical assistance and raise awareness among ISPs through different information campaigns.

As of September 2024, 434 websites are black-listed. In the past, the companies were generally not fined; however, this has recently changed. The Gaming Commission is initiating sanction proceedings against these operators and also imposing fines. The fines can amount to several hundred thousand euros. Some companies are challenging the lawfulness of these fines before the Belgian courts. The outcome of these pending proceedings will help determine the scope of the Gaming Commission's sanctioning power and, therefore, the effectiveness of Belgian gaming policy.

Land-Based Presence as a Condition for Obtaining an Online Licence

It is an essential characteristic of Belgian gambling policy that online gaming licences (A+, B+ and F1+) can only be obtained by a company holding an offline licence (respectively A, B and F1). In a remarkable judgment of 14 July 2011, the Constitutional Court held that the requirement to hold an offline licence as a condition for obtaining an online licence did not infringe the EU internal market freedoms. Examining the proportionality of this licensing requirement, the court observed that offline presence can be kept to a strict minimum.

That is, in the author's view, a questionable position. A company that wishes to offer online games of chance in Belgium must first obtain an offline licence and effectively operate it in the real world. Such operations come with costs and investments. Given that the number of offline licences is limited (*numerus clausus*), it is not possible to apply for an offline licence when all the available offline licences are granted. That is the case, for example, with casinos (A licence) and organisers of bets (F1 licence). In these cases, the two remaining options are to acquire the licensed company or to enter into a co-operation agreement with that company. Both options are not always obvious and may be costly.

In a noteworthy judgment of 28 February 2018 concerning Hungarian gambling legislation (Case C-3/17), the CJEU clarified that a restriction that reserves access to the market for online games of chance to casino operators situated on national territory is disproportionate and therefore contrary to the EU freedom to provide services. If a similar logic were to be applied in Belgian online gambling legislation, this EU judgment suggests that the requirement to have and operate an offline licence as a condition for obtaining an online licence is at odds with EU law.

BRAZIL

Law and Practice

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Maia Yoshiyasu Advogados – MYLAW and its technology and gaming team is internationally recognised for its expertise and as a leading Brazilian law firm in the gambling industry. The firm's practice focuses on (but is not limited to) sports betting, online and land-based casinos and lotteries, game developers and publishers, marketplaces, esports organisations, fantasy sports sites, poker clubs and tournaments, and all things related to gaming and entertainment. The firm also advocates clients' interests by closely monitoring and contributing to the advancement of the local regulatory landscape

of the gambling, betting and lottery industries before regulators and governmental authorities. The firm is recognised for its leadership and expertise in the areas of contract, corporate, tax, administrative and consumer law, as well as in the capital, intellectual property, technology, fintech and payment industries. Its lawyers are fluent in English, with most also being fluent in a third language, such as Spanish, French and German. The firm's partners have also been nominated by the most important international rankings.

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1. Introduction

1.1 Current Outlook and Recent Changes

Brazil is the largest and most populated country in Latin America, with a total area of 3,265,080 square miles and a population of more than 212 million people (it is the fifth largest country in the world in terms of size, and the seventh in terms of population). Brazil is a federation divided into 26 states, one Federal District and 5,570 municipalities.

Almost all gambling activities have been prohibited in Brazil for over 75 years. In Brazil, gambling does not have a legal definition. Instead, Decree-Law No 3,688/1941 (the “Misdemeanours Law”), drafted with the intention of preserving social morality, provides in Article 50 for:

- the prohibition of “games of chance”, punishable with imprisonment for three months to one year; and
- a fine for those who establish or carry out games of chance in a public place or place accessible to the public, by means of the payment of an entry fee or otherwise.

There are three definitions of “game of chance”:

- a game in which the winnings and the losses depend exclusively or mainly on chance;
- bets on horse racing outside a racetrack or where they are authorised; and
- bets on any other sporting competition.

Since the general ban on games of chance in 1941, the only legal gambling activities were:

- the lotteries under the state monopoly; and
- horse-race betting.

Recent Changes

After a gambling ban of more than 75 years, with a brief and failed attempt at regulation of bingo in the 1990s, Brazil has recently seen considerable development in terms of gambling activities.

Poker, although unregulated, is legal in Brazil, as it is considered a skill-based game. This understanding has been confirmed by several court decisions.

The opening of the Brazilian gambling market started with the creation of the virtual and land-

based instant lottery (called LOTEX) by Law No 13,155/2015.

Law No 13,756/2018 created fixed-odds sports betting as a lottery modality, granting powers for the Ministry of the Economy to regulate it and to issue the respective licences. 2023 saw significant discussions concerning the regulation of sports betting, both at national and at state levels. By October 2023, three states – Minas Gerais, Rio de Janeiro and Paraná – had commenced sports-betting operations within their territories.

Also, in late October 2023, the Minister of Finance signed Normative Ordinance No 1,330/2023, establishing the general conditions for the commercial exploitation of the fixed-odds betting lottery, and regulating general rules regarding the matter. In late December 2023, Law No 14,790/2023 was enacted, regulating the lottery modality called fixed-odds betting and amending Law No 13,756/2018. According to Article 3 of Law No 14,790/2023, fixed-odds bets may involve:

- real events with a sports theme; or
- virtual events from online games.

In 2024, the Secretariat of Prizes and Betting of the Ministry of Finance (SPA), the entity empowered to regulate fixed-odds betting in Brazil, issued several ordinances as per Decree No 11,907/2024, including but not limited to:

- Ordinance SPA/MF No 615/2024, which establishes general rules for payment transactions in fixed-odds lottery betting;
- Ordinance SPA/MF No 722/2024, which establishes general rules for the functioning of betting systems and provision of data to

the regulator in the operation of the fixed-odds lottery betting modality;

- Ordinance SPA/MF No 827/2024, which establishes the rules and conditions for obtaining authorisation for the commercial operation of the fixed-odds betting lottery modality by private economic agents throughout the national territory;
- Ordinance SPA/MF No 1,143/2024, which provides for policies, procedures and internal controls for the prevention of money laundering, terrorist financing and the proliferation of weapons of mass destruction (AML/FTP);
- Ordinance SPA/MF No 1,207/2024, which establishes technical requirements for the operation and certification of online games and live game studios that are among the betting objects of the fixed-odds lottery betting modality;
- Ordinance SPA/MF No 1,231/2024, which establishes rules and guidelines for responsible gaming and for communication and marketing actions, and which regulates the rights and duties of bettors and operators;
- Ordinance SPA/MF No 1,233/2024, which regulates the sanctioning regime within the scope of the commercial operation of the fixed-odds lottery betting modality; and
- Ordinance SPA/MF No 1,475/2024, which establishes the conditions for a company to participate in the transition period of the regulation for the operation of fixed-odds betting, and which sets the rules for the cessation of operations for companies that do not meet these conditions.

2. Jurisdictional Overview

2.1 Online Sports Betting

Online fixed-odds sports betting was legalised by Law No 13,756/2018, and is regulated by Law No 14,790/2023 and by the specific regulation issued by the SPA in 2024.

Horse-Race Betting

Horse-race betting is regulated by Law No 7,291/1984 and Decree No 96,993/1988. Horse-race wagering is restricted to non-profit entities that own the racetracks, and that are duly authorised by the Ministry of Agriculture, Livestock and Food Supply. These entities may operate betting websites focused on horse-racing content.

Bingo

Online bingo is prohibited in Brazil.

Casinos

Online casinos are considered “online games” as described in Article 2, VIII and IX, of Law No 14,790/2023. As per Article 14, paragraph 2, fixed-odds bets that involve “online game events” may only be offered through virtual platforms.

Lotteries

The state-owned *Caixa Econômica Federal* currently runs the federal lottery and has recently launched a website to sell lottery tickets. All state-owned lotteries operating in Brazil are also authorised to offer their products online.

Poker

Poker has been recognised as a sport by the former Ministry of Sports, now the Secretariat of Sports, an agency of the Ministry of Citizenship. As a skill-based game, online poker is permitted. According to the sole paragraph of Article 3, I of

Ordinance SPA/MF No 1,207/2024, skill-based games do not fall under the category of virtual events in online fixed-odds betting.

Fantasy Sports

Article 49 of Law 14,790/2023 expressly states that the development or provision of services related to fantasy sports does not constitute the operation of a lottery modality, commercial promotion or fixed-odds betting, and is exempt from requiring public authorisation.

Certain provisions of Law No 14,790/2023 are, however, applicable to fantasy sports, such as Article 31 regarding taxation of net prizes obtained by bettors from the fixed-odds betting lottery, which will be subject to Individual Income Tax (IRPF) at a rate of 15%. The sole paragraph of Article 3 of Ordinance SPA/MF 1,207/2024 stipulates that fantasy sports do not fall under the category of virtual events in online fixed-odds betting.

Social Gaming

Social gaming is not regulated in Brazil. It is permitted, provided that chance is not the sole or preponderant factor in determining the final result of the game, or provided that the players are not entitled to win prizes with monetary value.

Offshore Gambling Offering

Article 7 of Law No 14,790/2023 stipulates that only legal entities established under Brazilian law with headquarters and management located within the national territory, and which meet the requirements set forth in the regulations issued by the SPA, will be eligible for authorisation to operate fixed-odds betting.

In May 2024, Ordinance SPA/MF No 827/2024 set out an adjustment period for legal entities

that were operating in Brazil at the time of the publication of Law No 14,790/2023, to comply with the applicable legal and regulatory provisions regarding fixed-odds betting lotteries.

Later, Article 2 of Ordinance SPA/MF No 1,475/2024, issued in September 2024, set out that only legal entities that have applied for a licence until 17 September 2024 are considered to be within the adjustment period starting from 1 October 2024.

2.2 Land-Based Sports Betting

Land-based fixed-odds sports betting was legalised by Law No 13,756/2018 and is regulated by Law No 14,790/2023 as well as by the ordinances issued by the SPA and the Ministry of Finance (MF). Betting exchange is allowed and, as per Article 49 of Ordinance SPA/MF 1,231/2024, the betting operator is responsible for:

- providing, executing and settling the bets;
- crediting the prize amount to the winner's account; and
- debiting it from the loser's account.

Horse-Race Betting

Horse-race betting is regulated by Law No 7,291/1984 and Decree No 96,993/1988. Horse-race wagering is restricted to non-profit entities that own the racetracks, and that are duly authorised by the Ministry of Agriculture, Livestock and Food Supply. These entities may appoint agents to facilitate wagering on their behalf, and can also hire private suppliers, which are not subject to licensing or any specific regulation.

Bingo

Commercial bingos are prohibited in Brazil. In 2015, Law No 13,019/2014 was amended by Law No 13,204/2015 to include Article 84-B,

which states that civil society organisations will be entitled to distribute, or promise to distribute, prizes – through sweepstakes, gift cards, competitions or similar operations – in order to raise additional resources for their maintenance or costs. Based on this provision, several “non-profit” bingo halls are operating in the country, but, according to SECAP's understanding, these operations would need to have been previously approved by the Ministry of the Economy.

Casinos

Casinos are prohibited in Brazil. Article 14, paragraph 2 of Law No 14,790/2023 only allows fixed-odds bets that involve “online game events” (casinos) to be offered through virtual platforms.

Lotteries

Caixa Econômica Federal runs the federal lottery and has a network of over 13,500 agencies. *Caixa Econômica Federal* was granted control of the federal lottery following Decree No 50,954/1961, which cancelled all lottery licences granted to the private sector. State lotteries run by member states and the Federal District are legislated at subnational level, and therefore can be subject to diverse legal frameworks. At the time of writing (October 2024), sports betting licences are available in the states of Paraná and Rio de Janeiro.

Poker

Poker has been recognised as a sport by the Secretariat of Sports. As a skill-based game, online poker is permitted. According to the sole paragraph of Article 3, I of Ordinance SPA/MF No 1,207/2024, skill-based games do not fall under the category of virtual events in online fixed-odds betting.

Gaming Machines

Gaming machines are prohibited in Brazil.

3. Legislative Framework

3.1 Key Legislation

The general prohibition on gambling in Brazil is set forth in Article 50 of the Misdemeanours Law, which imposes imprisonment for three months to one year and a fine for those who establish or exploit games of chance in a public place or a place accessible to the public, by means of the payment of an entry fee or otherwise.

The federal lottery operated by the Ministry of Finance is regulated by several laws and decrees.

LOTEX (the instant lottery) was created by Law No 13,155/2015 and amended by Law No 13,756/2018, and is regulated by Decree No 9,327/2018. Decree No 11,675/2023 also regulates LOTEX and allows the Ministry of Finance to authorise, on a temporary basis, direct operation by *Caixa Econômica Federal* for a specified period or until the commencement of indirect operation by the winning operator of the future concession-bidding process.

Horse-race betting is regulated by Law No 7,291/1984 and Decree No 96,993/1988.

Fixed-odds sports betting was legalised by Law No 13,756/2018 and is regulated by Law No 14,790/2023 as well as by the ordinances issued by the Ministry of Finance and SPA.

Law No 14,455/2022 authorised the federal executive power to create the health and tourism lotteries.

3.2 Definition of Gambling

In Brazil, gambling does not have a legal definition.

In fact, the word “gambling” does not have a perfect translation into Portuguese. It can mean a bet or a game, involving a consideration, a prize and chance.

A “bet” is defined in Article 2, I of Law 14,790/2023 as “an act through which a certain amount is placed at risk with the expectation of obtaining a prize”. An “online game” is defined, in item VIII, as an “electronic mechanism that enables virtual betting on a game in which the outcome is determined by the result of a future random event, based on a random number, symbol, figure or object generator as defined in the system’s rules”.

Article 50 of the Misdemeanours Law establishes that the operation of illegal games of chance in a public place or in a place available to the public is subject to imprisonment for between three months and one year, and to a fine.

Games of chance are treated as misdemeanours, which are recognised by law as offences punishable by minor penalties (Article 61 of Law No 9,099/1995). In other words, a misdemeanour is a less offensive crime when compared to a criminal violation of Brazilian law.

On the other hand, “skill-based games” are defined in Article 2, VIII of Ordinance SPA/MF No 1,207/2024 as “a category of game in which the outcome is determined primarily or predominantly by the mental or motor skills of the participant, such as dexterity, expertise, intelligence, competence and knowledge, even though there may be non-prevalent random events”. This is the case with poker, for instance, and these

games are legal in Brazil and do not fall under the category of virtual events in online fixed-odds betting.

3.3 Definition of Land-Based Gambling

The Misdemeanours Law dates from 1941 and does not differentiate between online and land-based activities.

Decree No 9,327/2018, which regulates LOTEX, defines physical bets as those made by the client upon the purchase of a printed ticket and virtual bets as those made by the client via electronic channels.

Law No 13,756/2018, which introduced fixed-odds sports betting as a lottery modality, sets forth that this can be offered both by land-based and by online operators. Law No 14,790/2023 and the ordinances issued by the SPA regulate fixed-odds sports betting.

3.4 Definition of Online Gambling

See 3.3 Definition of Land-Based Gambling.

3.5 Key Offences

According to Article 50 of the Misdemeanours Law, a person is guilty of illegal betting if they establish or explore games of chance, an offence punishable with imprisonment for between three months and a year and with a fine. Whoever is found taking part in a game of chance, even via the internet or any other means of communication, as a cashier or bettor, is subject to a fine ranging from BRL2,000 to BRL200,000.

Currently, all prosecution cases related to Article 50 are suspended until the Brazilian Supreme Court judges Extraordinary Appeal No 966,177. The scope of that judgment will determine whether Article 50 of the Misdemeanours Law complies with the constitutional precepts con-

cerning free enterprise and fundamental freedoms, as provided for in Articles 1, IV; 5, XLI; and 170 of the Federal Constitution.

3.6 Penalties for Unlawful Gambling

An unlawful gambling operator can be penalised with imprisonment for between three months and a year, and with a fine. Players and punters involved with unlawful gambling are subject to fines ranging between BRL2,000 and BRL200,000.

3.7 Recent or Forthcoming Legislative Changes

Since the general ban on games of chance was imposed in 1941 by the Misdemeanours Law and reinforced by Decree-Law No 9,215/1946, several bills of law have been discussed in the Congress for the legalisation of gaming activities. Currently, they are appended to Bill of Law No 442/1991 (renumbered as Bill of Law No 2,234/2022 in the Senate), which was already approved at the Chamber of Deputies and by the Constitution and Justice Committee and, as of August 2024, is under discussion at the Plenary of the Federal Senate.

Once a bill of law is approved by the Federal Senate, it will have to be approved by the Chamber of Deputies. If amended, the bill of law will need further approval of any amendments by the Chamber of Deputies, the house of origin, prior to being presented and signed by the President.

Bill of Law No 442/1991 (Renumbered at the Senate to Bill of Law No 2,234/2022)

The details of this bill are as follows.

- Origin: Chamber of Deputies.
- Current situation: as of August 2024, under discussions in the Plenary of the Federal Senate.

- Summary: authorises the operation of games of chance in Brazil.
- Status: approved by the Chamber of Deputies.
- Next steps: awaiting a session vote at the Senate.
- Modalities: casinos, bingos, fixed-odds sports betting, videobingo, online gaming, jogo do bicho.
- Licences:
 - (a) casinos – public bid for concession, 30-year term, renewable for equal terms;
 - (b) bingos – authorisation for 25 years, renewable for one equal term;
 - (c) jogo do bicho – BRL10 million minimum paid-up capital, 25-year term, renewable for equal terms;
 - (d) online gaming – not defined; and
 - (e) videobingo – not defined.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

In 2024, Decree No 11,907/2024 established the SPA within the organisational structure of the Ministry of Finance and its responsibilities for licensing, permitting, granting, regulating, monitoring, supervising, overseeing and sanctioning fixed-odds betting, lotteries and other activities.

The Ministry of Agriculture, Livestock and Food Supply is responsible for the regulation of horse-race betting.

4.2 Regulatory Approach

Regulation tends to be prescriptive. Consumer and data protection rules, on the other hand, are more risk-based, with the operator being held liable for the negative effects on consum-

ers and data subjects, even if the prescriptive regulations have been complied with.

4.3 Recent or Forthcoming Changes

Law No 14,790/2023 regulates fixed-odds betting in Brazil. In 2024, the SPA issued several ordinances for the purpose of regulating fixed-odds betting, including Ordinance SPA/MF No 827/2024, which establishes the rules and conditions for obtaining authorisation for the commercial operation of the fixed-odds betting lottery modality by private economic agents throughout the national territory.

Sports Betting

The commercial operation of the fixed-odds betting lottery, as referred to in Article 29 of Law No 13,756/2018 and Articles 4 and 6 of Law No 14,790/2023, throughout the national territory, will be exclusive to legal entities that are licensed by the SPA to act as betting operators. After fulfilling the requirements set forth in the applicable legislation, the licence will be granted through the publication of an authorisation ordinance in the Official Gazette of the Union.

Horse-Race Betting

The horse-race betting licence issued by the Ministry of Agriculture, Livestock and Food Supply is called *Carta Patente*.

Poker

Poker does not require specific licences.

Fantasy Sports

Fantasy sports do not require specific licences.

Social Gaming

Social gaming does not require specific licences.

4.4 Types of Licences

See 13.1 Types of Authorisations and Licences.

4.5 Availability of Licences

Sports Betting

Licences can be obtained at the SPA, by legal entities established under Brazilian laws with headquarters and management located within the national territory, and which meet all the requirements set forth in applicable laws, including Ordinance SPA/MF No 827/2024.

Horse-Race Betting

Licences can be obtained at the Ministry of Agriculture, Livestock and Food Supply.

Lotteries

No lottery licences are available in Brazil at the federal level.

4.6 Duration of Licences

Sports Betting

Fixed-odds betting licences are granted for a duration of five years.

Horse-Race Betting

Horse-race betting licences do not have an expiry date.

4.7 Application Requirements

Sports Betting

Specific application requirements for fixed-odds betting are described in Ordinance SPA/MF No 827/2024. Only legal entities established under Brazilian laws with headquarters and management located within the national territory, and organised as limited liability companies or corporations with a minimum corporate capital of BRL30 million, may apply to the SPA for the licence. Subsidiaries of a foreign company, established under Brazilian law with headquarters and management in national territory, may be authorised to operate fixed-odds betting lotteries, provided that a Brazilian holds at least

20% of the operating agent's share capital as a partner.

In addition, the legal entity must present evidence of integrity and prior experience in gaming services, and must submit certain information and documents related to technical, legal, financial, tax and labour aspects and the good standing of the shareholders, ultimate beneficial owners and administrators.

Horse-Race Betting

The applicant must:

- be a non-profit entity legally incorporated in Brazil;
- own or have the rights to use a racetrack;
- demonstrate the technical and economic viability of the weekly racing schedule;
- present the floor plan of the race field; and
- present the draft of a general betting plan (which includes the rules applicable for each game to be run by the operator, such as prizes, ticket value, minimum and maximum betting amounts, and payout).

Lotteries

Currently, no lottery licences are available in Brazil at the federal level.

4.8 Application Timing

Entities may apply for fixed-odd betting at any time, in accordance with the administrative procedure established in the regulations of the Ministry of Finance and SPA (Article 9 of Law No 14,790/2023). The SPA must notify the applicant legal entities within 150 days of the application date to pay the licence fee and to present the requirements described in Ordinance SPA/MF No 827/2024. Applying entities will then have 30 days to make payment and present evidence of compliance with the requirements.

4.9 Application Fees

For application fees, BRL30 million allows the operation of up to three commercial brands to be explored by the legal entity in its electronic channels, per licence.

4.10 Ongoing Annual Fees

Law No 14,790/2023 amended Article 32 of Law No 13,756/2018 to establish the monthly Gaming Monitoring Fee for the commercial operation of the fixed-odds betting lottery; it is triggered by the regular exercise of regulatory authority and is applied monthly to the proceeds of the collection after deducting the amounts referred to in Article 30, paragraph 1-A of Law No 13,756/2018 for social destinations.

5. Land-Based Gambling

5.1 Premises Licensing

Land-based gambling is restricted to:

- federal and state lotteries;
- fixed-odds betting;
- horse-race betting at racetracks and agencies;
- poker rooms; and
- future LOTEX and sports-betting points of sale.

Premises licensing varies according to the gambling modality.

Caixa Econômica Federal's lottery agencies are concessions granted by the federal government, and the premises licences are granted by *Caixa Econômica Federal*.

Fixed-odds betting premises are subject to the conditions described in Law No 14,790/2023. At the time of the application for the licence, the

applying entity must identify whether it intends to offer bets in virtual or physical modalities, either separately or jointly, in accordance with Article 14 of Law No 14,790/2023.

Horse-race entities must apply for their agents' and agencies' licences before the Ministry of Agriculture, Livestock and Food Supply. The horse-race entity remains entirely responsible for any and all acts of the agent. The agent's licence is granted to the agent (an individual or a legal entity) to facilitate wagering only at the specified venue.

5.2 Recent or Forthcoming Changes

The Direct Action of Unconstitutionality (ADI) 7640 in the Federal Supreme Court (STF) challenges some provisions of Law No 14,790/2023. ADI 7640 was proposed by the states of São Paulo, Minas Gerais, Paraná, Acre, Mato Grosso do Sul, Rio de Janeiro and the Federal District. These states contest changes brought in by the new law that prohibit companies from participating in lottery services in more than one state and restrict advertising to only where the service is operated.

The National Confederation of Commerce of Goods, Services and Tourism (CNC) has filed ADI 7721 in the STF, questioning the validity of Law No 14,790/2023. The entity requests the precautionary suspension of the law until the judgment on the merits, alleging that the legislation contributes to the increase in indebtedness of Brazilian families. Minister Luiz Fux, rapporteur of ADI 7721 in the STF, has convened a public hearing to discuss the impacts of online betting in Brazil. The event will take place in November 2024.

6. Online Gambling

6.1 B2C Licences

B2C licences are regulated by Ordinance SPA/MF No 827/2024 for the commercial operation of the fixed-odds lottery betting modality by private economic agents throughout the national territory. Online games events are considered as fixed-odds betting, as per Article 3 of Law No 14,790/2023.

6.2 B2B Licences (Suppliers, Software, Etc)

There are currently no regulations on B2B licences at the federal level.

6.3 Affiliates

Rules applicable to affiliates are described in Ordinance SPA/MF No 1,231/2024. As per Article 22, communication, advertising and marketing actions carried out by affiliates are considered part of the actions of the betting operator, and the operators are required to ensure:

- that their affiliates comply with applicable laws;
- the establishment of written contracts with their affiliates, in Portuguese, that explicitly specify whether or not subcontracting is allowed, in which case the operator's responsibility cannot be waived;
- the affiliates' duty to comply with legal, regulatory and self-regulatory rules regarding communication, advertising and marketing; and
- the criteria for compensating affiliates.

6.4 White Labels

According to Ordinance SPA/MF No 827/2024, a licence will be granted considering the limit of up to three brands to be exploited by the legal entity in its electronic channels, per authorisation act.

The licensed operating agent will be liable for all brands appointed in its application to operate fixed-odds betting. Therefore, it is not possible to offer white label solutions.

6.5 Technical Measures

Online games events are considered as fixed-odds betting, as per Article 3 of Law No 14,790/2023. Therefore, the recent changes described in **1.1 Current Outlook and Recent Changes** are applicable.

Also, online gambling provisions are included in Bill of Law No 442/1991 (Renumbered as Bill of Law No 2,234/2022 in the Senate), under discussions in the Plenary of the State Senate.

6.6 Recent or Forthcoming Changes

Technical measures for the operating of betting systems and the provision of data to the Betting System of the SPA (SIGAP) in the operating of the fixed-odds betting lottery modality are described in Ordinance SPA/MF No 722/2024.

Ordinance SPA/MF No 1,207/2024 establishes the technical requirements for online games and live game studios to be observed by fixed-odds betting lottery operators.

General rules applicable to payment transactions by authorised fixed-odds betting agents are described in Ordinance SPA/MF No 615/2024.

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

7.1 RG Requirements

Normative Ordinance No 1,330/2023 and Ordinance SPA/MF No 1,231/2024 provide that

responsible gaming measures must be put in place to:

- prevent compulsive or pathological gambling;
- protect vulnerable individuals (mainly children and adolescents); and
- ensure that bettors are over 18 years of age.

7.2 Gambling Management Tools

Normative Ordinance No 1,330/2023 and Ordinance SPA/MF No 1,231/2024 establish that responsible gambling consists of measures, guidelines and practices to be adopted for:

- the prevention of compulsive or pathological gambling disorders;
- the prevention and non-inducement of debt; and
- the protection of vulnerable individuals, especially minors and the elderly.

In addition, Ordinance SPA/MF No 1,231/2024 establishes specific and detailed measures to be implemented by the operating agent to ensure responsible gaming is complied with. Among the requirements, there is the obligation for the operator to implement gaming management tools and to promote informative and preventive actions to raise awareness among bettors about compulsive or pathological gambling disorders (starting at the bettor's registration in the betting system), by creating a specific responsible gaming policy and disseminating and implementing legal requirements, best practices and harm reduction.

7.3 Recent or Forthcoming Changes

Normative Ordinance No 1,330/2023 and Ordinance SPA/MF No 1,231/2024 provide that operators must have internal control mechanisms and systems that allow the bettor to establish:

- a daily limit for gambling or betting;
- a maximum loss limit;
- a pause period; and
- self-exclusion.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Law No 9,613/1998 defines the anti-money laundering (AML) legal framework in Brazil. Pursuant to Article 1, money laundering under Brazilian legislation is the act of hiding or disguising the nature, origin, location, disposition, remittance or ownership of property, goods, rights or values arising directly or indirectly from a criminal offence. This law created the *Conselho de Controle de Atividades Financeiras* (COAF), the regulatory body in charge of pursuing, investigating and sanctioning any activity related to money-laundering crimes. The COAF issues directives to regulate activities of industries that may facilitate money laundering, such as gambling.

8.2 AML Requirements

More recently, Normative Ordinance No 1,330/2023 and Ordinance SPA/MF No 1,143/2024 provide that sports-betting operators must inform the COAF in the case of suspected money-laundering activities, and must develop and implement policies, procedures and internal controls to identify, assess, control and monitor the risks associated with money laundering, terrorist financing and proliferation of weapons of mass destruction.

8.3 Recent or Forthcoming Changes

For the purpose of preventing money laundering, Ministry of Finance Ordinance GM/MF No 537/2013 establishes that entities that distribute money or goods through the operation of lotter-

ies should pay special attention to serious suspicions of crimes defined in Law No 9,613/1998.

Normative Ordinance No 1,330/2023 confirms this mandatory communication with the COAF. Detailed provisions related to policies on AML in gambling are set forth in Ordinance SPA/MF No 1,143/2024, which is applicable to betting operating agents in relation to their AML duties and the prevention of other related crimes that are legally attributed to them, including under the responsibility of their administrators, in accordance with Article 12 of Law No 9,613/1998. Betting operating agents must request authorisation to use the Financial Activities Control System (SISCOAF), keeping their data and those of the corresponding users updated in the system.

9. Advertising

9.1 Regulatory/Supervisory Agency

Decree No 57,690/1966 and Decree No 4,563/2002 regulate advertising in Brazil. According to the latter, all advertisements in Brazil must comply with the rules set forth by the Standard Rules Executive Council (CENP). This council is responsible for regulating the commercial relations between advertisers and agencies, while the National Council for Advertising Self-Regulation (CONAR) is responsible for ensuring ethics in advertising content.

Both the CENP and CONAR are non-governmental organisations comprised of members of the advertising industry, and define their own statutes and codes. CONAR's Self-Regulation Code also includes a specific rule, according to which, advertising content must not "induce criminal or illegal activities".

9.2 Definition of Advertising

The legal definition of advertising is set forth by Article 2 of Decree No 57,690/1966 as any paid form of dissemination of ideas, merchandise, products or services by an identified advertiser.

9.3 Key Legal, Regulatory and Licensing Provisions

Article 23, Paragraph 2 of Normative Ordinance No 1,330/2023 and Article 14 of Ordinance SPA/MF No 1,231/2024 establish that additional aspects of advertising may be provided for in an advertising self-regulation code.

For that purpose, in 2023 CONAR issued Annex X to CONAR's Self-Regulation Code, with specific rules to ensure that betting advertisements are responsible and with particular attention paid to the need to protect children, adolescents and other vulnerable individuals.

Ordinance SPA/MF No 1,231/2024 further regulates the conditions that operating agents must observe to advertise fixed-odds betting in Brazil.

Ordinance SPA/MF No 827/2024 stipulates, as a condition to the issuance of the licence, that operating agents must adopt and implement a code of conduct and dissemination of best practices in advertising and publicity.

9.4 Restrictions on Advertising

No advertisement may:

- encourage or stimulate any type of offence or racial, social, political, religious or national discrimination;
- contain statements or visual or audio presentations that may offend the decency standards of the audience it intends to reach;
- exploit the consumer's credulity, lack of knowledge or inexperience;

- cause fear without a relevant social reason; or
- exploit any type of superstition.

In the specific area of fixed-odds betting, Normative Ordinance No 1,330/2023 and Ordinance SPA/MF No 1,231/2024 provides that advertising, public relations and marketing actions for these operations may not:

- be aired in schools and universities;
- lack an age restriction notice, embodied by the “18+” symbol or the notice “prohibited for individuals under 18 years of age”;
- disseminate misleading claims about the odds of winning or the potential gains that bettors can expect;
- portray betting as socially appealing or contain statements from celebrities or digital influencers that suggest gambling contributes to personal or social success or improved financial conditions;
- use sexually suggestive messages or objectify physical attributes;
- incite intensification or exaggeration in the practice of betting;
- promote the product as a means to recover losses from previous bets or other financial losses;
- in any way offend cultural beliefs or traditions of the country, especially those against gambling; and
- suggest or induce the belief that, among other situations, skill, dexterity or experience can influence the outcome of a sports event.

9.5 Sanctions/Penalties

Article 50 of CONAR’s Self-Regulation Code states that violators of the rules established in that Code are subject to the following penalties:

- a warning in writing;

- a recommendation to modify or correct the advertisement;
- a recommendation to the vehicle to suspend the broadcasting of the advertisement; and
- a public disclosure of CONAR’s opinion as regards the advertiser, the agency and the vehicle for non-compliance with the measures so recommended.

9.6 Recent or Forthcoming Changes

In December 2023, CONAR issued Annex X to its Self-Regulation Code, with rules to ensure that betting advertisements are responsible, with particular attention paid to the need to protect children, adolescents and other vulnerable individuals.

Ordinance SPA/MF No 1,231/2024 was also enacted with the purpose of establishing rules and guidelines for responsible gaming and for communication and marketing actions; it regulates the rights and duties of bettors and operators.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Fixed-odds betting operating agents must disclosed to the SPA situations involving merger, spin-off, acquisition, transformation, transfer or modification of direct or indirect corporate control, by submitting all necessary documentation within 30 days from the occurrence of one of these events.

There are currently no acquisitions or changes of control regulations in place for horse-race betting in Brazil.

10.2 Change of Corporate Control Triggers

The occurrence of a merger, spin-off, acquisition, transformation, transfer or modification of direct or indirect corporate control of the operating agent may trigger the revision of the licence granted by the SPA, as per Article 6 of Ordinance SPA/MF No 827/2024. The SPA will have 150 days to review documentation submitted by the operating agent and decide thereon.

10.3 Passive Investor Requirements

There are currently no requirements for passive investors in acquisitions or changes of control.

See 13.2 Application Process regarding Article 7 of Normative Ordinance No 1,330/2023.

10.4 Recent or Forthcoming Changes

Article 5, paragraph 1 of Law No 14,790/2023, and Article 6 of Ordinance SPA/MF No 827/2024, determine that the licence to operate fixed-odds betting granted by the Ministry of Finance may be reviewed whenever there is a merger, spin-off, incorporation, transformation, or any direct or indirect transfer or modification of corporate control within the authorised operating agent.

According to paragraphs 1 to 4 of Article 6, Ordinance SPA/MF No 827/2024, within up to 30 days from the occurrence of any of these events, the licensed operating agent must submit all necessary documentation to the Secretariat of Prizes and Betting of the Ministry of Finance (SPA), to ensure compliance with the rules and conditions established in applicable laws.

The operating agent is allowed to present a consultation to the SPA in advance to confirm that the intended corporate changes will not result in a review of the granted licence.

The SPA will review the terms of the licence in a specific administrative process, within up to 150 days starting from the date of submission of the documentation or the formalisation of the consultation, as applicable.

11. Enforcement

11.1 Powers Horse-Race Betting

The Ministry of Agriculture, Livestock and Food Supply is the regulatory body in charge of regulating, monitoring and enforcing the regulation and penalties involving racetracks in Brazil.

Sports Betting

In 2024, Decree No 11,907/2024 established the SPA within the organisational structure of the Ministry of Finance and its responsibilities for licensing, permitting, granting, regulating, monitoring, supervising, overseeing and sanctioning fixed-odds betting, lotteries and other activities.

Also, as per Ordinance SPA/MF No 1,143/2024, operating agents will be subject to monitoring by the COAF, the regulatory body in charge of pursuing, investigating and sanctioning any activity related to money-laundering crimes.

11.2 Sanctions

According to Article 41 of Law 14,790/2023, administrative sanctions include the following:

- a warning;
- for a legal person, a fine ranging from 0.1% to 20% on the revenue product after deducting the related regarding the payment of prizes and income tax levied on the prize, relative to the last fiscal year before the initiation of the administrative sanctioning process, which shall never be less than the advantage

- obtained (when its estimation is possible) nor exceed BRL2 billion per infraction;
- for other natural or legal persons of public or private law, and for any associations of entities or persons constituted in fact or in law – whether temporarily or not, with or without legal personality, not engaging in business activity and when it is not possible to use the revenue product criterion – the fine shall be between BRL50,000 and BRL2 billion per infraction;
 - partial or total suspension of the exercise of activities for a period of up to 180 days;
 - revocation of authorisation, extinction of permission or concession, cancellation of registration, disaccreditation or similar releasing action;
 - prohibition from obtaining ownership of a new authorisation, grant, permission, accreditation, registration or similar releasing action for a maximum period of ten years;
 - prohibition from carrying out certain activities or types of operations for a maximum period of ten years;
 - prohibition from participating in tenders that have as their object the concession or permission of public services, in the federal public administration, direct or indirect, for a period of not less than five years; and
 - disqualification from acting as a director or administrator, and from holding positions in the bodies provided for in the by-laws or in the corporate charter of a legal person that operates any type of lottery, for a maximum period of 20 years.

The sanctioning procedural rite is described in Ordinance SPA/MF No 1,233/2024.

Operating agents and their administrators that fail to comply with AML obligations described in Ordinance No 1,143/2024 may also be subject

to the sanctions provided for in Article 12 of Law 9,613/1998, by means of an administrative sanctioning process. Sanctions described in Article 12 of Law No 9,613/1998 include the following.

- A warning.
- A variable monetary fine not exceeding:
 - (a) double the value of the transaction;
 - (b) double the actual profit obtained or that would presumably have been obtained from the transaction; or
 - (c) BRL20 million.
- Temporary disqualification, for a period of up to ten years, from holding the position of administrator in operating legal entities and others described in Law No 9,613/1998.
- Revocation or suspension of the authorisation to engage in activities, operations or functioning.

See also **13.5 Personal Sanctions**.

11.3 Financial Penalties

See the second and third points listed in **11.2 Sanctions** for the financial penalties to be calculated and charged by the SPA.

11.4 Recent or Forthcoming Changes

Article 33 of Law No 14,790/2023 establishes that the operating agent must use auditable systems and provide unrestricted, continuous and real-time access to the Ministry of Finance, as requested.

As per Article 55 of Decree No 11,907/2024, the SPA (as one of the branches of the Ministry of Finance) will be responsible for licensing, permitting, granting, regulating, monitoring, supervising, overseeing and sanctioning fixed-odds betting, lotteries and other activities.

Article 4 of Ordinance SPA/MF No 1,233/2024, which regulates the sanctioning regime within the scope of the commercial exploitation of the fixed-odds betting lottery modality, establishes that the administrative sanctioning process will be initiated, conducted and reviewed by the Undersecretariat of Monitoring and Oversight of the SPA.

Also, as per Ordinance SPA/MF No 1,143/2024, operating agents will be subject to monitoring of the COAF, the regulatory body in charge of pursuing, investigating and sanctioning any activity related to money-laundering crimes.

12. Tax

12.1 Tax Rate by Sector

All gambling companies in Brazil are subject to the levy of corporate income tax (IRPJ) and social contribution on net profit (CSLL) at a combined general rate of 34%. The IRPJ rate is 15%, and a 10% surcharge applies to taxable income exceeding BRL240,000 per year. CSLL is due at a rate of 9%.

The effective tax rate may vary according to the system elected by the Brazilian legal entity for calculating IRPJ and CSLL (actual profit system or deemed profit system). Companies with total revenues greater than BRL78 million in the previous year are automatically subject to the actual profit system.

- Actual profit system – the tax basis is determined based on the accounting net profit, adjusted in accordance with the addition of non-deductible expenses and the exclusion of certain amounts. The Programme of Social Integration (PIS) and Contribution for the Financing of Social Security (COFINS)

are taxed under the non-cumulative method, at the rates of 1.65% and 7.6% respectively, allowing credits from acquisitions.

- Deemed profit system – the tax basis for services is 32% on the company's gross revenues, on an accrual or cash basis. The PIS and COFINS are taxed under the cumulative method, at the rates of 0.65% and 3% respectively, not allowing credits.

Besides the ordinary corporate taxes, gambling companies' activities are also subject to the following taxes.

Instant Lottery – LOTEX

Taxation on the operator

The LOTEX operator's gross revenue is 18.3% of the total sales. This is the tax basis for PIS (1.65%), COFINS (7.6%) and ISS (2% to 5%).

Taxation on players' winnings

Lottery cash prizes that exceed the value of the first tier of the individual income tax monthly rate table (BRL2,112) are subject to income tax withholding at a rate of 30%, as set forth in Article 732, I of Decree No 9,580 of 22 November 2018 and Article 56 of Law No 11,941 of 27 May 2009.

Prizes in goods and services are subject to income tax withholding at a rate of 20%, as set forth in Article 733 of Decree No 9,580 of 22 November 2018.

Horse-Race Betting

Taxation on horsemen's winnings

Prizes paid to horsemen, breeders and jockeys are subject to income tax withholding at a rate of 15%, as set forth in Article 737 of Decree No 9,580 of 22 November 2018.

Taxation on players' winnings

Bettors' prizes are subject to income tax withholding at a rate of 30%, as set forth in Article 732, II of Decree No 9,580 of 22 November 2018.

Sports Betting

Taxation on the operator

As per Article 30, paragraph 1-A, from the proceeds of the revenue, after the deductions regarding payment of prizes and income tax on prizes:

- 88% will be allocated to cover the operating and maintenance expenses of the operator and other betting games, except for the lottery modalities provided for in Law No 13,756/2023; and
- 12% will be allocated as social destinations, for the purposes of education, public safety, sports, social security, tourism, health and other social areas.

Taxation on players' winnings

Fixed-odds sports-betting lottery cash prizes that exceed the value of the first tier of the individual income tax monthly rate table (BRL2,112) are subject to income tax withholding at a rate of 30%, as set forth in Article 732, I of Decree No 9,580 of 22 November 2018 and Article 56 of Law No 11,941 of 27 May 2009.

As per Article 31 of Law No 14,790/2023, net prizes obtained from fixed-odds betting lotteries will be taxed by the Individual Income Tax (IRPF) at a rate of 15%.

Poker

Taxation on the operator

The taxation applies as follows.

- Tournaments – the operator's gross revenue is the total of the tournament's entry fees

minus the amount separated for the prize pool. This is the tax basis for PIS (0.65% or 1.65%), COFINS (3% or 7.6%) and ISS (2% to 5%).

- Ring games – the operator's gross revenue is the rake collected in each hand. This is the tax basis for PIS (0.65% or 1.65%), COFINS (3% or 7.6%) and ISS (2% to 5%).

Taxation on players' winnings

According to the *Receita Federal do Brasil* (RFB), when the prize depends on the performance of the participants, it is deemed as remuneration for the work, regardless of whether the prizes are paid in cash or in the form of goods and services. Therefore, if the prize is paid by a Brazilian legal entity to an individual fiscally resident in Brazil, it will be subject to personal income tax withholding calculated on the following progressive tax rates (in Brazilian reais):

- from BRL0 up to BRL2.112 – income tax exemption, no deductible amount;
- from BRL2,112.01 up to BRL2,826.65 – 7.5% withholding tax, BRL158.40 deductible;
- from BRL2,826.66 up to BRL3,751.05 – 15% withholding tax, BRL370.40 deductible;
- from BRL3,751.06 up to BRL4,664.68 – 22.5% withholding tax, BRL651.73 deductible; and
- from BRL4,664.69 and above – 27.5% withholding tax, BRL884.98 deductible.

12.2 Recent or Forthcoming Changes

According to Article 31 of Law 14,790/2023, net prizes obtained from fixed-odds betting lottery bettors will be subject to Individual Income Tax (IRPF) at a rate of 15%.

Article 51 of Law No 14,790/2023 also amended Article 30, paragraph 1-A of Law No 13,756/2018, with the effect that, from the proceeds of the col-

lection and after deducting the amounts of the payment of prizes and of income tax applicable to the prizes:

- 88% will be allocated to cover the operating and maintenance expenses of the fixed-odds betting lottery operator and other betting games; and
- 12% will be allocated as social destinations, for the purposes of education, public safety, sports, social security, tourism, health and other social areas.

The procedures of payment by the operating agent of social destinations are described in Ordinance SPA/MF No 1,121/2024.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

According to Article 7, I of Normative Ordinance No 1,330/2023, licences will not be granted to individuals. Only legal entities established under Brazilian laws, with headquarters and management located within the national territory, that meet all the requirements set forth in applicable laws, will be eligible for the licence to operate fixed-odds betting lotteries.

13.2 Application Process

Application is subject to the confirmation of reputation and knowledge of the applicant entity's controllers and administrators, as per Article 11 of Law No 14,790/2023. Key application requirements for directors, owners and senior management are established in Ordinance SPA No 827/2024 and involve:

- integrity requirements;

- a minimum of three years of professional experience in a field related to their role as administrators; and
- a higher education degree in an area compatible with the position to be held.

According to Article 7 of Normative Ordinance No 1,330/2023, a licence will not be granted to legal entities whose partners or controlling shareholders, individuals or members of a control agreement, managers and other individuals composing their corporate structure meet the following criteria.

- If they hold direct or indirect participation in a football joint stock company or a professional sports organisation.
- If they act as professional athletes, members of technical teams, referees or managers of Brazilian sports teams.
- If they are suspended from bidding and contracting with the Public Administration or have been declared unfit by the Public Administration at the federal, state or municipal level or the Federal District, while the reasons for the punishment persist or until their rehabilitation is achieved.
- If they are spouses, partners or relatives, either by blood or by affinity, up to the third degree, of public servants or service providers working in the area of the Ministry of Finance responsible for granting the authorisations referred to in applicable laws.
- If they have a prohibition under special law.
- If they have a conviction for:
 - (a) administrative misconduct;
 - (b) bankruptcy;
 - (c) tax evasion;
 - (d) malfeasance;
 - (e) active or passive corruption;
 - (f) extortion;
 - (g) embezzlement;

- (h) offences against the popular economy;
- (i) offences against public faith;
- (j) offences against intellectual property; and
- (k) offences against the National Financial System.

- If they have a conviction with a criminal sentence that temporarily or permanently bars access to public office, by a final judicial decision.

If the licence is granted, the operating agent must pay a licence grant fee in the amount of BRL30 million.

13.3 Ongoing Annual Fees

Law No 14,790/2023 amended Article 32 of Law No 13,756/2018 to establish the monthly Gaming Monitoring Fee for the commercial operation of the fixed-odds betting lottery, which is triggered by the regular exercise of regulatory authority and is applied monthly to the proceeds of collection after deducting the amounts referred to in **12.2 Recent or Forthcoming Changes**.

13.4 Ongoing Requirements

No personal authorisations and licences are currently available for fixed-odds betting activities.

13.5 Personal Sanctions

Personal sanctions can be applied solely or jointly with financial penalties, and include disqualification from acting as a director or administrator, as well as from holding positions in the bodies provided for in the by-laws or in the corporate charter of a legal person that operates any type of lottery, for a maximum period of 20 years (Law No 14,790/2023, Article 41, IX).

13.6 Recent or Forthcoming Changes

Application is subject to the confirmation of reputation and knowledge of the applicant entity's controllers and administrators, as per Article 11 of Law No 14,790/2023.

Normative Ordinance No 1,330/2023 establishes conditions of controlling partners or shareholders and other individuals comprising their corporate structure that may prevent a legal entity from obtaining a licence to operate fixed-odds betting activities.

Ordinance SPA/MF No 827/2024 determines that the licence shall be subject to integrity requirements, minimum professional experience and formal education of managers.

Administrators, partners, officers, managers and employees of the operating agent are also prevented, directly or indirectly, from betting (Article 26, II of Law No 14,790/2023).



Law and Practice

Contributed by:

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The logo for McCarthy Tétrault LLP, featuring the firm's name in a bold, lowercase, sans-serif font. The 'm' and 't' are significantly larger than the other letters, creating a distinctive visual identity.

1. Introduction

1.1 Current Outlook and Recent Changes

Currently, Ontario remains the only province in Canada to have developed a regulatory framework to allow private sector gaming operators to provide internet gaming services to people located in the province of Ontario. Ontario's igaming market is regulated by the Alcohol and Gaming Commission of Ontario (AGCO), the longstanding provincial agency responsible for regulating the alcohol, gaming, horse racing and cannabis retail sectors in Ontario. Since the Criminal Code requires a Provincial Gaming Operator to ultimately conduct and manage all gaming activity in a province, the Ontario government established iGaming Ontario (iGO) to be the legal provider of online gaming in Ontario, which can engage private sector operators to deliver games and other operational services.

The status quo remains for the rest of the country, with government monopolies in both land-based and online gaming remaining in place in every other province.

By most measures, the generally prevailing view is that Ontario's initiative has been a success, many major offshore gaming operators have become registered under Ontario's regime, and the meaningful revenue for the province continues. It is worth noting that in February 2024, the Mohawk Council of Kahnawà:ke (MCK), which is the governing body of a recognised First Nations community located in the province of Quebec, challenged Ontario's iGaming framework, arguing it was unconstitutional and infringed on their rights. The Ontario Superior Court heard the case and, on 13 May 2024, ruled in favour of iGO. The court found that Ontario's online gaming model operated within the bounds of the Criminal Code. This decision allowed Ontario to continue its regulated online gaming market. The MCK decided not to appeal the decision.

2. Jurisdictional Overview

2.1 Online

Pursuant to the gaming provisions of the Criminal Code, all activities that would fall within the categories enumerated in the Criminal Code (pay-to-play games, slots, betting, casinos, lot-

teries, poker) are illegal throughout the country. However, Section 207 of the Criminal Code provides an exception to the blanket prohibition that allows the governments of the provinces to provide a range of gaming products and services (with some exceptions) to individuals located within their respective jurisdictions.

The Criminal Code stipulates that no provincial government can provide gaming services in another province. The analysis of situations where, for example, province A allows players from province B onto a gaming website run by province A is less clear. The one significant case to consider the legality of one province offering online gaming services to residents of another province involved a charity that was licensed by the provincial gaming regulator to run an online interprovincial lottery. The Prince Edward Island (PEI) Court of Appeal held that the province of PEI did not have the authority to offer services to players located outside of its jurisdiction.

In any event, the Criminal Code resulted in the establishment of a series of provincial government lotteries that were each able to provide any and all gaming products to individuals located in its province. The Criminal Code also permitted the provinces to license charities to provide gaming products and services in their sole discretion. The Criminal Code does not state that provinces cannot license third parties to provide gaming services to the residents of their respective jurisdictions. Rather, it has been assumed that this would be the finding of a Canadian court if required to consider the matter.

It follows that those products that fall into the gaming sectors listed above (namely, betting, bingo, casino, poker and lotteries) are illegal unless provided by a Provincial Gaming Operator in its home jurisdiction.

Fantasy sports products, depending on the manner in which they are structured, may or may not fall into the category of games of pure skill. While the status of fantasy sports products has yet to be tested in a Canadian court, the AGCO has, in its Registrar's Standards for Internet Gaming (the "AGCO iGaming Standards"), categorised fantasy sports products as a form of sports betting that will require the provider of same to register as an iGaming operator in Ontario.

In most provinces, social games are not categorised as gambling and are not otherwise regulated, assuming that the operation of the games complies with the Criminal Code.

Esports competitions are not regulated because they are viewed as games of pure skill. Accordingly, the AGCO does not require that persons providing esports competitions register as operators. On the other hand, betting on esports constitutes a form of sports betting that will require registration in Ontario.

2.2 Land-Based

There is almost nothing to differentiate the treatment of products, such as betting, poker and gaming machines, in a land-based facility from those same products when provided online. A Provincial Gaming Operator can provide all of these products legally and can engage private sector service providers to deliver those products if it so chooses. Charitable licensees are typically restricted by provincial legislation to the provision of a limited range of products, including, most notably, raffles, bingo and true lottery products, such as scratch-and-win and break-open tickets.

Gaming machines are, of course, permitted in land-based casinos and certain other venues, such as horse race tracks, depending on the

jurisdiction. In the latter venues, those machines are typically provided directly by the Provincial Gaming Operator. Video lottery terminals (VLTs) are provided to the public by the Provincial Gaming Operator in all provinces other than British Columbia and Ontario. There are no slot machines available in two of the three territories (Nunavut and Northwest Territories), while they are available in Yukon. Gaming machines that offer games of pure skill are legal and uncensored.

3. Legislative Framework

3.1 Key Legislation

The overarching statute that governs gambling activity in Canada is the Criminal Code. Sections 201–206 make all types of gambling, betting and lotteries illegal throughout Canada, with very limited exemptions, such as pari-mutuel betting on horse races (provided for in Section 204). While the federal Code is the applicable prohibitory statute, all the regulatory statutes (and regulators) are provincial, with the one exception being pari-mutuel betting on horse races, which is governed by the federal Canadian Pari-Mutuel Agency.

Gambling Activities Under Canadian Law

The operation or provision of casinos, bingo, ticket lotteries, betting (other than pari-mutuel betting on horse races), poker and other card games, and electronic games such as slot machines and VLTs is an activity that constitutes gambling unless it falls within one of the few exceptions in the Criminal Code. This is true whether the activities are provided in a land-based facility or online.

There are a number of activities that are prohibited by the Criminal Code that may not be com-

monly thought of as “gambling”. A competition or draw for a prize may fall into any one of a number of baskets depending on its structure. For example, if no consideration is payable in order to enter the competition, Canadian case law has established that any person hosting or offering such a competition is not illegally operating a common gaming or betting house. Furthermore, the Criminal Code, and the little case law there is on the subject, draws fine distinctions between games of pure skill, games of pure chance, and games of mixed chance and skill. As a result, a number of idiosyncratic “rules” have evolved, the best example being the “mathematical skill-testing question” that is added to contest rules in order to transform a competition from an illegal contest of pure chance to a legal contest of mixed chance and skill. In sum, any competition for a prize must be examined through the lens of Section 206 of the Criminal Code, together with the exceptions provided in Section 207 of the Criminal Code, in order to determine whether it might constitute an illegal lottery.

Games of Chance and/or Skill

Games of pure skill (that is, skill games and competitions with no element of chance) do not fall within the definition of an illegal lottery in Section 206(1) of the Criminal Code and so can be legally provided without the consent of a regulator or any other government body. It is important to note that Canada’s highest court, the Supreme Court of Canada, has made it clear that if there is any element of chance built into the structure of a game, it will be considered a game of mixed chance and skill and not a game of pure skill. The US concept of a game or competition being “predominantly skill-based” is not recognised by the courts in Canada. Poker, for example, is considered to be a game of mixed chance and skill as there is an element of chance in the game flowing from the dealing of cards.

Games of chance and games of mixed chance and skill are considered illegal lotteries unless no consideration is paid to enter, play or win a prize. Based on generally accepted interpretations of Section 206 of the Criminal Code, it is possible nonetheless to structure a game of either nature so as to render it legal.

Fantasy Sports

The conduct of fantasy sports is not currently addressed by any federal or provincial statute or regulation. In Ontario, however, the AGCO iGaming Standards apply to all sports, novelty, betting exchange and fantasy sports products. The debate among gaming regulators and Canadian lawyers about the legality of daily fantasy sports still continues, some taking the position that competitors are merely engaged in a form of betting and therefore engaging in illegal conduct, while others take the position that it is a game of pure skill and therefore a legal competition. Having said that, it is generally agreed that if a person other than a competitor bets on the outcome of a fantasy competition, that constitutes illegal betting.

Social Gaming

Social gaming with no prize in money or money's worth is not regulated per se by any government body. However, like any other consumer product, such games are subject to review and regulation by provincial consumer protection ministries and the federal Competition Bureau.

Ontario is one of the only provinces to licence specific types of social games. The social gaming licence allows community groups, seniors' homes, service clubs, and charities to host casual gaming events like euchre, cribbage, and bridge in public places. Bets are limited to CAD2 per person, with total cash prizes not exceed-

ing CAD500 per day. No admission fees can be charged.

The authors have also observed an increase in Canadian class action litigation concerning the provision of "loot boxes" in video games. The Criminal Code defines gambling based on monetary consideration, chance and a prize, rather than the knowledge of the specific prize and its value. The Code does not classify loot boxes as gambling, and no Canadian court has ruled on this matter. Regardless of the gaming analysis, loot boxes are raising a number of consumer protection concerns for deceptive practices, such as exploiting consumers' lack of understanding of how loot boxes work or obscuring the real value of the "prize". A CAD2.75 million settlement with Epic Games in British Columbia and Quebec highlights consumer protection concerns over loot boxes in Canada.

Federal and Provincial Statutes

Set out below are the federal and provincial statutes that apply to activities that are generally agreed to constitute gambling.

Federal

At the federal level, the Criminal Code is the primary legislation that impacts gambling in Canada, as it contains both the primary prohibitions and exceptions respecting gambling and the federal penal law concerning proceeds of crime, including money laundering (Part XII.2) and the financing of terrorism (Sections 83.02, 83.03 and 83.04).

The Competition Act is the only federal statute that is applicable to contests and competitions, referred to in the Act as "promotional contests". Section 74.06 of the Competition Act prohibits any promotional contest that does not disclose the number and approximate value of prizes, the

area or areas to which they relate (ie, regional allocation of the prize), and any important information relating to the chances of winning, such as the odds of winning. Any person who is found to have contravened this section is liable to a fine.

Provincial

Set out below are the primary gambling statutes in each province.

- Alberta:
 - (a) the Gaming, Liquor and Cannabis Act.
- British Columbia:
 - (a) the Gaming Control Act.
- Manitoba:
 - (a) the Liquor, Gaming and Cannabis Control Act; and
 - (b) the Manitoba Liquor and Lotteries Corporation Act.
- New Brunswick:
 - (a) the Gaming Control Act.
- Northwest Territories:
 - (a) the Lotteries Act.
- Nova Scotia:
 - (a) the Gaming Control Act.
- Ontario:
 - (a) the Gaming Control Act, 1992; and
 - (b) the Ontario Lottery and Gaming Corporation Act, 1999.
- Quebec:
 - (a) the Act respecting the *Société des Loteries du Québec* and
 - (b) the Act respecting Lotteries, Publicity Contests, and Amusement Machines.
- Saskatchewan:
 - (a) the Alcohol and Gaming Regulation Act, 1997; and
 - (b) the Saskatchewan Gaming Corporation Act.
- Yukon:
 - (a) the Lottery Licensing Act.

3.2 Definition of Gambling

There is no definition of “gambling” in any Canadian statute. Rather, the Criminal Code prohibits the offering of certain services and products, which, read as a whole, serves to criminalise all activities that would colloquially be called “gambling”.

3.3 Definition of Land-Based Gambling

There is no definition of “land-based gambling” in any Canadian statute.

3.4 Definition of Online Gambling

There is no statutory definition of “online gambling” available at the federal or provincial level. Each province typically refers to this activity in its guidance on the subject but has not addressed it in its gaming statutes. Ontario, as the first jurisdiction to register private sector online gaming operators, uses the term “igaming” rather than “online gambling”. In the AGCO iGaming Standards, it is stated that “igaming refers to lottery schemes conducted and managed by Ontario Lottery and Gaming Corporation or iGaming Ontario that are played or operated through the internet, but does not include OLG lottery products”. This language is a direct reference back to the provision of the Criminal Code that permits provincial governments to provide gaming services in their jurisdiction.

3.5 Key Offences

It is a criminal offence to provide any form of gaming that is not permitted by the Criminal Code. Breaches of the Criminal Code are a matter of criminal rather than civil law and thus the ambit of liability is, in practice, quite narrow. While the Criminal Code is drafted broadly, Canadian courts have exercised their discretion under the principles of statutory interpretation to ensure that such sections are read narrowly, given that they are penal in nature. On the other

hand, the courts do not appear to be as concerned by a broad application of Section 201(2) of the Criminal Code that provides that every person found without lawful excuse in a common gaming house or common betting house is guilty of a summary conviction offence. As summary conviction offences are the most minor offences in the Criminal Code and typically result in a small fine, courts are willing to convict individuals who are caught in sweeps of illegal sports betting events and large poker operations.

The Criminal Code makes it possible for directors, officers and senior management to be charged and convicted of a criminal offence with respect to the activities of their corporation pursuant to the sections of the Criminal Code concerning aiding and abetting and parties to an offence (Sections 21, 22, 22.1 and 22.2).

Breaches of provincial gambling legislation involve, almost by definition, breaches of the requirement to obtain a registration for the supply of gaming services and to comply with the regulations concerning such activity. The service supplier (registered or unregistered, as the case may be) is liable, as well as the directors and officers in some cases. In practice, culpability does not typically flow to individuals if the service was being supplied by a corporation, unless there is egregious conduct involved.

3.6 Penalties for Unlawful Gambling

Gaming offences are classified as an indictable offence or a summary conviction offence under the Criminal Code, depending on the severity of the offence. It is left to the discretion of the police and Crown counsel to decide which type of offence will apply when laying charges.

Every person who is found to have kept a common gaming house or common betting house contrary to Section 201 of the Criminal Code is guilty of:

- an indictable offence and liable to imprisonment for a term of not more than two years; or
- an offence punishable on summary conviction.

Everyone who commits an offence under Section 202 (which prohibits all betting activities) is guilty of an indictable offence and liable:

- for a first offence, to imprisonment for not more than two years;
- for a second offence, to imprisonment for not more than two years and not less than 14 days; and
- for each subsequent offence, to imprisonment for not more than two years and not less than three months.

Every person who is found to have operated an illegal lottery contrary to Section 206 is guilty of an indictable offence and liable to imprisonment for a term of not more than two years or is guilty of an offence punishable on summary conviction.

3.7 Recent or Forthcoming Legislative Changes

Federally, there is no anticipation of further amendments to the gaming-related provisions of the Criminal Code, or new federal legislation that would have the effect of regulating or restricting gaming. Provincially, no new legislation has been passed or is pending.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The federal government is not active in the gambling sector and has no regulatory function. The regulators in the provinces and territories of Canada are listed below.

- Alberta:
 - (a) the Alberta Gaming, Liquor and Cannabis Commission (AGLC).
- British Columbia:
 - (a) the Gaming Policy and Enforcement Branch of the Ministry of Finance (GPEB).
- Manitoba:
 - (a) the Liquor, Gaming and Cannabis Authority of Manitoba.
- New Brunswick:
 - (a) the Gaming, Liquor and Security Licensing Branch of the Department of Justice and Public Safety.
- Newfoundland and Labrador:
 - (a) the Consumer Affairs Division of Online Government and Service NL.
- Northwest Territories (Territory):
 - (a) the Department of Municipal and Community Affairs.
- Nova Scotia:
 - (a) the Nova Scotia Gaming Corporation.
- Nunavut (Territory):
 - (a) the Department of Health.
- Ontario:
 - (a) the Alcohol and Gaming Commission of Ontario (AGCO).
- Prince Edward Island:
 - (a) the Prince Edward Island Lotteries Commission; and
 - (b) the Consumer, Corporate and Insurance Division of the Department of Justice and Public Safety (regulates bingo, raffles, casino nights, and charitable gaming).

- Quebec:
 - (a) the *Régie des alcools, des courses et des jeux* (the authority over, amongst other things, the operation of casinos as well as contests, certain types of lotteries, and VLTs other than those in casinos); and
 - (b) the *Société des loteries du Québec* (“*Loto-Québec*”), a provincial government agent, (i) operates the casinos located in Quebec, and (ii) regulates traditional lotteries and bingo as well as gaming machines located inside casinos.
- Saskatchewan:
 - (a) the Saskatchewan Liquor and Gaming Authority (SLGA); and
 - (b) the Indigenous Gaming Regulators (IGR), which licenses and regulates on-reserve charitable gaming activities of the First Nations that have designated IGR as their regulator through Band Council Resolutions.
- Yukon Territory:
 - (a) the Professional Licensing & Regulatory Affairs Branch of the Department of Community Services.

4.2 Regulatory Approach

Given that all gambling services must be provided directly or indirectly by a government entity, the regulatory approach is generally highly prescriptive. Having said that, the approach taken by the AGCO in Ontario focuses on general standards as opposed to detailed prescriptive requirements. Furthermore, it must be remembered that all private gaming companies must be treated as contractors to a government entity and so all are required to enter into agreements with the relevant Provincial Gaming Operator. Those agreements are very lengthy and highly restrictive, resulting, practically speaking, in two layers of regulation.

4.3 Recent or Forthcoming Changes

There are no changes on the horizon, either federally or provincially.

4.4 Types of Licences

Gambling in Canada is conducted and managed by Provincial Gaming Operators pursuant to Section 207 of the Criminal Code. With very limited exceptions such as those for charities and local fairs, no person other than a provincial government is legally permitted to supply gambling facilities or services in Canada. Notwithstanding the foregoing, all provinces require registration of any person operating a “gaming site” or supplying goods or services for use in the operation of gambling facilities and the provision of gaming services by the province. As the provincial governments must contract out the vast majority of such services, in reality this is the “licensing” scheme in Canada.

Any company that wishes to supply gambling facilities may approach a provincial government with a proposal for a gambling facility. Even if such a proposal was accepted, the government would, by law, be required to conduct and manage the gambling activity, with the proponent of the plan acting as the operator or service provider under contract with the government.

There is no substantive difference in the treatment of land-based and online gaming anywhere in Canada other than Ontario. In provinces other than Ontario, companies that offer online gaming products are only permitted to supply their products to the applicable provincial government operator, which will then provide the product to consumers in its jurisdiction. The operators in these cases do not have any communication with consumers and their brands do not appear on the products being provided by the applicable Provincial Gaming Operator.

Ontario, on the other hand, has opened its online gaming market to private operators. While the AGCO continues as the regulator of all gaming activities of any nature in the province, iGO is the legal conductor and manager of all online gaming in the province that is not provided directly by the OLG. iGO is, for all intents and purposes, a conduit through which private gaming operators supply their gaming products and services to individuals located in Ontario. Each operator must enter into an operating agreement with iGO (the “Operating Agreement”) but will otherwise deal directly with Ontario players on a website run by the operator that is dedicated to Ontario play. Online gaming services must comply with the AGCO iGaming Standards and the operator must be in compliance with all the terms of the Operating Agreement.

Any suppliers of products or services to an online gaming operator with an Ontario registration must be registered in Ontario as a gaming-related supplier (GRS). GRS companies are not required to enter into an agreement with iGO but will otherwise have to go through the same application process as operators. Notable exceptions to the registration requirement for GRSs at this time are affiliates and payment service providers.

There are no residency requirements for persons applying for registration. Each applicant will, however, be required to pass a risk assessment and provincial regulators may take a position on what constitutes “honesty and integrity” that would preclude the registration of an applicant that, in the regulator’s view, has not complied with Canadian law.

4.5 Availability of Licences

Licences per se are not available in Canada. In every instance, a private gaming company must

enter into a services agreement with the applicable Provincial Gaming Operator to provide that entity with gaming services. Generally speaking, the Provincial Gaming Operators have kept the number of suppliers they deal with quite low. Once a supplier has an agreement with a Provincial Gaming Operator, it must then apply for registration by the applicable gaming regulator as a gaming service supplier or, in the case of facilities such as casinos and bingo halls, a gaming operator. This model has changed in Ontario to the extent that the province is registering an unlimited number of private companies as online gaming operators and online gaming service suppliers.

4.6 Duration of Licences

The duration of licences varies from province to province and depends on the nature of the registrations, but all registrations will be linked to the registrant's continued relationship with the applicable Provincial Gaming Operator. For example, the AGCO offers igaming operators the choice of a one- or a two-year term for their registration, but the registration will terminate automatically upon termination of their agreement with iGO.

4.7 Application Requirements

Each province has its own process for applying for gaming operator and supplier registrations but they are relatively similar. Generally, in order to be registered as an operator or supplier, a company must complete two forms, an application for registration and an enterprise disclosure form, and have all its directors and officers complete and submit personal disclosure forms. The same process is then required of all shareholders of the applicant who hold more than 5% of the shares of the applicant.

The initial risk assessment involves the review of an applicant's completed application mate-

rials as well as information obtained based on a standard background check. This information is evaluated based on five criteria, which are considered key indicators of an individual's or business's appropriateness to be registered. The five criteria related to businesses (eg, suppliers) applying for a gaming registration are:

- honesty and integrity;
- financial responsibility;
- compliance with the law;
- registration type; and
- financial gain from registration.

4.8 Application Timing

Typically, an application for a provincial gaming operator registration will take a minimum of three months and may take up to six months to complete. The timeline for service supplier registrations may be shorter depending on the nature of the registration. For example, all individuals working in casinos must be registered. These registrations are relatively quick, taking between one and two months.

4.9 Application Fees

The fees for applications for registration vary by province and are also dependent on the nature of the registration being sought. As an example, an application to obtain an operator registration in Ontario costs CAD100,000 plus any additional investigation charges that the AGCO incurs in processing the application. The cost of those investigations can be quite high and is impossible to predict ahead of time. To date, the highest investigation seen was CAD80,000. See 4.10 Ongoing Annual Fees.

4.10 Ongoing Annual Fees

Ongoing annual fees vary by province and by type of registration, and may change on an annual basis at the discretion of the applicable

provincial government. The AGCO operates on a cost recovery basis and so has recently started issuing invoices to registered operators for the costs incurred by the AGCO to date in regulating Ontario's online gaming market. The amount of the invoices appears to be quite standard, generally running at around CAD200,000 per site. Operators operating more than one site will pay the same amount for each site they operate. This cost-recovery fee will be charged annually and is over and above the annual registration fee of CAD100,000 (also per site).

5. Land-Based Gambling

5.1 Premises Licensing

Gaming premises are not licensed per se. All gaming premises are operated by the applicable Provincial Gaming Operator. The operator of the premises is registered by the applicable gaming regulator. The premises must be operated in compliance with the regulations and pursuant to the terms of the operator's agreement with the Provincial Gaming Operator.

5.2 Recent or Forthcoming Changes

There are no recent or forthcoming changes to report.

6. Online Gambling

6.1 B2C Licences

There are no B2C licences available per se. If a company will be providing online gaming to residents of a province, they will be doing so as a contractor to the applicable Provincial Gaming Operator. The company will be required to obtain a registration as an operator from the applicable provincial regulator. Having said that, Ontario's registered gaming sites will appear to their play-

ers to be B2C offerings as the players will be engaging directly with the operators.

6.2 B2B Licences (Suppliers, Software, Etc)

Companies that are providing services to online operators that are registered in the applicable province must obtain a registration as a service supplier in that province.

6.3 Affiliates

Affiliates are not required to be registered anywhere in Canada.

6.4 White Labels

White-label providers would be classified as B2B suppliers; see 6.2 B2B Licences (Suppliers, Software, Etc).

6.5 Technical Measures

There are no technical measures in place at this time in Canada.

6.6 Recent or Forthcoming Changes

See the responses in other sections (in particular 1.1 Current Outlook and Recent Changes and 4.4 Types of Licences) with respect to Ontario's new online gaming framework.

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

7.1 RG Requirements

As provincial government entities are the legal suppliers of gaming in their respective jurisdictions, they are responsible for ensuring that their contractors meet responsible gaming standards. Such standards may change in the details from province to province but generally speaking focus on the following: all available tools reason-

ably available to an operator must be employed to ensure that no one who is below the age of majority is allowed to engage in gaming activities and to allow players to self-exclude and be barred from gaming activities.

All Provincial Gaming Operators have robust responsible gaming policies that will generally include:

- training programmes for employees regarding responsible gaming;
- advising and informing all players concerning responsible gaming and how to make informed choices about products and play in general; and
- the operation of voluntary exclusion programmes.

Using Ontario as an example, the OLG maintains a Responsible Gambling Centre at all gaming facilities, with staff from Canada's Responsible Gambling Council at certain locations; there is mandatory training for all front-line and management staff; and it runs a self-exclusion programme that uses technology such as facial recognition. The AGCO Standards as well as iGO's policies require that all registered online operators ensure that no under-age, self-excluded or banned individuals can play or bet on their registered sites. iGO will regularly circulate a list of such individuals to all of the operators who are then required to ensure that those individuals are either not on their site or are blocked from the site.

Additionally, all gaming operators in Ontario must allocate at least 0.5% of their 2023–2024 gross gaming revenue (GGR) to Responsible Gambling (RG) campaigns. For 2024–25, these campaigns must aim to enhance player and public awareness of RG tools, tips and strate-

gies for safer play. Operators must also report their RG campaign activities to iGO.

7.2 Gambling Management Tools

All casino operators are required to ensure that no under-age or self-excluded players enter their premises. The tools used to do so are chosen by the operator.

In Ontario, the AGCO Standards include specific guidelines on responsible gambling in game design. For instance, gaming sites must provide easy access to information on responsible gambling, settings for time and financial limits, and a ban on auto-play features for slots.

7.3 Recent or Forthcoming Changes

To the authors' knowledge, there are no recent or forthcoming changes to RG measures.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The Criminal Code's provisions regarding proceeds of crime and financing of terrorism synchronise with the federal Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCTFA). The PCTFA was enacted (and has been subsequently amended) to implement measures:

- to detect and deter money laundering and the financing of terrorist activities;
- to facilitate the investigation or prosecution of money laundering and terrorist financing offences (including establishing record-keeping and client identification requirements for financial services providers and other persons that engage in businesses, professions or activities that are susceptible to being used for money laundering, and the financing of terrorist activities); and

- to respond to the threat posed by organised crime by providing law enforcement officials with the information they need to investigate and prosecute money laundering or terrorist financing offences.

Section 5(k) of the PCTFA specifically identifies casinos as a type of organisation that must comply with all the requirements in Part 1 (record-keeping, verifying identity, reporting of suspicious transactions, and registration) of the Act.

The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) was established in 2000 by the federal government to act as Canada's financial intelligence unit. FINTRAC is the regulatory body overseeing compliance with the PCTFA and its regulations. The only entities that can legally supply regulated relevant products in Canada are provincial governments (either directly through their respective Provincial Gaming Operator or through suppliers to those Provincial Gaming Operators) and charitable organisations licensed by provincial governments. In all cases, those entities are subject to Canada's AML legislation (namely, (i) the PCTFA, and (ii) Part XII.2 (Proceeds of Crime) of the Criminal Code and, in particular, Section 462.31, which outlines the offence of laundering the proceeds of crime).

At present, virtual currencies are not recognised by any level of government in Canada. They are regulated, but only to the extent that virtual currency dealers are required to comply with Canada's AML laws.

8.2 AML Requirements

See 8.1 AML Legislation.

8.3 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

9. Advertising

9.1 Regulatory/Supervisory Agency

The advertising and marketing of regulated gaming products and services is subject to the provisions of the applicable provincial gambling statutes and guidelines. For example, in Ontario, any entity that supplies the OLG with gaming services and products must comply with the OLG's Marketing and Advertising Standards, which, in turn, incorporate the standards for marketing and advertising established by the AGCO (the "AGCO Standards"). In addition, the AGCO Standards for advertisements and promotions run by online gaming operators are very strict. The Registrar has levied a number of fines against registered online operators in response to non-compliant marketing and advertising. It is also important to note that, at this time, both operators and affiliates are prohibited from using bonus offers in order to drive traffic to online gaming sites. Operators may only offer bonuses and other gambling inducements to individuals who already have opened accounts on the applicable site.

In addition, the advertising of all gaming products and services must comply with the general legislation applying to any products and services in Canada, including the federal Competition Act and provincial consumer protection acts such as Ontario's Consumer Protection Act.

Additionally, Section 13.1 of Ontario's Consumer Protection Act prohibits the advertisement of an "internet gaming site" in the province if it is operated contrary to the Criminal Code. To date, there are no reported cases that consider this section or the prohibition set out therein.

9.2 Definition of Advertising

The word “advertising” is not defined in the Federal Code. There is no definition of that word in Ontario’s Gaming Control Act or the AGCO Standards; the word is used without capitalisation throughout the Standards, indicating they expect operators to adopt a common sense interpretation of the term. On the other hand, iGO’s Operating Agreement defines “Marketing and Advertising” as “materials, processes, measures, actions and techniques used to promote, sell or raise brand, products or services (including the Operator Websites and Operator Offerings) through any channel or method to existing or prospective eligible consumers in Ontario”. There is no definition of advertisement in British Columbia’s Gaming Control Act or in Quebec’s Act Respecting Lotteries, Publicity Contests And Amusement Machines. On the other hand, a definition of “advertisement” is found in Section 146(3) of Manitoba’s Liquor, Gaming and Cannabis Control Act: “In this section, ‘advertisement’ includes (a) any advertisement on radio, television, the internet or any other electronic medium, in a newspaper, magazine or other periodical, or on a billboard, bus or other property normally used for commercial advertising; and (b) any poster, handbill, leaflet, letter, card, sign or banner”. The definition is used here within the context of evidence of illegal gaming operations. Manitoba is the outlier in providing a definition of the term as opposed to simply using it as a commonly understood English word.

9.3 Key Legal, Regulatory and Licensing Provisions

See 9.1 Regulatory/Supervisory Agency.

9.4 Restrictions on Advertising

See 9.1 Regulatory/Supervisory Agency.

9.5 Sanctions/Penalties

Until the Ontario online gaming market opened in April 2022, the only gaming advertising in Canada was being placed either directly by the applicable Provincial Gaming Operator or by an operator of a land-based gaming facility that was being run on behalf of a Provincial Gaming Operator. Given that, in essence, those ads were government-run, there were no sanctions or penalties (or at least none that would be visible by any person outside of the government agencies involved). The fines for advertising breaches that have been levied to date in Ontario are discussed in 11.3 Financial Penalties.

9.6 Recent or Forthcoming Changes

As of 28 February 2024, athletes (whether active or retired) in Ontario gaming advertising are banned in order to protect minors.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

No Canadian gaming registrations may be assigned. If all of the shares of a registered gaming entity are or will be sold to another company, the provincial regulator in question will generally amend the current registration to reflect the new shareholder, but only after a full review of the share purchase agreement and the submission and acceptance of all the required disclosures from any new direct or indirect shareholders. Most Canadian regulators either require or very strongly recommend that the proposed changes be provided to the regulator as early as possible for initial review and pre-approval. The changes are then recorded by the regulator when the transaction closes.

10.2 Change of Corporate Control Triggers

All changes to shareholders, directors and officers must be reported to the applicable gaming regulator as soon as they occur. A transfer of more than 5% of the shares of a gaming operator will trigger a full disclosure requirement for the acquiring entity. By default, the transfer of 50% or more of the shares of any registered gaming entity will constitute a change of control that will permit the regulator to require a new application for registration.

10.3 Passive Investor Requirements

Passive investors may be treated as persons of interest by the applicable gaming regulator and required to provide full disclosure.

10.4 Recent or Forthcoming Changes

No changes have been reported.

11. Enforcement

11.1 Powers

Regulators can impose monetary penalties as well as suspending or terminating a gaming registration. These penalties vary from province to province but are typically similar. Ontario is used as an example here. As an alternative to suspensions or revocations, a registrant may be assessed for a monetary penalty as a result of specific breaches of Ontario's Gaming Control Act, 1992 and regulations. The amount of the monetary penalty is based on the Gaming Control Act, 1992 Schedule of Penalties. Each type of infraction has a certain maximum monetary penalty associated with it. The AGCO will impose an amount up to that maximum.

Registrations may be suspended for any number of reasons but only after disciplinary action short

of revocation. In Ontario, registrants who are not in compliance with the law usually receive a warning first, followed by a monetary penalty if still non-compliant. If the registrant continues to be non-compliant, the AGCO will issue a notice advising the registrant that they have 15 days in which to appeal the decision to a separate government appeal tribunal (the Licence Appeal Tribunal) that is not associated with the AGCO. If the registrant does not appeal or loses on appeal, the registration will be revoked.

11.2 Sanctions

See 11.1 Powers.

Personal Sanctions

Typically, provincial gaming control acts provide for penalties for officers and directors who are implicated in the illegal acts of their corporation. As noted in 11.3 Financial Penalties, there is no record of any individual being sanctioned for actions taken by the government lottery corporations, which are the only regulated operators in Canada. Having said that, the applicable provincial gaming control legislation does provide for that hypothetical situation. For example, Ontario's Gaming Control Act makes it an offence for any director or officer of a corporation to cause, authorise, permit, or participate or acquiesce in the commission by the corporation of a gaming offence. An individual convicted of an offence under the Act is liable to a fine of not more than CAD50,000 or to imprisonment for a term of not more than one year, or to both.

11.3 Financial Penalties

The means of calculating financial penalties is quite complex and differs from province to province. Given that provincial government entities are the legal operators of gaming throughout Canada, there is no major history of financial penalties. Ontario is, again, an outlier at least

with respect to online gaming. Significant (by our standards) monetary penalties have been levied against online gaming operators who breached the strict advertising standards set by the AGCO. The operators in question were sent a communication advising them of the non-compliant advertising and ordered to remove it without delay. Operators who did not manage to get the ads removed within a narrow 24–48 hours were fined. To date, it is understood that none of them have appealed the fines. There is no clear means of calculation but, in Ontario currently, the fine for each individual non-compliant advertisement is approximately CAD12,000.

11.4 Recent or Forthcoming Changes

No changes have been reported.

12. Tax

12.1 Tax Rate by Sector

The Lottery Corps are taxed on the revenue that they generate as the legal operators of gaming in their respective provinces. They flow the tax through to their gaming contractors by deducting it, as well as many other charges, from the amount that is paid to the contractor. The tax rate payable by the Lottery Corps varies from province to province. In Ontario, the tax rate for online gaming is 20% of gross gaming revenue, which is paid by iGO to Ontario's Minister of Finance, then flowed through to the operators as a revenue share. Each operator must set up a separate bank account (not necessarily in Canada) into which they deposit all of their gross gaming revenue from their Ontario site on a weekly basis. At the end of each week, the operator transfers all of the funds in the account to an iGO account. iGO then deducts 20% and returns the resulting net gaming revenue to the operator's account.

12.2 Recent or Forthcoming Changes

No changes have been reported.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Not applicable.

13.2 Application Process

Not applicable.

13.3 Ongoing Annual Fees

Not applicable.

13.4 Ongoing Requirements

Not applicable.

13.5 Personal Sanctions

Not applicable.

13.6 Recent or Forthcoming Changes

Not applicable.

CHINA

Trends and Developments

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Han Kun Law Offices

Han Kun Law Offices is a leading full-service law firm in China. Over the years, Han Kun has been widely recognised as a leader in complex cross-border and domestic transactions. Han Kun's main practice areas include private equity, mergers and acquisitions, international and domestic capital markets, investment funds, asset management, antitrust/competition, banking and finance, aviation finance, foreign direct investment, compliance, data protection, private

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Overview

The gaming industry in China has seen steady growth in 2024, with new developments in different market segments.

In the first half of 2024, China's gaming industry saw steady growth in both user base and revenue, reaching a new high of 674 million users by the end of June. For the first half of the year, sales in China's domestic gaming market totalled CNY147.26 billion, marking a year-on-year increase of 2.08%.

This growth can be attributed to the factors described below.

Mobile games, PC games and web games

In the first half of 2024, mobile games remained the largest segment, comprising 73.01% of total domestic game sales, with revenue reaching CNY107.51 billion – a slight year-on-year increase of 0.76%.

PC games also expanded, generating CNY33.76 billion, which accounted for 22.93% of total sales and reflected a 2.49% rise compared to the previous year.

In contrast, web games continued to decline, with revenues decreasing by 1.88% year-on-year to CNY2.34 billion, representing just 1.59% of the domestic market.

Mini games

Mini games were a particular highlight in the first half of 2024, experiencing a significant sales increase of 60.5% year-on-year, reaching CNY16.60 billion. Of this total, in-game purchases contributed CNY9.09 billion, while advertising generated CNY7.50 billion – an impressive year-on-year rise of 81.56% and 40.75%, respectively.

This marks the third consecutive year of substantial revenue growth in the mini games sector.

Console games and e-sports gaming products

Benefiting from technological innovation and increasingly diversified player demands, China's console gaming industry has shown robust growth. In the first half of 2024, it generated sales revenue of CNY799 million, up 6.6% year-on-year.

Additionally, leading e-sports games have maintained stable yet long-term operations together with new product releases, contributing to continuous annual sales growth. In the first half of 2024, the e-sports product market (excluding revenue originating from e-sports streaming, club operations, and event activities) generated CNY69.14 billion of revenue, marking a 7.24% rise year-on-year.

Overseas

In the first half of 2024, Chinese-developed games have also seen steady growth in overseas games market, generating USD8.55 billion in revenue – a year-on-year increase of 4.24%.

Overseas mobile game downloads saw robust recovery, positioning China as the world's largest producer in the mobile games sector. The United States, Japan, and South Korea remained the primary overseas markets, accounting for 33%, 15.66%, and 8.82% of overseas revenue, respectively, totalling 57.48%. Japan's market share experienced a slight decline, while Germany, the UK, and France collectively increased their share to 9.85%. Australia, Italy, and Canada also joined the top 10 markets.

Among the top 100 Chinese-developed mobile games by overseas revenue, strategy games

dominate, representing 32.66% of the total, while RPGs dropped significantly to 10.48%. Simulation games increased from 5.28% last year to 9.97% this year, MOBA games rose from 3.83% to 9.07%, and idle games grew from 3.95% to 7.5%, all showing notable revenue growth.

There was also a significant breakthrough for Chinese AAA games internationally, with “Black Myth: Wukong” selling 20 million copies globally within a month after its release and generating revenue of over USD9.61 billion.

Recent Trends in Gaming Legislation

As the online gaming industry rapidly expands, rising concerns over youth protection, data security, content regulation, and overall market oversight have prompted the introduction of new legislative measures. The recent Measures for Online Game Management (Draft for Comment) (the “Draft Measures”) and the Regulations on the Protection of Minors Online (the “Regulations”) demonstrate a more rigorous and refined approach to regulating the gaming industry within Mainland China.

Measures for Online Game Management (Draft for Comment)

On 22 December 2023, the National Press and Publication Administration (NPPA) issued the Draft Measures, inviting public feedback until 22 January 2024. Although the NPPA has yet to finalise these Draft Measures, they are anticipated to represent a significant regulatory milestone. The Draft Measures aim to consolidate existing, fragmented regulations and introduce clearer guidelines and enhanced oversight of the online gaming industry.

Before 2018, the gaming industry was mainly regulated by two separate government systems: the publishing of online games was under the

supervision of NPPA, while the Ministry of Culture (now the Ministry of Culture and Tourism) oversaw game operations. Following the reforms by the State Council in 2018, the NPPA assumed full regulatory control over the gaming industry. This shift led to the repeal of earlier regulations, which included, inter alia, the Interim Measures for the Administration of Online Games and the Circular of the Ministry of Culture on Regulating the Operation of Online Games and Strengthening the Interim and Ex Post Supervision, leaving a gap in formal regulatory frameworks.

Although the NPPA has issued several normative documents regarding online gaming, a comprehensive regulatory framework had not been established until the release of the Draft Measures. The Draft Measures, consisting of eight chapters and sixty-four articles, offer a structured approach to managing the industry. A key requirement of the Draft Measures is that both game publishers and operators are required to obtain a “network publication service licence”, which marks a significant change in the regulatory framework. Additionally, the measures establish stricter operational standards, including time and spending limits, a ban on mandatory competitive play, regulation of random draw mechanics, and an extended retention period for user transaction records.

The protection of minors is another crucial aspect of the Draft Measures, with stricter controls on in-game purchases, and prohibitions on live-streaming rewards for underage players. The Draft Measures also introduce more stringent virtual currency regulations, requiring that entities involved in issuing and trading virtual currencies must operate separately. Moreover, all transactions must be processed through real-name authenticated digital Renminbi wallets to enhance transparency and security within

online game economies. These measures mark a clear shift towards greater regulatory clarity and stricter enforcement in the gaming industry, providing a clearer vision for future compliance and governance.

Regulations on the Protection of Minors Online

The Regulations came into effect on 1 October 2024, marking a pivotal step in regulating online activities involving minors in China. The Regulations aim to address growing concerns about minors' exposure to inappropriate content, excessive gaming, and privacy risks. The Regulations introduce a range of protective measures, including mandatory restrictions on gaming hours for minors, enhanced content filtering systems, and stronger data privacy safeguards.

The Regulations impose specific obligations on online game service providers to prevent addiction and limit the time and money minors can spend on games. Additionally, the regulations require the establishment of minor real-name authentication systems for online games and the implementation of age-appropriate content control. The Regulations also address the protection of minors' personal information, and require the use of technology to prevent online bullying, monitor harmful behaviour, and identify inappropriate content with mechanisms for prompt warning and intervention.

These provisions represent a much stricter and more comprehensive approach to managing online environments for minors, reflecting the Chinese government's growing focus on safeguarding minors in the digital age. The Regulations mark a shift towards more comprehensive oversight of online environments frequented by minors, setting clearer standards for the gaming industry and online platforms.

Market Access and Publication Licence (Banhao)

Although the gaming industry in Mainland China has seen limited progress in terms of regulatory oversight and market access following the repeal of the Interim Measures for the Administration of Online Games in 2019, the release of the Measures for Online Game Management (Draft for Comment) in December 2023 has brought more clarity to the industry. Dynamic supervision is mainly reflected in the relevant licences required for game operators and publication licences and/or record filing required for games.

Licences for game operators

Game operators are required to obtain different licences and certificates depending on the content of their services, resulting in restrictions on the top-level ownership structure of game operators, including the permissibility of foreign investment. In order to offer online games in Mainland China, for example, most operators must first obtain a "value-added telecommunications business licence" (ICP licence, also known as the B25 Information Services Licence) and have a registered business scope that includes the operation of online games. Up until now, these licences have not been granted to applicants with more than 50% foreign ownership, effectively limiting foreign control in the sector.

Additionally, under the Draft Measures, game operators are required to obtain a "network publication service licence" specifically covering online game operations. This requirement originates from a regulatory interpretation in 2009 by the NPPA and National Copyright Administration, which classified online game operation services as a form of game publishing, making the network publication service licence mandatory for such activities. At that time, however, the Ministry of Culture was the authority in charge

of game operations, and despite the regulations made by the NPPA, the Ministry of Culture did not require the game operator to obtain a publication licence. This led to uncertainty regarding whether game operators not involved in publishing are required to obtain a publication licence. The ambiguity deepened following regulatory changes in 2018 and the repeal of the Interim Measures for the Administration of Online Games in 2019. If the Draft Measures are passed in their current form, game operators currently involved exclusively in game operations would need to apply for the “network publication service licence”, while those operators currently engaged in both online game publishing and operations would also need to expand the permitted scope of business for their publication licence. Moreover, online publishing is one of the business sectors subject to a foreign investment ban under the Regulations on the Administration of Network Publishing Services and the Special Administrative Measures for Foreign Investment Access (the “Negative List”), therefore foreign-invested entities may face further constraints on entering online game operations once the Draft Measures take effect.

Game operators have also encountered great difficulties in Mainland China’s capital markets. According to public market information, there are few gaming operators who have successfully completed IPOs in the A-share market, which reflects the increased tightening of supervision in the gaming industry.

Publication licence (Banhao) for games

After a lengthy suspension from July 2021, the NPPA has begun granting new publication licences since April 2022. The current publication licence approval process has demonstrated the following trends, which are poised to boost the prosperity of the gaming industry:

- In 2022, the NPPA granted publication licences to 512 domestic online games. This figure saw a significant increase in 2023, with 977 domestic online games granted licences, indicating a robust recovery and growth within the industry. From January to August 2024, a total of 850 domestic online games have already been granted publication licences, reflecting ongoing momentum.
- The average number of licences granted per month in 2023 was approximately 88, while in 2024, this average has risen to around 106. The monthly distribution of licences has shown steady growth, reflecting a stable regulatory environment that supports industry development.

Besides domestic online games, the granting of imported online games has also made significant progress in 2024, with the NPPA granting licences for imported online games in February, April, June, and August. At the time of writing, the NPPA has granted publication licences to a total of 75 imported online games in 2024, following the 98 granted in 2023 and the 44 in 2022. Multiple top domestic and international gaming companies have obtained the publication licences for their imported online games, such as Tencent, NetEase, Perfect World, Archosaur, Verycd, ZQGame, TopJoy, Migu, etc.

Moreover, according to the Draft Measures, online game publishers and online game operators must complete the publication or operation within one year of obtaining their publication licence. If they fail to do so, they must provide a written justification to the relevant provincial publishing authority. This regulation aims to curb the practice of licence stockpiling, ensuring that approved games are promptly developed and brought to market.

Record-filing for mini games

The regulation framework for mini games largely remains unchanged in the past year – ie, a publication licence is not required for mini games, but mini games must complete the mandatory registration. According to the Notice of the Ministry of Industry and Information Technology on Record-filing for Mobile Internet Applications (the “Notice”) of 8 August 2023, developers of apps providing internet information services are required to complete filing procedures. Shortly after the Notice, on 9 August, WeChat announced that starting from 1 September 2023, all WeChat mini games must be registered before launched. Mini games that have already been launched also need to be registered before 31 March 2024; failure to do so will result in removal.

Further, the Draft Measures stipulate that the regulation of domestic mini games that lack a storyline, feature simple gameplay, and do not include in-game purchases, will be defined separately by the national publishing authority in accordance with the Regulations on Publication Management and the Draft Measures. This suggests that, in addition to the Ministry of Industry and Information Technology’s existing requirements for mini games, the NPPA intends to incorporate mini online games into its regulatory framework.

AI

Since the beginning of 2024, AI technology in the gaming industry has continued its rapid developments, with leading companies and institutions increasing their research inputs. It is expected that the number of research papers related to AI and gaming will double in 2024.

The gaming industry has seen significant accomplishment in the theoretical, model, and application layers of AIGC (AI-generated con-

tent) in a short period of time. At the strategic level, AI’s application in research and development occupies the largest share, with nearly half of the leading gaming companies leveraging AI to enhance production efficiency, establish intelligent production pipelines, and create virtual content for digital characters and digital humans, all to empower users in generating interactive content.

According to the 2024 ScienceDirect survey, over 99% of respondents in the Chinese gaming industry reported that the companies or departments they work in had introduced AI technologies and tools through various channels. Regarding the application of AI at the R&D level, the vast majority of respondents indicated that AI technology had improved overall project efficiency, with about 80% indicating an efficiency gain of over 20% and around 10% estimating that AI could potentially increase efficiency by more than 50%.

Recently, game developers have also shifted their use of AI towards end users, such as introducing AI NPCs and utilising AI for game interaction and task design to provide players with a more diversified gaming experience. In a survey designed for gaming industry practitioners, it is observed that AI technology has mostly been applied to content production, with nearly 70% focused on “enhancing the freedom of NPCs and narratives” and “assisting in art, music, and code creation”. Additionally, about 60% of respondents used AI for “generating specialised creative tools to support PGC/UGC content production”. Significant applications of AI have also emerged in data analysis, particularly in analysing user behaviour and optimising advertising activities for user acquisition.

Furthermore, advances in AI have bolstered cloud computing capabilities, enabling real-time processing that supports cloud gaming. This, in turn, has positioned cloud gaming as a new growth avenue within the gaming industry.

Judicial Development

In 2024, the protection of IP rights in game-related judicial practices has been further enhanced in the following aspects.

Reaffirmation of the approach for gameplay protection

In recent years, there has been much debate over the classification of gameplay as either audiovisual works, “other intellectual achievements conforming to the characteristics of works”, or whether it should instead fall under protection provided by the Anti-Unfair Competition Law. In September 2024, the Guangzhou Intellectual Property Court explicitly concluded in the Gold Coin Monopoly v Dong you Tycoon case ((2022) Yue 73 Min Zhong 2950) that the unique expression of gameplay rules should be protected under the Anti-Unfair Competition Law framework, providing a valuable reference for handling similar cases in the future.

The judge in the second instance pointed out that specific aspects of gameplay design – such as the functionality and impact of various game elements, upgrade mechanics, and the systematic structure of the game – go beyond the protection afforded to a game’s audiovisual presentation under copyright law. These elements instead define the operational mechanism of the gameplay itself, providing competitive advantages and value for game operators.

The court emphasised that “skin-changing” games, which closely imitate these gameplay features, exploit the intellectual contributions

and financial investments made by original developers, thereby seizing business opportunities that rightfully belong to those developers. Such unauthorised use was deemed a violation of the principles of good faith and fair commercial practices, constituting unfair competition.

Frequent and innovative application of pre-litigation injunctions demonstrating increasingly flexible and efficient remedies

Since 2024, there have been numerous cases applying pre-litigation injunctions, significantly aiding gaming companies in promptly addressing and halting infringement. In March 2024, the Shanghai Pudong Court issued the first-ever pre-litigation injunction in China concerning infringement on undisclosed character designs in video games ((2024) Hu 0115 Xing Bao No 2). This case marked a judicial milestone by establishing that undisclosed character designs in games can be categorised as business information and thus fall within the protectable scope of trade secrets. The court conducted a comprehensive analysis of the harm caused by the leakage of information during online game testing, reflecting the judicial practice’s adherence to the principle of “rapid protection” in response to the features of the gaming industry.

Repeatedly record high compensation awards

In September 2024, the Pokémon Company announced that the first instance trial of the Pokémon infringement case against “Pocket Monster: Remake” had recently concluded. The Shenzhen Intermediate People’s Court determined that the accused infringing game violated Pokémon Company’s copyright and constituted unfair competition. The court ruled that the four defendants compensate a loss amounting to CNY107 million, setting a new high for compensation in China’s gaming industry.

Virtual Items

Regulation

The Draft Measures stipulate that in terms of the distribution of online game virtual items, operators shall not provide or condone high-priced transactions of virtual items, and shall disclose the issuance or changes of virtual items. It is prohibited to reversely exchange online game virtual items into currency, and those providing random draw services must provide alternatives for users to obtain virtual items and value-added services available in random draw at the same time. In terms of provision of virtual item trading services, the regulation stipulates that such transaction must be conducted under proper supervision through digital Renminbi wallets with real-name authentication and all transaction records between players must be kept. Virtual item trading services are restricted to approved games only, prohibiting their provision in unapproved games.

At present, the Draft Measures have not officially come into effect. The aforementioned regulations on virtual items mainly focus on preventing the financialisation of virtual items and curbing the potential risks of money laundering, gambling, and other criminal activities through virtual item transactions. It is worth noting that for random draws of virtual items, the mandatory requirements on providing users with direct purchase channels as an alternative may reduce users' participation in random draw games and undermine the profitability model of such services.

Live-streaming sales

Since 2024, mainstream platforms in China have been gradually promoting sales of virtual items by live streaming. In May 2024, the Douyin channel alone saw 37 game companies live streaming sales of virtual items. For instance, the top two games, Naraka: Bladepoint and VALORANT,

both achieved a gross merchandise value (GMV) of between CNY10 million and CNY25 million that month. Naraka held a total of 15 live streaming sale activities in the first half of 2024, with a total GMV exceeding CNY100 million, with the average sales per live stream exceeding CNY10 million.

This approach has proven advantageous, generating high viewership and enhancing both the profitability and publicity for the games involved. As this model is still evolving, industry experts anticipate that leading game companies and live-streaming platforms will continue to refine their strategies, aligning the approach with each game's specific dynamics and audience.

Judicial developments

Since 2024, the Chinese judiciary has increasingly addressed cases involving virtual items in gaming, advancing legal standards for this unconventional property type. Chinese courts have gradually recognised virtual items, such as in-game props, as a form of online virtual property. This designation has implications for player rights, particularly when games are discontinued.

When it comes to virtual item transactions, Chinese courts tend to respect the user agreements and similar provisions that game companies prescribed in advance, seeking to balance the restriction of third-party transactions and the protection of trust interests of the parties involved in the transaction. In the case of (2023) Yue 0192 Min Chu No 3977, where a gaming platform banned the account of a player due to abnormal transaction activities, the Guangzhou Internet Court determined that the user agreement released by the platform was valid and that the "ownership" of game props as virtual items belongs to the game company or its co-operat-

Contributed by: Chaoying (Charles) Li, Wei (Vivian) He and Ying (Gloria) Xu, **Han Kun Law Offices**

ing parties. The court pointed out that users only have usage rights over virtual items, and thus did not support the player's claim for damages.

COLOMBIA

Law and Practice

Contributed by:

Juan Camilo Carrasco

Asensi Abogados



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Asensi Abogados is a boutique law firm specialising in the gaming and gambling sector. The firm represents and advises many international gaming companies with interests located across the Spanish and Latin American markets. The firm works for the largest online betting and casino operators, software providers, skill games operators, affiliates and payment solution providers, as well as land-based operators, slot-machine manufacturers and suppliers. Through winning the public tender convened by Coljuegos, the Colombian gaming regulator, Asensi Abogados became the

official adviser for the development of the first online regulation within Latin America. The firm has offices in Madrid, Mallorca and Bogotá, and is part of the Spanish Digital Association. The Colombian office comprises one partner and two associates. Relevant recent work by Asensi Abogados includes licensing procedures at the online and land-based level, detailed advice on the practical application of the new regulatory developments for online operators in Spain, and legal assistance in the relocation of international operators to Ceuta and Melilla.

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1. Introduction

1.1 Current Outlook and Recent Changes

The gaming industry in Colombia is a monopoly held by the government at the constitutional level, and is regulated under Law 643 of the Colombian Gambling Act 2001 (the “Gambling Act”). The Gambling Act organises the administration and control of the gaming industry at two levels – national and regional. At the national level, the administration and control of the gaming industry is undertaken by Coljuegos (the national gaming authority). At the regional level, administration is undertaken by the corresponding regional government and is controlled by the National Council of Games of Luck and Chance (CNJSA) and by the Health Superintendency.

Having received a monopoly over all kinds of games from the government, the regulator (regional or national) grants concession contracts instead of licences and collects exploitation rights (royalties) instead of gaming taxes. These exploitation rights are paid when the games of chance are operated by third parties under a concession contract or by specific authorisation.

The resources obtained from exploitation rights (gaming duties) are used to fund public health services.

Recent developments that have impacted on the gaming sector are summarised as follows.

Land-Based

On 2 February 2024, Resolution 20241200001824 entered into force. It regulates electronic slot machines (METs) that at the date of issuance of the same resolution are considered illegal and are not registered in Coljuegos. This regulation benefits such slots operating in premises whose

main activity may be other than games of chance. The technical standards and connectivity conditions for METs were subsequently defined on 11 July 2024 through Resolution 20241200014754.

Online

Resolution 20231000019054 entered into force on 10 October 2023, regulating the control and restriction of advertising exclusively for the online gambling sector (the “Advertising Resolution”). After entry into force was postponed for more than two years, the responsible gambling regulation was finally updated with completely new wording on 16 October 2024, through Resolution 20244000022654.

Finally, the game Keno was prohibited from being offered by online operators as an instant prize game, through an amendment of the law by Agreement 6 of 2023. This same regulation stated that only three games can be offered as instant prize games.

With Agreement 7 of 2024, Coljuegos issued a new regulation for Keno as a new game that requires a separate authorisation from the online offering.

Lotto

There are no recent developments regarding Lotto.

Social Gaming

There have been no recent trends impacting on the Colombian social gaming market.

Esports

Coljuegos issued a legal concept under Resolution 20194000840100001 to the effect that esports may be offered as part of the real non-sporting events product. Therefore, in order to offer betting on esports, a general gambling

licence as approved to offer bets on real non-sporting events is required, and the provider must be duly certified and integrated in compliance with technical requirements and Colombian gambling regulations.

Esports may be offered through fixed-odds betting or through an exchange.

Fantasy Sports

As fantasy sports may be offered as part of the real sporting events product, esports are available under the online licence.

Skill Gaming

There have been no recent trends impacting on the Colombian skill gaming market.

Blockchain or Cryptocurrency

Cryptocurrency is not allowed for internet betting.

- slots;
- blackjack;
- roulette;
- baccarat;
- poker;
- live casino; and
- instant prize games

Betting

This includes bets on real sporting events and bets on real non-sporting events. Bets may be offered in a fixed-odds capacity or in the exchange betting format.

It is prohibited to offer pari-mutuel betting on sporting events as this is part of a specific licence in a different category. Horse-racing events are also not covered, as they are regulated at the regional level. The law states that it is forbidden to take bets on the results of real events, such as casino table games, slots and bingo, where the results are defined by a random number generator.

Bets on the results of national political events are also forbidden to operators. The regulation also sets out special attributions and prohibitions on events related specifically to bets on financial markets and cryptocurrencies.

Bingo

Article 1.3.6 of Agreement 8 of 2020 includes a definition of bingo as a pari-mutuel game and includes a standard set of rules that should govern the game.

Slots and Casino Games

The online gaming regulation offers a detailed definition of slots, roulette, blackjack and baccarat as part of the gaming portfolio to be offered by an operator. Live casino could be streamed from local casino rooms in Colombia that are

2. Jurisdictional Overview

2.1 Online

Online gaming falls into the category of novelty games under the national level of regulation. The licensing regime and the operating conditions are set out in the Online Gaming Regulation (Agreement 8 of 2020 and Agreement 6 of 2023), which covers all kinds of gambling. The interested party must comply with the legal, technical and financial requirements, and must list the games it wants to offer in its gaming portfolio. Operators are entitled to apply for any of the following products:

- betting on real sporting events and real non-sporting events;
- virtual games;
- bingo;

integrated within the licensed operator's online platform or from specialised studios abroad.

Lotteries

It is not permitted to provide betting on the results of lotteries, nor may bets be placed on real events similar in style to lotteries. However, traditional lotteries and instant betting may offer recently regulated scratch-card games as instant prize games through online operator platforms.

Poker

Poker is regulated and certain rules regarding tournaments are included in the regulation. The law states the concept of co-organised operations, which is intended to create liquidity among the operators with a licence in Colombia. International liquidity is not allowed.

Social Gaming

Social gaming is not specifically mentioned in any of the gaming regulations in force. It should, in any case, be reviewed on a case-by-case basis to verify that the game does not include the essential elements for being categorised as gambling.

Online Gaming Offered On-Premises

An operator that has a contract (licence) with Coljuegos to operate online games – including bets on actual sporting events, bets on actual non-sporting events, virtual games and instant prize games – is allowed to offer a portfolio of these listed games through local establishments, but only where the following criteria (or a combination thereof) apply:

- casinos, bingos and premises where other games of chance are commercialised (ISIC Code 9200);
- hotels included in the National Tourism Register;

- various additional economic activities can be performed;
- bars, restaurants and similar establishments;
- postal services and money transfer services; and
- online recharge and recharge card PINs for telephones.

An operator licensed with a concession contract is solely responsible in the eyes of the law and the regulator. A retailer that offers real sporting events bets/fixed-odds bets and virtual events acts under an extension of the operator's authorisation (eg, as a franchise).

Instant Prize Games

These correspond to a game against the house, when the player is given the possibility of predicting a number, letter, image, symbol and/or combination, which must coincide with the one generated by a random number generator (RNG) as determined by the rules of the game.

It is established that only certain brands of games may continue to operate under the immediate prize modality, such as:

- Aviator;
- Lucky Super 6; and
- Cops and Robbers.

(This regulation has been partially challenged before the Council of State.)

It is also stated that Keno and lottery-type games may not be offered as immediate prize games.

Keno

The recently issued Agreement 7 of 2024 regulates the operation of Keno, which falls into the category of novelty games. The regulations include specific guidelines for requesting author-

isation to operate Keno through a new concession contract regime and the operating conditions. The interested party must comply with the legal and technical requirements, and must request authorisation from Coljuegos through a concession contract, different from the current concession contract, which includes the other verticals.

2.2 Land-Based

The regime for land-based gambling falls under national regulation. Coljuegos, as the regulator, grants authorisation through a concession contract to operate any of the following games:

- poker;
- roulette;
- METs;
- spherometers;
- bingo;
- other casino and table games; and
- racing and virtual sports betting.

Land-based gaming is commonly known as localised gaming, which must be operated by legal entities in commercial establishments, where the physical presence of the player is a necessary condition for betting.

For land-based casinos, the minimum number of gaming instances required for authorisation is 80 in total per concession contract, and the minimum per establishment depends on the number of inhabitants the municipality has, pursuant to Decree 1905 of 2008 and Decree 1144 of 2010. The quantity of games is regulated based on the size of the municipality/city or region, according to the National Department of Statistics.

Poker

Under the Gambling Act, poker is categorised as a land-based game and must be included as

a type of game authorised to be offered on the premises of the operator.

Bingo

Bingo in Colombia is part of localised gaming and, for the purpose of its authorisation, a minimum number of seats is established depending on the number of inhabitants of the municipality in which the game is to be offered.

Gaming Machines

METs are defined by having an entry point for coins or notes, which allows the player to participate and receive their prizes. According to Colombian law, slot machines can only be operated in casinos and at commercial premises that comply with the relevant regulation.

The regulation of METs permits the operation of slots in casinos and other establishments such as hotels, restaurants and bars, and keeps the same certification conditions as those in casinos.

The regulation for interconnecting METs requires that all slots be connected to the regulatory reporting system. For control and reporting purposes, all the slots and other gaming machines must be integrated into a system that is connected to the regulator and that allows access to all the information from each machine. The software and the system must be certified by an authorised laboratory before the regulator.

Casino Games

Roulette, blackjack, craps and baccarat are among the gaming products generally permitted. The law includes the category of “others” for providing broad gaming offers.

The law states that a “casino” is defined as an establishment dedicated exclusively to the oper-

ation of localised games that require the presence of the person in order to be played.

Virtual Sports/Race Betting

These are regulated as part of the land-based portfolio, with a specific set of rules governing the legal, technical and financial conditions for such games to be offered. The conditions are stated with detail in Agreement 14 of 2013 and Agreement 6 of 2015. No applications have been received for a licence to operate these games; however, under a different modality and conditions, they may be offered through the online verticals.

Lotteries and Permanent Betting

Lotteries and permanent betting (commonly known as “chance”) are regulated at the regional level, which means that the authority that supervises their operation is the National Council of Games of Luck and Chance (*Consejo Nacional de Juegos de Suerte y Azar*, or CNJSA).

Lotteries are a type of game carried out on a periodic basis by an authorised legal entity. Such entity issues indivisible or fractional tickets – which are each singled out by a numerical combination and other characters on display, at a fixed price – and puts them into circulation. The operating entity is bound to award a previously fixed amount of money as a prize to the holder of the lottery ticket containing a combination of numbers (or pre-established approximations thereof) that coincide in their order with the one obtained at random in a public drawing carried out by the operating entity.

These games are administered at a regional level. Lotteries are organised by the following, either directly or through an association or third parties:

- Bogotá, as the capital district;
- the Colombian Red Cross, which has the legal authority to exploit a lottery that is traditionally operated to raise funds; and
- those municipalities that were exploiting lotteries before the regulation came into effect.

Permanent betting, known as “chance”, is a game in which the player states the value of their bet manually or systematically on an official form and chooses a number of no more than four digits. If that number matches the result of the top prize of the lottery (or a game authorised for that purpose), the bettor wins a prize in money, in accordance with a predefined prize plan and as authorised by the national government by regulatory decree. The responsibility for administration also lies with the regional government.

Horse-Race Betting

These are among the regional-level games under the control of the CNJSA and were regulated in detail under Agreement 179 of 2015. Responsibility for administration lies with the regional government of – or with the entity who holds the monopoly in – the district in whose jurisdiction the game will operate.

3. Legislative Framework

3.1 Key Legislation

The monopolistic regime in Colombia is set at the constitutional level in Article 336 of the Colombian National Constitution. The National Congress has issued the Gambling Act. The regulatory framework for games of chance is referred to in the following instruments, depending on the regulatory subject matter or its relation thereto.

- Specific framework for the monopoly of games of chance:
 - (a) the Gambling Act;
 - (b) Decree 4142 of 2011, where Coljuegos was created;
 - (c) Decree 1451 of 2015 – modifies the structure of Coljuegos to specify new functions;
 - (d) Single Regulatory Decree 1068 of 2015 – compiles norms for the industry; and
 - (e) Law 80 of 1993 – the framework for government contracts.
- Measures against money laundering:
 - (a) Resolution 20195100044514 of 2019 – anti-money laundering (AML) requirements for operators; and
 - (b) Coljuegos Resolution 20215000012784 of May 2021.
- Decree 830 of 2021 – expands the list of politically exposed persons (PEPs) and complements the know-your-customer (KYC) due diligence process.
- Resolution 20244000022654 of 2024 – responsible gambling requirements for operators.
- Administrative, fiscal and criminal disciplinary framework:
 - (a) the Gambling Act (Articles 43, 44 and 46);
 - (b) Decree 4643 of 2005; and
 - (c) Law 599 of 2000 – the Criminal Code.
- Punitive administrative procedure:
 - (a) Law 1474 of 2011 (Article 86);
 - (b) Law 1437 of 2011 – the Administrative Code; and
 - (c) Law 1150 of 2007 (Article 17).
- Tax framework:
 - (a) the Tax Statute (Article 420); and
 - (b) the Gambling Act (Article 48).

Online

The specific legal texts in place and applicable to online gambling activity in Colombia are as follows.

- The Gambling Act.
- The Online Gaming Regulation (Agreement 8 of 2020 and Agreement 6 of 2023), which modifies the provisions on immediate prize games. Resolution 2016120025334 stipulates legal requirements for setting up the conditions and guarantees for applicants, as amended by Resolution 20201000008294 and Resolution 20231200017471.
- The technical requirements document, which includes:
 - (a) the technical standards for internet-operated games, amended by the last version on 5 October 2022; and
 - (b) the vault inspection system design reference document, amended by the last version on 5 October 2022.
- The data model document, which includes:
 - (a) the XSD file guide (Archivo_Guia.XSD); and
 - (b) the standard procedure for signing, encrypting and compressing XML files in the inspection system.
- The technical requirements document, as well as the data model document, are encompassed within the concession contract as appendices and are therefore contractually binding on the operator.
- The Advertising Resolution (Resolution 20231000019054 of 2023).
- The Keno Regulation (Agreement 7 of 2024).
- The Keno Technical Requirements Annex of 2024.

3.2 Definition of Gambling

The Gambling Act defines “games of chance” as games where, in accordance with specific rules

provided by the law and regulation, a person acting as a player makes a payment for a bet – or the right to participate – to a legal person acting as an operator in exchange for a prize that the player will receive if they are correct with regard to the final results of the game, which cannot be predicted with certainty.

The following three elements must be present for a game to be considered one of chance:

- the game – this involves placing a bet or paying to participate;
- the prize – if the result is favourable for the player, they will receive a prize; and
- chance – the game does not depend on the skill of the person and its result is not predictable.

3.3 Definition of Land-Based Gambling

Resolution 2695 of 2015 (issued by Coljuegos) and the Gambling Act establish that games (or elements of games) operated with equipment in commercial establishments that players attend as a necessary condition to bet are classified as “localised” and are therefore land-based. Games such as bingo, video games, spherodromes, slot machines and those offered in casinos fall into this category.

3.4 Definition of Online Gambling

Online gambling is part of the category of novelty games described in Article 38 of the Gambling Act, as modified by Article 93 in Law 1753 of 2015. The novelty games category includes:

- pre-printed lotto;
- instant lottery;
- online lotto in any of its forms;
- sports or event-based bets and all internet-operated games; and

- those operated through any other kind of information technology not requiring the presence of the bettor.

The above only applies to games managed and/or run by Coljuegos.

The games are operated and played via the internet – that is, bets are placed and prizes are paid solely through channels such as websites, apps or downloadable platforms, whereby the player can access the games offered by the operator. After the player has registered via the authorised channels, they play games in which the mechanics are enabled by a virtual random number generator or by the occurrence of real events, the results of which are not controlled by the operator.

3.5 Key Offences

Key offences include the following.

- Performing gambling activities without a proper licence (concession contract).
- Offering or selling games of chance to minors or people suffering from mental illness.
- Offering games of chance in which the prizes consist of – or indirectly involve – goods or services that violate the fundamental rights of people or that negatively affect players’ health.
- Offering games of chance in which the prizes consist of – or involve – goods or services that the authorities must provide in the exercise of their legal role.
- The circulation, sale or operation of games of chance if they are related to – or involve – unlawful or prohibited activities, goods or services.
- The circulation, sale or operation of games of chance that:

- (a) have not been authorised by the relevant authority; or
- (b) ignore the rules or authorised limits of the relevant game.
- Not permitting the control, inspection and monitoring of relevant information systems by the corresponding authorities.
- Not declaring or paying the exploitation rights within the applicable periods.

Coljuegos provides the necessary support to the investigating authorities in the collection of probative material and its assurance for the effective development of the investigation. It will act in co-ordination with the authorities in cases where this is considered appropriate.

3.6 Penalties for Unlawful Gambling

The general consequences of non-compliance with obligations are set out as follows.

Breach of Contract

Acts and omissions that constitute a breach of contract include:

- not providing the performance guarantee;
- not complying with AML regulation;
- not complying with the contractual obligations and their appendices (ie, technical requirements and data model documents);
- evasion of exploitation rights and administrative cost; and
- breach of the Advertising Resolution.

Breach of contract is punishable with:

- financial penalties (see **11.3 Financial Penalties**);
- the termination of the contract (ie, the most severe sanction), without prejudice to any applicable fines or penalties; or

- disqualification from operating games (which can be remedied).

Operating Games While Being Disqualified

This is punishable with the following.

- Criminal proceedings against those legally responsible – the unlawful exercise of monopoly profit activities is defined as a crime by Colombian law and exploitation rights are considered public resources. Hence, non-payment of such resources may lead to tax liability proceedings.
- Invalidity and termination of the administrative act, and termination of the contract.
- Sanctions that range from fines to criminal and tax liability.

3.7 Recent or Forthcoming Legislative Changes

For AML, the current regulations are expected to change in order to update AML preventions in accordance with GAFI recommendations and in line with the requirements for financial entities in Colombia. A tax reform is also under debate in the Senate.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

There are two levels of administration and control in the gambling sector. Therefore, there are two gambling regulators: Coljuegos and the CNJSA. At the regional level, administration is the responsibility of the regional government; however, control belongs to the CNJSA and the Health Ministry.

Coljuegos regulates and controls the following games offered at national level (Decree 4142 of 2011).

- Land-based casinos and bingo.
- METs.
- National raffles and promotional games.
- Novelty games such as:
 - (a) online gaming;
 - (b) online lotto (Baloto);
 - (c) Super Astro (a fixed-odds betting game);
 - (d) pari-mutuel sports betting and betting on sports events; and
 - (e) Keno.

The CNJSA is in charge of games offered at regional level (Decree 4144 of 2011), such as:

- regional lotteries;
- permanent betting (known as “chance”);
- instant lotto;
- horse-race betting; and
- regional raffles.

Coljuego’s primary functions are the operation, exploitation and administration of games forming part of the rental monopoly on games of chance that are not attributed to another entity by a legal provision. Coljuegos has wide powers to issue regulations for new games in this category. The power to approve such regulations falls on the board of directors of Coljuegos and the president of the other entity.

The CNJSA has a duty to approve and issue the regulations (and their modifications) for games of chance that are exploited by territorial entities.

4.2 Regulatory Approach

As the national gambling authority, Coljuegos has to research and regulate the gaming portfolio in accordance with the new technologies

available. This proactiveness requires the investment of important resources so that the regulator will be scientifically and technologically well informed. Sometimes those resources are not available.

Despite this, Coljuegos works to maintain an open, fair and predictable regulatory framework by streamlining processes and fostering communication between regulators and the industry.

4.3 Recent or Forthcoming Changes

Recent or forthcoming changes to the licensing and regulatory framework include:

- some changes expected in AML requirements, as well as the development of more types of games; and
- Coljuegos being expected to issue rules that will require a licence for B2B providers to operate in the Colombian market.

4.4 Types of Licences

There is only one type of licence in Colombia, as the authorisation is granted through a concession contract. However, some games are awarded to operators after a public tender process that grants sole permission to operate such a game.

4.5 Availability of Licences

For most games, there is no limit on the number of concession contracts or authorisations available. For Baloto, Super Astro and pari-mutuel betting, there is only one licence available for each type of game and the operator is chosen for five years by a public tender. For online gaming and land-based operations, there is no limitation on licences.

4.6 Duration of Licences

The Gambling Act states that the minimum duration of concession contracts operated by third parties is three years, with a maximum of five years. The concession contracts are subject to two essential rules:

- the duration period may not be less than three years, nor more than five; and
- the selection of concessionaries and other issues related to public tenders shall be governed by Law 80 of 1993.

In the case of horse-race betting, following the specific rules, the concession will be for ten years.

4.7 Application Requirements

All legal persons willing to request a concession contract must provide an affidavit to the effect that the individuals and legal persons interested in executing a contract for the exploitation of games of chance are not affected by any of the disqualifications and incompatibilities established by Colombian contract and public law.

Land-Based

The application must be approved by Coljuegos, and must:

- demonstrate the legal possession of the equipment and elements used for the operation of the games;
- have obtained prior approval, in which it is stated that the location of the commercial premises is an area suitable for the development of commercial activities per land use plans;
- comply with the minimum and/or maximum number of gaming elements that can be operated by commercial premises;

- ensure that the commercial activities or services located in the premises are compatible with the operation of games; and
- comply with the commercial and other technical conditions that are considered necessary for the effective operation of each type of localised game.

Once the administrative act of granting the authorisation is signed, the concession contract will be executed, which will be governed by the provisions of the Gambling Act, Law 80 of 1993, and Law 1150 of 2007 and its decrees.

The operator must provide to Coljuegos – through a bank legally established in Colombia or an insurance company – a guarantee that covers the following risks:

- compliance with the concession contract;
- salaries and legal benefits; and
- the payment of prizes.

Online

Online gaming regulation does not specify a limited number of licences, nor a specific period when the licences are available.

The concessions will be granted by Coljuegos to operators for periods lasting between three and five years, with only one licence per entity.

A local presence through a local company incorporated in Colombia is required. (The operator can only be a Colombian commercial company, or a foreign company branch incorporated in Colombia.)

It must have a bank account with a Colombian financial entity that is authorised by the Superintendence of Finance, and must comply with the financial indicators defined by Resolution

20161200025334 setting forth the conditions and guarantees for applicants. New incorporated companies require at least USD450,000 of equity.

The regulation includes all kinds of gambling. The exclusions are pari-mutuel betting, horse-race betting, lotto and numeric games.

Domain names for operating in Colombia will need to be “.co” (“.com” sites are not allowed).

Regarding the location of the technical components, only the data warehouse – ie, the vault and the capturer – must be located in Colombia and there are no further requirements on location for other components. Therefore, the main servers can be located anywhere in the world.

The operator must certify all the technical gaming system components before a laboratory in Colombia that is approved by Coljuegos. Games must be certified as having a minimum return-to-player (RTP) figure set at 83% for slots, and real events must comply with the theoretical RTP formula.

The operator must appoint a money laundering reporting officer (MLRO) (compliance officer) and must implement the AML manual to comply with the System for the Prevention and Control of Money Laundering and the Financing of Terrorism (*Sistema Integral de Prevención y Control del Lavado de Activos y de la Financiación del Terrorismo*, or SIPLAFT).

As of 16 October 2024, the operator must comply with the new responsible gaming requirements and regulations.

The guarantees requested from operators are as follows.

- Compliance insurance guarantee covers:
 - (a) a performance bond to cover the obligations of the contract and sanctions; and
 - (b) salaries and social benefits.
- Liability guarantee (civil tort liability guarantee).
- A fiduciary or bank guarantee to cover prize payments and reimbursement of players’ funds – the initial minimum amount for this guarantee is approximately USD200,000. The value of the coverage must be updated annually.

4.8 Application Timing

Land-Based

The response to the authorisation request must be issued within a term not exceeding 30 days following the filing of the petition.

Online

Once an application is received, the regulator has a deadline of two months for making a resolution or requiring additional information or clarifications. Once submitted, the response will have an additional one month for resolution.

4.9 Application Fees

There are no application fees; nonetheless, most companies must comply with certain financial requirements regarding equity and debt factors.

4.10 Ongoing Annual Fees

As previously discussed, exploitation rights apply to national and regional games.

There are two types of exploitation right:

- fixed – an annual fixed rate applicable to internet-operated games, calculated as 811

times the legal minimum monthly wage per year of operation (equivalent to approximately USD180,000); and

- variable – a monthly variable rate applicable to land-based and online games.

5. Land-Based Gambling

5.1 Premises Licensing

For their operation, premises will require prior approval from the mayor of the city or municipality in which they are to be situated, according to the conditions stated in the territorial planning decree with regard to land use, location and minimum distance from educational institutions. Changes in the location of the operating room must also have prior approval and meet the conditions established by the gaming regulations.

In the case of local games and lotteries, a favourable report from the local or provincial authority is required. Each municipality may have its own regulations concerning the necessary distance from schools, hospitals, public libraries, etc.

5.2 Recent or Forthcoming Changes

In addition to the last changes introduced between 2019 and 2021 (which will be described below, considering their relevance), Resolutions 20241200001824 and 20241200014754 of 2024 are the key recent changes impacting on the land-based gambling sector.

Tax Rate for Slot Implementation

The previous 2018–2022 government's National Plan of Development Law included a small but positive high-impact reform to the Gambling Act, stating that all interconnected METs that comply with certain technical requirements (concerning connectivity and reliability) will pay 12% of gross gaming revenue (GGR) calculated across all the

gaming elements of the operator, instead of following the old formula that required paying the highest value between 12% and the fixed rate of GGR.

Decree 2106 of 2019, which simplified the governmental procedures, included Article 56. This stated that operators shall declare and pay gaming duties as stated in Article 59 of the National Plan of Development Law (ie, 12%); however, if one of the elements does not comply with the technical requirements, the operator must declare and pay the fixed fee stated in Article 34 of the Gambling Act.

Resolution 20211200034224 of 2021 established the reliability requirements for METs and stated the stages of implementation, which will be verified two years after issuance. Operators that meet the conditions – according to the timescales, stages and deadlines defined in the document – will pay 12% of GGR, or otherwise will pay the fixed rate.

Resolution 20202100002044 of 2020 established the procedures for liquidating and paying the 12% rate in accordance with the reliable connectivity requirements. Any MET that does not allow this connectivity will be considered illegal and will face contractual and criminal consequences.

Under the 2022–2026 government's National Plan of Development Law, Resolution 20241200001824 is intended to legalise such METs not registered in Coljuegos. It is worth noting that this regulation has been challenged before the Council of State with a nullity action.

Concerning an operation's initial fees, a unique payment in the amount of five days of legal daily

minimum wages should be paid as a voluntary contribution to the health system.

Technical Requirements for METs

The technical standards and connectivity conditions for METs were defined on 11 July 2024, through Resolution 20241200014754 of 2024 specifying that METs should comply with the same technical requirements as defined by regular land-based operations.

6. Online Gambling

6.1 B2C Licences

The licensing regime for online gaming (Agreement 8 of 2020 and its regulatory documents, and Resolutions 20161200025334 of 2016, 20201000008294 of 2020 and 20231200017474 of 2023) sets out the conditions required for offering internet-operated games under the category of novelty games.

The operation of new games through third parties must be carried out by legal persons who have concession contracts with Coljuegos, under:

- the terms defined by the specific legal framework for games of chance;
- the General Statute for Public Tenders in Public Government; and
- the regulatory norms for such statutes (or any provision modifying or replacing them).

The regulation states that any company willing to commercialise and offer a gaming portfolio must sign the relevant concession contract once the legal, financial and technical requirements have been fulfilled before Coljuegos.

6.2 B2B Licences (Suppliers, Software, Etc)

The Colombian regulations do not state any requirements for B2B business; however, online operators must report all signed agreements with suppliers in order to operate under their licence. The confidentiality agreements between operators and providers are not enforceable for the regulator. The expected changes are that B2B providers will have to register and obtain a licence in order to operate in the Colombian market.

6.3 Affiliates

Affiliates are not regulated, nor mentioned in the gaming regulation. Notwithstanding, an operator holding a concession contract must guarantee that the terms and conditions – and compliance with the law – are respected with the registered players. B2C providers are liable for any compliance issues with their players.

6.4 White Labels

White-label provision is not regulated, and the regulator has not provided an official position regarding white labels yet. Gaming services should only be performed by a concession holder. Nonetheless, if the white-label firm only performs marketing activity and both registration and operations fall on the side of the operator that holds the concession, this should be permitted.

6.5 Technical Measures

Colombia has a blacklisting regime whereby the police identify illegal websites offering online betting and report them to the Ministry of Technology and Communications, which orders the relevant ISP blocking. Once the regulation was published, Coljuegos announced that it was introducing ISP blocking to all operators that

had not requested an authorisation to operate in Colombia.

Currently, Coljuegos has presented to the authorised operators a new AI tool that will help the regulator block illegal market players in the industry.

Financial Requirements

With the new Resolution 20231200017474, Coljuegos requests a technical study that provides support for the numbers presented in the business plan. For a concession contract for a new operator in Colombia, such a study must be attached, supporting the sales projections included in the business plan. If the operator had signed a previous concession contract, this aforementioned technical marketing study should be based on the last year of operational results.

6.6 Recent or Forthcoming Changes

Banking Requirements

Operators struggle to get a bank account, as banks require operators to have a licence first and the regulator requires a bank account to grant a licence – thus creating a “Catch 22” situation.

Nevertheless, banks may process the KYC and will provide the account once the application has been submitted.

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

7.1 RG Requirements

On 16 October 2024 new guidelines were included in Resolution 20244000022654, setting forth the requirements for responsible gambling.

The following must be implemented by operators before 31 December 2024.

- Definition of a new responsible gambling programme, focused on three groups:
 - (a) gambling population with gambling risk factors uncontrolled;
 - (b) gambling population with gambling risk factors (self-excluded) uncontrolled; and
 - (c) non-gambling population.
- Control of pathological gambling.
- Personnel training.
- Responsible gambling campaigns.
- Self-exclusion process.
- Risk factor identification test.
- Appointment of a designated officer.

The new regulations include the following obligations for operators:

- preparing a best-practices responsible gambling manual;
- developing a staff training programme;
- establishing mechanisms to detect risky behaviour;
- facilitating access to Coljuegos’ risk factor identification test and health institution contact numbers;
- establishing a self-exclusion form; and
- maintaining a self-exclusion registry.

7.2 Gambling Management Tools

Advertising must contain warnings about the risk of gambling addiction, and must include a message about responsible gambling and the restriction of gambling activity to persons of legal age in Colombia. According to the relevant guidelines, the compulsory messages are as follows.

- “Uncontrolled gambling causes addiction. Gambling is entertainment, play in moderation. Sale to minors is prohibited.”
- “Play well. Being responsible is part of gambling.”

Operators should adopt measures that allow players to define limits on gambling (time, expenditure, deposits and/or losses) and players may modify these limits whenever they wish to do so.

Self-exclusion may be revoked by the player at any time. Revocation of self-exclusion shall take effect 72 hours after signing up.

7.3 Recent or Forthcoming Changes

There are no recent developments regarding responsible gambling.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Colombia is part of the Financial Action Group of Latin America (*Grupo de Acción Financiera de Latinoamérica*, or GAFILAT). In this respect, Colombia follows the guidelines issued by the Financial Action Task Force for the prevention of money laundering and terrorism financing; therefore, the obligations of operators do not differ from those in other countries.

The AML legal framework is based on the following regulations:

- Law 190 of 1995;
- Law 526 of 1999, which set up the Financial Information and Analysis Unit (*Unidad de Información y Análisis Financiero*, or UIAF);
- Single Regulatory Decree 1068 of 2015;
- Law 599 of 2000 – the Criminal Code;
- Law 1121 of 2006 – rules for the prevention, detection, investigation and penalisation of terrorist financing;
- Resolution 20195100044514 of 2019 – AML requirements for operators;
- Coljuegos Resolution 20215000012784 of May 2021; and
- Decree 830 of 2021 – expands the list of PEPs and complements the KYC due diligence process.

8.2 AML Requirements

Colombian AML regulation states that all operators must fulfil the legal requirements to apply for a concession contract. The following are the main obligations.

Operators must locally appoint a compliance officer with decision-making powers and to at least the second hierarchy level.

Operators have a disclosure duty, both at an internal and at an external level, as follows:

- internal level – the compliance officer must be informed about any transaction that may be related to money laundering or terrorism financing and, specifically, those included within the alert signals provided in the law; and
- external level – operators must inform both the Colombian Intelligence Directorate and the UIAF.

Special attention must be paid to the following control instruments:

- alert signals;
- technological infrastructure and electronic consolidation of transactions; and
- annual training.

Internal control measures – compliance officers must provide certification of experience and training, and must approve the UIAF's AML courses.

Operators must preserve all documents obtained or generated during the implementation of the internal control measures for a minimum of five years.

Operators must ensure that the operation of games is not affected by:

- fraud;
- defects or interventions aimed at changing the probability of predictions; or
- elimination of the random element.

Operators must state the forms and annex for reporting to Coljuegos and the UIAF any suspicious operations (eg, KYC, due diligence and shareholders' identification) and for reporting players who acquire credits for participation and/or withdraw them.

The following must be reported:

- individual transactions of COP5 million or more;
- multiple transactions that total COP15 million or more; and
- the payment of prizes over certain amounts (depending on the type of game).

Operators must provide a code of conduct for their employees.

8.3 Recent or Forthcoming Changes

Changes are expected to the regulation, with it being updated to GAFI recommendations, similar to the AML programmes required for financial entities in Colombia.

9. Advertising

9.1 Regulatory/Supervisory Agency

Although there is no supervisory agency for advertising in Colombia, the Consumer Protection Statute (Law 1480 of 2011) governs all types of advertising activity in the country. The marketing and advertising associations have created a code of self-regulation. The Ministry of Industry and Commerce is the authority that:

- advises the government and participates in the formulation of policies on all matters concerning consumer protection;
- supervises consumers' rights;
- ensures compliance with the provisions on consumer protection; and
- handles claims and complaints.

For the purpose of guaranteeing consumers' and players' rights, there is a clear responsibility for media and digital outlets to comply with the following principles outlined in the local regulation:

- the protection of players, reduction of minors' exposure to gambling products, and adherence to the limits set forth in local advertising regulations with regard to minors;
- public order; and
- the prevention of addictive behaviour, fraud and money laundering.

9.2 Definition of Advertising

Law 1480 of 2011 defines "advertising" in Article 5 as follows: "Any form and content of communication whose purpose is to influence consumption decisions..."

9.3 Key Legal, Regulatory and Licensing Provisions

In Colombia, all commercial entities should comply with the Consumer Protection Statute, which mandates the following:

- the protection of consumers against risks to their health and safety;
- the access of consumers to adequate information;
- the education of the consumer;
- the freedom to establish consumer organisations and the opportunity for those organisations to make their opinions heard in the decision-making processes that affect them; and
- special protection for children and adolescents, as consumers, by the provisions of the Childhood and Adolescence Code.

Since 2019, Coljuegos has issued a brand and logo manual stating rules and conditions for marketing and advertising. At the time of publication, a draft version has been published for public comments. There is also a brand manual for the responsible gambling campaign “Juega Bien”. This last manual has been updated, and the last version entered into force in October 2024.

9.4 Restrictions on Advertising

The Gambling Act sets forth the following limits on marketing and advertising:

- no encouraging false expectations among players regarding gains;
- no advertising designs or content addressed to minors; and
- no advertising where minors might be present, regardless of the media used for its transmission.

Also, the Gambling Act establishes a general provision containing criteria that operators must comply with at the time of conducting the marketing activities. For instance, the advertisement must:

- warn about the risk of gambling addiction;
- include a message about responsible gambling; and
- state that gambling activity is restricted to persons of legal age in Colombia (see 7.2 **Gambling Management Tools**).

Other general marketing and advertising regulations in Colombia, in addition to the prohibition involving minors and false expectations, state that marketing activities cannot offend any religion and cannot go against good customs/manners.

Additionally, the Advertising Resolution included new restrictions, as follows.

- Limits the use of brands over other operators. This is related to sponsored league names that have operators’ names.
- The investment limitations on advertising, due to the amount of gaming duties (exploitation rights) paid during the previous year. This means that, the more you pay to the regulator, the more you are authorised to invest. The limits are measured in legal monthly salaries. For 2024, 1 LMS = COP1.3 million.
- Surpassing these limits will expose the operator to fines of up to 100% of the amount in excess, and even to breach of the concession contract.
- New operators will be allowed to invest up to 8 LMS (COP10.4 billion). This is equivalent to approximately USD2.4 million.

- Operators will need to disclose an investment plan for advertising for the year to come, which cannot surpass the authorised range.
- Limits sponsorship from authorised operators only to professional sports teams.
- Limits the conditions on how advertising should be promoted through social media, digital media and others. This also includes concepts about responsible gambling and risk behaviours, without defining the scope of those elements.
- Inclusion of certain reporting obligations about safer gambling measures.

9.5 Sanctions/Penalties

Law 1480/2011 states that the Ministry of Industry and Commerce may impose sanctions for different types of violations of the Consumer Protection Statute, including:

- fines of up to 2,000 times the legal monthly minimum wage;
- temporary closure of the commercial establishment for up to 180 days;
- in the case of recidivism, definitive closure of the establishment of commerce or the order of definitive withdrawal of a website or the electronic commerce medium;
- successive fines of up to 1,000 times the legal monthly minimum wage for non-observance of orders or instructions given by the authority; and
- when it is verified that the administrators, directors, legal representatives, statutory auditors, partners, shareholders or other natural persons have authorised or executed behaviours contrary to the Consumer Protection Statute, that the Ministry of Industry and Commerce may impose fines of up to 300 times the legal minimum monthly wage and a prohibition on performing commercial activities for up to five years.

The Advertising Resolution includes new sanctions as follows.

- Concession Contracts will not be granted to entities who intend to use or have used names, brands or commercial badges of companies that have operated or advertised games of luck and chance without prior authorisation by Coljuegos.
- Concession contracts will not be granted to entities who have associated gaming suppliers with a presence on the websites of operators who exploit the monopoly or who illegally carry out promotional activities in Colombia.
- Failure to comply with the provisions set out in the Advertising Resolution will result in a declaration of breach of contract and consequently a fine equivalent to 1.5% of the value of the concession contract. If non-compliance is declared for the third time during the term of the contract, this will result in the unilateral termination of the concession contract.
- Illegal operations control management shall be responsible for carrying out administrative sanctioning procedures under the terms of the law against natural and/or legal persons who use, allow and/or contract advertising in favour of any activity that sponsors, promotes or encourages illegal gambling or activities that are not carried out by operators authorised by Coljuegos.

It is worth noting that these provisions have been challenged before the Council of State.

9.6 Recent or Forthcoming Changes

As stated previously, it is worth noting that the Advertising Regulation has been challenged before the Council of State through three different lawsuits, seeking nullification and a provisional measure to suspend its enforceability.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

There are no specific conditions for the acquisition of a gaming company that has signed a concession contract. However, as these types of contracts are ruled under public law, *intuitu personae*, the specific qualities of the private party that was accredited in the selection stage must be considered. If the acquisition of the company results in a change of legal entity that will cause a transfer of the contract to a third party, this must be previously approved by Coljuegos.

Furthermore, about the relevant due diligence obligations, information pertaining to natural persons who are shareholders of 5% or more should be disclosed.

10.2 Change of Corporate Control Triggers

All changes of control – regarding modification to the corporate equity, capital increases, and shareholder changes beyond 20% – must be reported to the regulator every six months. Although it is not a requirement to request prior authorisation for this change of control, it is prudent to report the information in order to guarantee that there will not be any compliance complications.

The Advertising Resolution stated a new condition (considered illegal under the authors' criteria) to notify Coljuegos about change of control, or to obtain Coljuegos' authorisation for shares acquisitions, prior to carrying out any of these legal acts.

10.3 Passive Investor Requirements

No distinctions are made for passive investors.

10.4 Recent or Forthcoming Changes

The authors have not seen any changes regarding this matter.

11. Enforcement

11.1 Powers

The relevant authority grants the permits necessary to operate in the betting industry through a concession contract, which means that public contract law is applicable in all matters regarding the enforcement of obligations. As such, regulatory bodies may use financial guarantees as standby letters of credit and insurance bonds as compliance guarantees to execute compliance situations, following an administrative procedure that did not satisfy the regulatory expectations regarding compliance.

One of the particularities of the Colombian authority (Coljuegos) is that it controls its jurisdiction, meaning that the regulator is judge and party at the same time. Coljuegos must promote the growth of the gaming industry and, at the same time, must control and enforce the compliance of the licensed operators.

11.2 Sanctions

Administrative, penal and financial procedures are commenced against illegal operators or non-compliant operators.

Administrative procedures are usually commenced for breach of contract regarding reporting or technical compliance. As by law the regulator has the power and jurisdiction to be judge and party, it is very common to begin the sanctioning process against non-compliant operators as a persuasive measure.

11.3 Financial Penalties

Coljuegos can impose the following financial penalties.

Contractual Fines (Concession Contract)

Coljuegos may impose daily and successive fines of up to 1% of the annual value for fixed exploitation rights, in order to obtain compliance, without exceeding 10% of the contract value in total.

Breaching the investment cap of the Advertising Resolution will result in a fine equivalent to 1.5% of the value of the concession contract.

Penalty Clause (Concession Contract)

In the event of total or partial breach of the obligations contained in the concession contract, or upon unilateral termination of the contract by Coljuegos, the operator must, as a penalty, pay Coljuegos an amount of up to 10% of the value of the contract, which is understood as the value of the fixed exploitation rights throughout the term of the concession contract.

Sanctions Regarding Exploitation Rights

When an operator does not declare the exploitation rights in the respective period, a sanction equivalent to 200% of the exploitation rights caused by the undeclared period will be imposed.

When operators omit or include information in their private liquidation of the exploitation rights that leads to payment of a lower value, a penalty for inaccuracy equivalent to 160% will be imposed. This penalty comprises the difference between the balance to be paid determined by the administration and the balance that was declared by the operator.

Contractual fines and the penalty clause are enforced by means of the contractual procedure contained in Article 86 of Law 1474 of 2011. Sanctions regarding exploitation rights are enforced by means of the punitive administrative procedure contained in the Administrative Code (Law 1437 of 2011).

The penalties are enforced through the insurance guarantee, as a claim for breach of contract.

Personal Sanctions

Natural persons who illegally operate either online or land-based games of chance (without a concession contract or authorisation by Coljuegos) can be penalised with fines ranging from COP80 million to COP100 million.

The illegal operation of games of chance is a crime that is penalised with between six and eight years in prison and with disqualification from operating games of chance for up to five years.

Commercial establishments and goods involved in the illegal operation of games of chance can be the subject of expired ownership processes.

The elements of games of chance involved in the illegal operations can be confiscated and subsequently destroyed.

The sanction for illegal operations of games of chance will be applied to the owner of the establishment and to the administrator and/or employee involved in the operation.

11.4 Recent or Forthcoming Changes

There are no recent or expected developments regarding this matter.

12. Tax

12.1 Tax Rate by Sector

The Gambling Act and the regulatory decrees have stated two types of fees for the gambling industry: exploitation rights (royalties) and administrative fees.

Additionally, the majority of gambling activities – both national and regional – are charged with VAT, except internet-operated games and regional lotteries. At the time of publication, a tax reform is being debated at the Senate to include VAT for online gaming bets at the rate of 19%. It is not yet clear whether the VAT will apply over the bet or deposits.

Exploitation rights are levied on all national and regional games, and the amounts collected from them go to the health and pension system rather than to the Tax Authority.

The administrative fee is equivalent to 1% over the fixed and variable exploitation rights paid yearly and monthly to Coljuegos or the regional authority.

The law prohibits any fees, stamp duties or taxes of a municipal, district or departmental nature, other than those that must be paid to the national government. It is important to bear in mind that the level of enforcement and surveillance by the Tax Authority in respect of gambling operators is the same as for companies of any other business sector.

Royalties (Exploitation Rights)

As stated in 4.10 Ongoing Annual Fees, to understand the taxation system, one must consider the legal minimum monthly wage – a national index that is changed on January 1st by

a governmental decree. The 2024 legal minimum wages are:

- legal minimum monthly wage (LMMW) – COP1.3 million; and
- legal minimum daily wage (LMDW) – COP43,333.

At the national level

The following applies at the national level.

- Casino/table games – a fixed monthly fee of four times the LMMW (roulettes, poker, black-jack, etc).
- Slots/METs – 12% of GGR, or 30%, 40% or 45% of the LMMW.
- METs single sites – 12% of GGR, or 30%, 40% or 45% of the LMMW (the rates are progressive for slot-machine games and depend on the value of the bet each machine receives).
- Bingo:
 - (a) between one and three LMDW(s);
 - (b) for municipalities under 100,000 inhabitants and cards of up to COP250 – one LMDW;
 - (c) for municipalities under 100,000 inhabitants and cards of more than COP250 – one-and-a-half LMDWs;
 - (d) for municipalities with more than 100,000 inhabitants and cards of up to COP250 – one LMDW;
 - (e) for bingo cards of COP250 to COP500 – one-and-a-half LMDWs;
 - (f) for bingo cards of more than COP500 – three LMDWs; and
 - (g) for interconnected chairs, no bingo card will pay a lower rate than that established for 200 seats.
- Online (fixed) – an annual fixed rate applies to land-based and online games, calculated as $811 \times \text{LMMW}$ per year of operation (equiva-

lent to approximately USD200,000) plus 1% over the fixed exploitation rights as administrative expenses.

- Online (variable):
 - (a) 15% on GGR;
 - (b) 1% over the variable exploitation rights as administrative expenses;
 - (c) RTP must be equal to, or over, 83% (otherwise 17% of turnover); and
 - (d) slots and real events betting must comply with the theoretical RTP formula.

At the regional level

The following applies at the regional level:

- lottery – 12% of monthly turnover;
- permanent betting – 12% of monthly turnover; and
- betting – 17% of monthly turnover.

VAT

As mentioned earlier, VAT applies to national and regional games, except for internet-operated games and regional lotteries. As an example, included here is a description of the application of this tax in relation to slots, casino games (roulette, poker, blackjack, etc) and bingo – all of them, of course, being understood as land-based.

In order to better understand the application of VAT on these games, note the following variables for the calculation of this tax:

- general rate – 19%; and
- UVT – COP47,065.

UVT is an index tributary value updated every year by the government in accordance with inflation.

Please note that the tax base for VAT, in relation to these games, is not the turnover, the GGR nor any other figure related to sales or incomes, but is a fixed amount calculated as “x” times (depending on the game) the Colombian UVT multiplied by the VAT general rate for these games. Therefore, there is no real consideration of sales per game, terminal, table, etc, as the presumptive sales of the relevant UVT are the basis for the rate of 19% to be paid monthly via electronic declaration.

It is also important to note that VAT cannot be part of the value of the stake to be placed by the player. In other words, if a player places a stake of COP100, the value of their stake should be precisely that and not COP100 minus 19% VAT (COP81).

The following examples illustrate how VAT is calculated for the different land-based games.

VAT for land-based slots

For slots terminals, the taxable monthly base per terminal is UVT20.

Hence, the taxable monthly base will have the VAT general rate of 19%, which is the tax cost per terminal and per month.

VAT for casino games (table games)

For casino games, the taxable monthly base per table is UVT290.

Hence, the taxable monthly base will have the VAT general rate of 19%, which is the tax cost per table and per month.

VAT for bingo

For bingo, the taxable monthly base per seat is UVT3.

Hence, the taxable monthly base will be charged with the VAT general rate of 19%, which is the tax cost per seat and per month.

Tax on Winnings

The Tax Code sets forth a 20% tax on winnings. The operator will have to withhold this amount at the time of the withdrawal of funds or a prize payment. It applies to withdrawals over approximately USD400.

12.2 Recent or Forthcoming Changes

At the time of publication, a tax reform is being debated at the Colombian Congress with (among changes to other sectors) the intention to add VAT (19%) for online gambling.

It is still uncertain whether this proposal will include the VAT for the online gambling sector, considering the efforts made by the gambling sector to avoid this inclusion, as well as other sections discussed during the initial approval process.

Nevertheless, there remains a risk that online gambling in Colombia will be subject to VAT in 2025. For now, it is unclear how this tax would be implemented.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

The money laundering reporting officer (MLRO) requires individual authorisation by the Colombian regulator Coljuegos. Resolution 20195100044514 sets forth requirements for

such approval, including minimum conditions such as:

- being a direct employee with decision-making powers;
- documented proof of their knowledge and experience in quality or risk management systems;
- not being part of the company's control bodies, such as internal or external audit bodies; and
- not having the same position in another operator.

13.2 Application Process

Upon submitting the documentation for the MLRO application, it usually takes between 15 to 20 working days to receive any approval or comments from Coljuegos. The application is free of charge.

Any changes of directors or officers from the company must be updated online without the previous approval of Coljuegos. The process is free of charge.

13.3 Ongoing Annual Fees

There is no fee for any of these procedures with the Colombian regulator.

13.4 Ongoing Requirements

There are no further ongoing requirements.

13.5 Personal Sanctions

There are no personal sanctions for personal liabilities under Coljuegos' jurisdiction.

13.6 Recent or Forthcoming Changes

The authors do not foresee any changes regarding this matter.

Trends and Developments

Contributed by:

Juan Camilo Carrasco and Juliana Duque
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Asensi Abogados is a boutique law firm specialising in the gaming and gambling sector. The firm represents and advises many international gaming companies with interests located across the Spanish and Latin American markets. The firm works for the largest online betting and casino operators, software providers, skill games operators, affiliates and payment solution providers, as well as land-based operators, slot-machine manufacturers and suppliers. Through winning the public tender convened by Coljuegos, the Colombian gaming regulator, Asensi Abogados became the

official adviser for the development of the first online regulation within Latin America. The firm has offices in Madrid, Mallorca and Bogotá, and is part of the Spanish Digital Association. The Colombian office comprises one partner and two associates. Relevant recent work by Asensi Abogados includes licensing procedures at the online and land-based level, detailed advice on the practical application of the new regulatory developments for online operators in Spain, and legal assistance in the relocation of international operators to Ceuta and Melilla.

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A S E N S I

ABOGADOS

Colombia – Steady Growth for Online Gambling

Headlines continue to praise the Colombian online betting market, and rightfully so. It is widely regarded as a model of stability and consistent growth. The projected turnover for 2024 is USD9.9 billion, with a gross gaming revenue (GGR) of USD650 million and gaming duties near USD71 million.

The leading vertical remains real-event betting, particularly sports betting, which accounts for 35% of the market. This is followed by slot machines at 30% and live casinos at 17%; the remaining 18% includes blackjack, roulette, baccarat, poker and instant win games, among other authorised verticals.

These figures clearly depict a healthy and growing market. After eight years of regulation, the market continues to develop, with experts suggesting there is ample room for further growth.

Ongoing Political Scenario and Tax Reform

After two years of a left-leaning government, President Gustavo Petro has lost support from Congress; opposition has grown, affecting the approval of health, labour and tax reforms. Addi-

tionally, the disapproval of the National Annual Budget for 2025 has created an unprecedented political struggle, undermining the grounds for a new tax reform.

The only major reform approved in 2024 was the pension reform, which will come into force in July 2025. However, the Colombian Constitutional Court is expected to partially strike this down.

President Gustavo Petro's tax reform has significant implications for the online gambling industry in Colombia. One of the key proposals is the introduction of a 19% value-added tax (VAT) on online gambling operators. The special tax rate on occasional winnings from lotteries, raffles, bets and similar activities would be modified, increasing from 20% to 25%.

Even though President Gustavo Petro's administration has not specifically targeted the gambling industry in Colombia, the lack of understanding of the Ministry of Finance regarding this important source of funds for the healthcare system jeopardises the stability of business. The gambling industry remains an important source of revenue for the Colombian healthcare system,

and the aforementioned propositions will affect such income.

The authors expect that these reforms will not be approved by a fragmented Congress. The first draft of the tax reforms has been withdrawn due to the lack of consensus for approving the national budget for 2025. To date, there is uncertainty about whether any congressman will lead the tax reform. It is also unclear whether this new bill will include VAT for the online gambling sector (despite the gambling industry's efforts to avoid such inclusion) as well as other initiatives proposed in the previous bill for congressional approval.

Nevertheless, these uncertainties will remain until 31 December 2024 as the tax reform can be approved by that date, thus potentially affecting online gambling in Colombia with the inclusion of VAT. It remains unclear whether the proposed VAT formula will apply to bets or deposits.

A Year After the Advertising Resolution

Resolution 20231000019054 (the "Advertising Resolution") entered into force on 1 January 2024, regulating controls and restrictions for online gambling advertising.

The Advertising Resolution created a set of rules, restrictions and sanctions; these are described in greater detail in the accompanying Law & Practice guide [here](#). It is worth noting that the Advertising Resolution has been challenged before Colombian national courts for:

- an injunction measure, aiming for a provisional suspension of the resolution; and
- declaring the resolution null and void.

To date, three challenges have been filed against the resolution, including one by ASOMEDIOS,

the association for the media industry. A decision on the injunction mechanism is expected in the coming months, possibly during the first part of 2025.

The Advertising Resolution has several formal and substantial inconsistencies due to the lack of technical writing, making the scope and purpose of some articles contradictory and difficult to determine, and raising doubts about how they must be implemented by current operators.

After ten years of normative developments, this is the first time the Colombian gaming industry has experienced a regulation that tends towards regression and restriction rather than growth.

From this firm's review of the lawsuits, the following are some of the legal arguments presented by the parties.

Lack of competence

It is argued that Coljuegos overstepped its authority by regulating the advertising, sponsorship and promotion of internet-operated games of chance. The claim asserts that these activities fall under the exclusive jurisdiction of the legislature, not Coljuegos, as provided in the Constitution and in Law 643 of 2001.

Violation of fundamental rights

The resolution is said to infringe upon the rights to free competition and entrepreneurial freedom, restricting the ability of gaming operators to promote their services. These limitations negatively impact on the economic development of companies and the collection of funds for the health-care system, which is one of Coljuegos' primary objectives.

False motivation

The resolution is based on assumptions regarding potential future risks in the internet gaming sector, without prior studies to justify such regulations. The motivation is considered hypothetical and not grounded in verifiable facts or data.

Restrictions on advertising and commercialisation

A cap on advertising investment is imposed, disproportionately affecting smaller operators – this hinders their ability to compete with established operators and creates barriers to market entry for new competitors.

Usurpation of Congress's functions

The regulation of advertising in gaming falls within the remit of Congress, as stated in Article 333 of the Constitution. It is contended that Coljuegos' resolution encroaches upon powers reserved for the legislature.

Violation of the principle of equality

The resolution exclusively affects internet gaming operators, whereas casino and land-based game operators are not subject to the same restrictions, resulting in unequal treatment within the same sector.

The New Responsible Gambling Guidelines

Agreement 8 of 2020 introduced several regulations concerning responsible gambling, including the establishment of a responsible gambling programme and a self-exclusion mechanism for players.

Subsequently, on 16 December 2021, Coljuegos issued Resolution 20214000036784, which extensively regulated various aspects of responsible gambling. This resolution:

- expanded the scope of the self-exclusion mechanism;
- incorporated additional warnings regarding responsible entertainment;
- mandated operators to be more prominent in their communications with users and the regulator; and
- required the implementation of responsible gambling programmes.

Following multiple extensions for the implementation of this resolution from 2021 to 2024, Coljuegos enacted a new regulation on 16 October 2024, which repealed the previous responsible gambling regulation. The new guideline, Resolution 20244000022654, introduced a comprehensive set of regulations that operators must implement by 31 December 2024. The guidelines are explained in greater detail in the **7. Responsible Gambling (RG), Also Known as Safer Gambling (SG)** section in the accompanying Law & Practice guide, [here](#).

New Requirements for Concession Contracts

This modification addresses new requirements both for new operators and for those interested in renewing their concession contracts. According to Resolution 20231200017474 (the "Requirements Resolution"), interested operators must submit to Coljuegos the estimated value of the contract, commonly known as the "Business Plan", using a template provided in Annex 1 of Agreement 8 of 2020. This estimation was for insurance guarantee purposes only and not binding for the operator.

The annex requires operators to include:

- the income projection for the contract term, excluding bonuses and prizes; and

- the annual fixed exploitation rights and administrative expenses for calculating the estimated contract value.

With the new requirement, operators must support their projections in the contract estimation template by issuing a technical commercial study. This study must demonstrate that the estimated contract value or Business Plan aligns with market conditions.

Instant Prize Games

On 7 November 2023, Coljuegos issued Agreement 6 of 2023. While the definition of instant prize games remained unchanged, the agreement specified the games and brands that operators can offer under this category, and stated that those not listed will require prior authorisation from Coljuegos's board.

With the modification, Keno was prohibited as an instant prize game and regulated at a later stage as a new type of concession game through Agreement 7 of 2024. To operate Keno requires compliance with a new set of technical, legal and financial conditions.

The Lawsuit Against the Vetoing of Keno

Agreement 6 has been challenged in Colombian national courts. The lawsuit seeks to nullify paragraph 1, Article 1 of Agreement 6, which prohibits the operation of the game Keno under the immediate prize modality and specifies the brands of games that may continue to operate under this modality. The lawsuit also requests the provisional suspension of the Agreement as a precautionary measure while the court reaches a decision.

The lawsuit against Coljuegos' Agreement 6 of 2023 is based on the following reasons.

Violation of superior norms

The Agreement infringes upon laws governing the operation and regulation of games of chance, particularly by altering provisions established in Decree 808 of 2020. It introduces changes to immediate prize games, violating norms designed to support the healthcare system with revenues from such games.

False motivations

The stated motivations for the Agreement are misleading. It claims to regulate certain games while arbitrarily excluding others, such as Keno, and reintroduces similar games under different names, favouring some operators over others. This creates an unfair competitive environment.

Lack of competence

Coljuegos oversteps its authority by issuing the Agreement, improperly regulating individual game mechanics. These aspects should be the responsibility of game developers, not Coljuegos. The regulation selectively benefits certain operators, raising concerns of improper influence and market manipulation.

Procedural irregularities

The process for issuing the Agreement did not adhere to required legal and procedural standards. The Agreement was approved prematurely without considering public feedback or addressing significant legal concerns raised during its drafting.

Deviation from legal purpose

The Agreement serves interests contrary to the public good by selectively authorising games and benefiting specific operators, thereby distorting fair market competition and undermining the principles of equality and transparency.

Contributed by: Juan Camilo Carrasco and Juliana Duque, **Asensi Abogados**

Other Legal Challenges Against Coljuegos' Regulations

Resolution 20241200001824 of 2024, which regulates the legal entry into operation of electronic slot machines not registered with Coljuegos as of the date of issue, has been challenged by:

- the Colombian Association of Gaming Operators (ASOJUEGOS);
- the National Corporation of Gaming Entrepreneurs (CORNAZAR); and
- the Colombian Federation of Gaming Entrepreneurs (FECOLJUEGOS).

The lawsuit seeks to nullify the resolution and requests the provisional suspension of the resolution as a precautionary measure while the court makes a decision. However, for now, the specific content of the lawsuit has not been made public.

DENMARK

Law and Practice

Contributed by:

Nina Henningsen

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Mazanti-Andersen (Mazanti) is one of Denmark's major law firms, with strong international relations. The firm represents a large number of Danish and international corporate clients and is characterised by professional competence and integrity, with expertise in a number of legal areas, including corporate/M&A, real estate, bankruptcy and restructuring, banking and finance, litigation and arbitration, together with IP, TMT and gambling law. Mazanti has the largest and most experienced gaming and gambling law group in Denmark. Due to its compre-

hensive knowledge of the regulation of the Danish gambling market and the different market players, Mazanti has a deep understanding of the regulatory, technical and operational conditions of relevance, and it advises major national and international B2C as well as B2B operators in the industry regarding highly complex regulatory matters, transactions, licensing issues and matters related to media and marketing. The group also has substantial experience in litigation.

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**MAZANTI-
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LAW FIRM

1. Introduction

1.1 Current Outlook and Recent Changes

The primary legislation regulating gambling activities in Denmark is the Danish Act on Gambling (the “Gambling Act”). The Gambling Act is supplemented by a series of specific executive orders, for further discussion of which, see **3.1 Key Legislation**.

Further, the Danish gambling industry is guided by a code of conduct agreed upon by all players in the industry, which is intended to supplement the existing legislation and regulation.

2. Jurisdictional Overview

2.1 Online Betting

Betting such as sports and horse race betting is permitted in Denmark subject to specific licence requirements. The same applies to fantasy betting (payment to back a “league” or “portfolio” selection over a period of time; eg, in relation to sport or shares).

Bingo, Casino Gaming and Poker

Online bingo, casino gaming and poker are permitted in Denmark upon specific licence requirements.

Lottery

The Danish gambling market is only partly liberalised, and thus the provision of lotteries is kept under a monopoly. This monopoly is run by the Danish state-owned entity *Danske Spil*. Therefore, it is not possible for anyone else to obtain a licence to provide a commercial lottery in Denmark. However, it is possible to obtain a licence for non-profit lotteries.

Social/Skill Arrangements

Social games that are provided for free (ie, where no stake or payment is needed to participate) can be provided without a licence.

“Skill games” with no element of chance are permitted under Danish law and can be provided without a licence.

2.2 Land-Based

All of the games mentioned in **2.1 Online** are also permitted as land-based games conditional upon a licence. However, special conditions apply for bingo and charity lotteries. With regard to physical gaming machines, these are also permitted in Denmark, although they need to fulfil certain technical requirements as well as be licensed.

3. Legislative Framework

3.1 Key Legislation

The primary legislation for gambling activities in Denmark is the Gambling Act supplemented by a series of specific executive orders:

- Executive Order No 727 of 9 June 2017 on partial exemption from the Anti-Money Laundering Act for certain games (as amended by Executive Order No 1285 of 27 November 2017);
- Executive Order No 72 of 29 January 2018 on the special contribution to the sport of horse racing;
- Executive Order No 1274 of 29 November 2019 on online casinos (as amended by Executive Order No 1010 of 25 May 2021, Executive Order No 19 of 10 January 2022 and Executive Order No 720 of 24 May 2022);
- Executive Order No 1276 of 29 November 2019 on online betting (as amended with

Executive Order No 1009 of 25 May 2021 and Executive Order No 721 of 24 May 2022);

- Executive Order No 1288 of 29 November 2019 on non-profit lotteries;
- Executive Order No 1289 of 29 November 2019 on gaming machines in arcades and restaurants;
- Executive Order No 1290 of 29 November 2019 on land-based casinos;
- Executive Order No 657 of 26 May 2023 on reporting etc, to the Money Laundering Secretariat;
- Executive Order No 658 of 30 May 2023 on notification and publication of information about domestic politically exposed persons (PEPs);
- Executive Order No 873 of 21 June 2023 on duty payment to the Gaming Authority; and
- Executive Order No 1140 of 28 August 2023 on land-based betting.

Licensed games in Denmark must also have their games certified in accordance with the certification programme of the Danish Gaming Authority (DGA). A new and updated certification programme for online betting, land-based betting and online casinos was implemented in 2023.

The provision of gambling in Denmark is subject to the Anti-Money Laundering Act (the “AML Act”) and general rules on marketing in the Danish Marketing Practices Act, which supplement the marketing provisions in the Gambling Act. Furthermore, financial regulation is relevant in relation to the supply of payment services, e-money, etc, as well as regulation on consumer protection in relation to information requirements towards players, which can be applicable. Additionally, there are rules on the players’ right to withdraw from a transaction. Finally, licensed

games are subject to the Danish Gambling Duties Act.

All of the relevant products are permitted according to Danish Law, conditional upon specific requirements. However, it is important to note that commercial lotteries are run as a monopoly.

3.2 Definition of Gambling

The Danish Gambling Act applies to all games offered to the Danish market. A “game” is defined as any activity that falls within one of the following categories:

- lotteries, where the chance of winning is solely based on chance;
- combination games, where the chance of winning is based on a combination of chance and skill; and
- betting (ie, where the chance of winning is dependent on the outcome of an event).

The Danish Gambling Act applies to all games, regardless of whether or not payment of a stake is required to participate. However, the Gambling Act only requires a licence for games that are subject to payment of a stake.

Activities where the betting is not concerned with the result of an event or game where there is no element of chance, such as participation in sports events or competitions based on knowledge (with no drawing of lots), do not fall within the Danish Gambling Act.

3.3 Definition of Land-Based Gambling

The Gambling Act defines land-based gambling as gambling that is entered into by a player and a gaming supplier, or the supplier’s agent, meeting physically. Land-based games are, for example, games that are provided in shops or in physical casinos.

3.4 Definition of Online Gambling

The Gambling Act defines online gambling as gambling that is entered into by a player and a gambling operator using remote communication. Remote communication means communication without the player and the gambling operator meeting physically; for example, through the internet, telephone, radio, mobile phone, or email.

3.5 Key Offences

All violations of the Gambling Act may result in penalties as stated in **3.6 Penalties for Unlawful Gambling**.

Key offences that can be committed are:

- violations of the marketing provisions in the Gambling Act;
- providing games without a licence;
- violation of the terms and conditions of the licence; and
- violation of the AML Act and the regulations concerning know-your-customer requirements.

3.6 Penalties for Unlawful Gambling

The sanctions for breaching Danish gambling legislation/regulations range from a warning to up to two years in prison, dependent on the specific offence. The most common sanctions are a warning and an order to correct the offence. The DGA does not have the power to issue fines and thus it is obliged to hand over the matter to the Danish police with the recommendation that the police issue a penalty notice. The violator can choose to accept this notice or try the matter in court. However, see **3.7 Recent or Forthcoming Legislative Changes** for more on this issue.

The DGA can also choose to revoke the gambling operator's licence if there is a serious breach of the Danish Gambling Act.

In relation to online gambling operators that provide gambling to the Danish market without being in possession of a valid licence, the DGA will request the bailiff's court to issue an ISP block of the relevant website.

3.7 Recent or Forthcoming Legislative Changes

The Danish Gambling Act was amended on 1 July 2024 and several new changes came into force.

The amendments to the Danish Gambling Act cover new requirements for B2B licences (see **6.2 B2B Licences (Suppliers, Software, Etc)** for further elaboration), rules to further prevent match-fixing, including a register of athletes and an extension of the DGA's right to issue reprimands and enforcement notices (see **11.1 Powers** for more details).

Furthermore, a draft bill for non-profit lotteries is expected to be passed by the Danish parliament by the end of November 2024. It is expected that the bill will simplify the rules for non-profit lotteries, including exempting them from paying tax on winnings and making it possible to hold land-based bingo in the liberalised market without having to meet the requirements for a non-profit lottery.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Danish gambling market is supervised by the DGA, the Danish Ministry of Taxation and

the Danish Consumer Ombudsman. As regards licensing, it is the DGA that issues the licence to provide gambling.

4.2 Regulatory Approach

The Danish gambling market is intensively regulated and watched over by the DGA, which knows all the stakeholders. At the same time, the DGA is open for dialogue.

4.3 Recent or Forthcoming Changes

From 1 January 2025, a B2B game supplier will be required to hold a licence from the DGA to be able to offer games to a Danish licensed gambling operator. For more information, see 6.2 B2B Licences (Suppliers, Software, Etc).

4.4 Types of Licences

The provision of a game requires a licence from the DGA if the game:

- is offered to the Danish market;
- is subject to the payment of a stake to participate; and
- falls within one of the following categories:
 - (a) lotteries;
 - (b) combination games; or
 - (c) betting.

As social/skill arrangements do not normally meet the above criteria, such games generally do not require a licence.

Examples of games that can be provided without a licence include:

- games with a stake, but without the opportunity of winnings;
- games without a stake, but with the opportunity of winnings; and
- games with a stake and winnings, where there is no element of chance, such as chess,

quizzes, bridge with duplicate cards, sports events and certain types of computer games.

Danish gambling licences can be divided into two main categories: online gambling licences and land-based gambling licences.

Online Gambling Licences

There are two types of online gambling licence available in Denmark: a betting licence and an online casino licence. The online casino licence includes roulette, poker, blackjack, baccarat, punto banco, online bingo, gambling on gaming machines and combination games. The betting licence includes all games where players attempt to predict the result of an event, including sports events and horse racing.

Furthermore, it is possible to apply for a revenue-restricted licence to provide an online casino or online betting, according to which the gross gaming revenues (GGR) cannot exceed DKK1 million.

It is also possible to apply for a turnover-restricted manager game licence, according to which the turnover cannot exceed DKK5 million and the repayment percentage (percentage return) cannot exceed 20%.

Land-Based Gambling Licences

As for land-based gambling, there are two main types of land-based licence available in Denmark: a casino licence and a limited licence covering only gaming machines. The betting licence described above covers both the provision of land-based and online betting.

Other Relevant Information

There are no limits on the number of licences granted to provide online gambling, or on having gaming machines in arcades or restaurants.

There is a restriction on the number of land-based casino licences that may be issued.

4.5 Availability of Licences

All licences for online gambling are readily available as long as the requirements in **4.7 Application Requirements** are met and the fees are paid. However, licences for land-based casinos are only available when one of the current licences becomes available or if the DGA opens for new applications.

4.6 Duration of Licences

The different licences are issued for different periods of time: the “revenue-restricted” licence to provide online gambling is limited to one year, whereas a normal licence to provide online gambling (betting and/or an online casino) can be issued for up to five years. It is possible to apply for renewal before expiry of the licence. This process is similar to, but less comprehensive than, the regular application process described under **4.7 Application Requirements**.

The land-based casino licence is issued for a period of up to ten years, while the limited land-based gaming machine licence is issued on an individual basis and may be granted for an unlimited period of time.

4.7 Application Requirements

As mentioned in **4.4 Types of Licences**, Danish gambling licences can be divided into two main categories: online gambling licences and land-based gambling licences.

Online Gambling

An application for a gambling licence is subject to a fee (see **4.9 Application Fees**).

Any person wishing to provide online gambling to the Danish market must:

- be at least 21 years old;
- not have a legal guardian;
- not be subject to insolvency proceedings;
- not have been convicted of criminal offences that render it probable that the person will abuse their access to gambling; and
- not have any debt to public authorities.

If the person does not live in Denmark or in another EU/EEA country, the person must have appointed a representative living in Denmark or, if the appointed representative is a legal entity, be established in Denmark.

Any company that wishes to provide online gambling to the Danish market must be established within the EU/EEA or have an appointed representative in Denmark.

Furthermore, the members of the board and the directors must meet the requirements for physical persons mentioned above.

When appointing a representative, the representative must be approved by the DGA and, in order to obtain this approval, the representative must meet requirements similar to those imposed on physical persons mentioned above.

If these minimum requirements are met, the applicant must further prove that it will be able to provide online gambling in a sound financial and professional manner.

The assessment is made by the DGA based on a large number of financial and technical documents, which the applicant is required to submit. The requirements for a revenue-restricted licence are less comprehensive.

The DGA may either choose to grant a full licence, grant a conditional licence or reject the

application. Applicants failing to submit sufficient documentation or failing to live up to the requirements set forth by the DGA will normally be given a chance to take remedial action by providing the missing information before the application is rejected.

The DGA will consider the overall picture, and if it finds that the necessary requirements are met, it will issue a licence. From the submission of an application to the DGA, the issuing of a licence normally takes between three and six months.

The application requirements for a game supplier (B2B) are overall very similar to the requirements as described above. The key difference is that only legal entities can apply for a licence as a game supplier. See **6.2 B2B Licences (Suppliers, Software, Etc)** for additional information.

As a rule, there is no refund of the application fee, which will be forfeited if the application is rejected. If the applicant applies again, a new fee must be paid.

Land-Based Gambling

The process when applying for a land-based casino licence and a licence to set up gaming machines is similar to the one described above, supplemented by the executive orders on land-based casinos and gaming machines in arcades and restaurants. Accordingly, there are, for example, requirements for persons working within a land-based casino.

At the time of writing (November 2024), there are seven land-based casino licences in Denmark. For now, it is not possible to apply for new land-based casino licences. It will only be possible to apply for a licence when one of the current licences becomes available or if the DGA allows new applications.

4.8 Application Timing

As stated in **4.7 Application Requirements**, it normally takes between three and six months from the submission of an application to the DGA issuing a licence.

4.9 Application Fees

The application fee is DKK315,300 for a betting licence or an online casino licence (2024 price); however, if the party applies for a combined betting and online casino licence, the fee is DKK441,400 (2024 level).

The application fee is DKK62,000 for a B2B game supplier licence (2024 price).

For applicants with an annual GGR of less than DKK1 million, a “revenue-restricted” licence may be issued, and the fee is DKK63,100 per licence (2024 price).

4.10 Ongoing Annual Fees

Online gambling operators have to pay an annual fee for holding a licence. The fee is based on their GGR. Additionally, the licence holders have to pay gambling duty based on their GGR (see **12.1 Tax Rate by Sector**).

For B2B game suppliers, the annual fee is DKK41,000.

Applying for a licence to set up gaming machines is subject to an annual fee of DKK723 (2024 price) per gaming machine.

5. Land-Based Gambling

5.1 Premises Licensing

It is possible to apply for a licence to set up gambling machines on premises (*restaurationer*) with an alcohol licence or in gambling arcades.

In principle, however, it is only possible to give permission to set up a maximum of three gambling machines on premises with an alcohol licence.

In gambling arcades, no other games or business activity other than gambling machines may occur. It is only permitted to sell sweets, snacks and drinks on a limited scale, and it is prohibited to sell hard liquor (liquor with alcohol of 2.8% volume or more). Note that certain requirements apply to gambling arcades.

5.2 Recent or Forthcoming Changes

Since 1 October 2023, it has been a requirement that players identify themselves with a “Player ID” (*Spilkort*) before betting in physical shops. To receive a Player ID, the player must register for a gambling account with the gambling operator and connect the Player ID with the gambling account. As a result, it is no longer possible to bet anonymously in physical shops.

6. Online Gambling

6.1 B2C Licences

Online gambling operators contracting with players directly, either through their own website or through a white-label site, must hold an online gambling licence to provide gambling in Denmark. In general, a white-label site is defined as a site that markets games that are provided under a different party’s licence to provide gambling, making it appear as if the white-label site operates the game. This will allow the producer/product owner to sell its gambling product several times in a way that makes it look like a unique brand every time. The producer/product owner must be a licence holder. There are specific regulations on the use of white-label sites.

Following the new regulations regarding B2B licences, a B2C operator with a Danish online gambling licence may only offer games from a licensed B2B game supplier. For more information, see [6.2 B2B Licences \(Suppliers, Software, Etc\)](#).

6.2 B2B Licences (Suppliers, Software, Etc)

Amendments to the Danish Gambling Act were passed by the Danish parliament on 2 May 2024 and, from 1 January 2025, a B2B game supplier will be required to hold a licence from the DGA to be able to offer games to a Danish licensed gambling operator.

Only legal entities may obtain a B2B licence. If the company is not established in Denmark or another EU/EEA country, a legal representative must be appointed and must complete a declaration in relation to the application.

It is not possible to apply for an umbrella licence covering a group of independent legal entities, as the licence must be issued to, and therefore bind, the game supplier as an independent legal entity.

Game suppliers will be liable for their games and will be responsible for having their games certified.

6.3 Affiliates

Gambling operators are permitted to use affiliates, which in the Danish gambling market is often seen in relation to advertisement of the gambling operator’s website or games.

The Danish regulation on consumer protection and marketing and the provision regarding marketing and advertising in the Gambling Act also apply for affiliates.

6.4 White Labels

As noted in **6.1 B2C Licences**, it is possible for gambling operators that hold a Danish gambling licence to obtain permission to offer white-label agreements.

Note that regardless of the use of white labels, the gambling operator is always responsible for complying with the gambling law and the terms stipulated in the licence.

6.5 Technical Measures

The most notable recent change is that there are new rules regarding the requirement for game suppliers to obtain a B2B licence (see **6.2 B2B Licences (Suppliers, Software, Etc)** for more on this). Other than this, there have been no changes to the rules regarding licences.

6.6 Recent or Forthcoming Changes

The DGA has the legal grounds in the Gambling Act to ask the bailiff's court to issue an ISP block of an unlicensed website (see **11.2 Sanctions** for an elaboration of this).

The DGA also has legal grounds to ask the bailiff's court to order payment service providers to block payments to unlicensed operators.

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

7.1 RG Requirements

The purpose of the Gambling Act is:

- to maintain the consumption of gambling services at a moderate level;
- to protect young people and other vulnerable people from being exploited through gambling or developing a gambling addiction;

- to protect players by ensuring that gambling is provided in a fair, responsible and transparent manner; and
- to ensure public order and to prevent gambling as a means to support crime.

This results in several obligations being imposed on Danish licence holders, and especially on holders of a Danish licence to provide online gambling.

MitID

Before participating in online gambling, the player must be registered with the gambling operator. The registration process involves providing the online gambling operator with extensive information, including personal information. Players are required to use MitID in a range of situations related to accessing and participating in online gambling.

Betting on Sports Events for Adolescents

Offering betting on sports events to those under the age of 18 is not permitted.

Preventing Compulsive Gambling

Additional operator requirements include the obligation for online gambling operators to monitor the players' consumption of gambling, providing the players with the possibility of "cooling-off periods" and providing access to a state-controlled Register of Voluntarily Excluded Players (*Register Over Frivilligt Udelukkede Spillere* or ROFUS), as well as having their gambling system set up so that every time a player attempts to log in, the system automatically checks whether the player has registered themselves with ROFUS, and if this is the case, the system denies them access to their account.

Players are required to fix a daily, weekly or monthly deposit limit for their game before begin-

ning the game. An attention duty is imposed upon the online gambling operator in relation to abnormal gaming patterns that could indicate a player has gambling problems. Furthermore, all players listed in ROFUS decline to receive marketing material from a gambling operator during the exclusion period.

The gambling operator must therefore consult ROFUS to check whether the player is listed therein before sending marketing material to the player.

To take part in land-based betting, players are required to register for a Player ID before betting in kiosks or betting shops (see also **5.2 Recent or Forthcoming Changes**). It is therefore no longer possible to take part in land-based betting anonymously. The aim of this is to strengthen efforts against match-fixing, money-laundering and gambling addiction. Furthermore, the introduction of the Player ID is intended to help uphold the age limit of 18 years to participate in betting.

In addition, the requirement that players must now identify themselves with a Player ID before betting makes it possible to enforce registrations in ROFUS in physical shops.

The gambling industry is guided by a code of conduct. The purpose of the code of conduct is to increase consumer protection and contribute to preventing gambling as entertainment from developing into compulsive gambling.

7.2 Gambling Management Tools

Gambling management tools include the following:

- Making information readily available to customers on how to gamble responsibly, how to access information about responsible

gambling, how to recognise problems with gambling and how to seek help in this regard.

- A mandatory self-imposed deposit limit that can only be increased after a 24-hour waiting period.
- Problematic gambling behaviour and gambling addiction prevention procedures (the licence holder must have drafted written internal rules and procedures for responsible gambling in order to prevent the development of gambling addiction among players).
- A register for temporarily or permanently self-excluded players:
 - (a) The players may temporarily exclude themselves from gaming for not less than 30 days; however, a player also has the opportunity to choose a 24-hour break from gaming (cooling-off period).
 - (b) The players may exclude themselves permanently from gaming (meaning that they cannot re-register until one year after the commencement of the exclusion). In the case of permanent exclusion, the licence holder must inform the player about the option for counselling and treatment of pathological gambling at a Danish treatment centre.
 - (c) Both when registering new players and when the players log into the gaming system, the licence holder must consult the registry to ensure that the player in question is not registered; if a player is in the register, the licence holder must reject the registration of the player, or terminate the customer relationship.
 - (d) The licence holder must inform the players about the possibility of registration with ROFUS on the DGA's website.

7.3 Recent or Forthcoming Changes

No relevant changes are expected.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The provision of gambling in Denmark is subject to the AML Act, which has implemented the EU's AML directives, most recently the Fifth Directive.

The Danish Financial Supervisory Authority (FSA) has published guidance on the Danish AML Act that was last updated in 2022.

8.2 AML Requirements

Danish licence holders may only receive payments into a gambling account from a payment services provider that provides these services legally in Denmark pursuant to the Danish Payment Services Act.

According to this act, payment services may only be provided in Denmark by certain types of providers that have been granted authorisation in Denmark, in the EU or in a country with which the EU has entered into an agreement for the financial area.

If the service provider does not hold Danish authorisation, it cannot begin its operation in Denmark before it has obtained cross-border authorisation; as provided in the Danish Financial Business Act.

The authorisation is granted when the FSA has received notification from the supervisory authorities in the service provider's home country.

Furthermore, gambling operators are not allowed to provide credit facilities to players.

EU AML Directives

The Fourth AML Directive was implemented as of 26 June 2017 via the new Danish AML Act.

This had the effect of making the AML regulation cover both online and offline casinos and betting; thus, since 26 June 2017, all gambling operators have been required to identify and assess the risk of money laundering and financing of terrorism within their business on the basis of their business model. With regard to that risk assessment, they are required to have sufficient written policies, procedures and controls to effectively limit the risk of money-laundering and the financing of terrorism. Additionally, gambling operators are required to commence customer due diligence with their customers. In certain situations, customer due diligence may require enhancement, while in other situations, simplified due diligence is sufficient. The AML Act is very comprehensive and the above is not exhaustive. The DGA has published a guideline that should be seen as a supplement to the general guideline from the FSA.

Gambling operators are also obliged to inform the Danish Money Laundering Secretariat of any suspicious transactions.

The Fifth AML Directive was implemented as of 2 May 2019 via the Danish AML Act. The main part of the act came into effect as of 10 January 2020, after which, suppliers of exchange services for virtual currencies and fiat currencies and suppliers of virtual wallets were covered by the Danish AML Act.

Virtual Currencies

There is no specific regulation concerning gambling with virtual currencies and, thus, the Gambling Act will apply if such activity can be characterised as "gambling" pursuant to Section 5(1) (i) of the Gambling Act, the most central condition being whether there is a chance of winning a prize.

Only regulated currencies are covered by the Danish Payment Services Act, which means that unregulated currencies such as bitcoin will not be accepted as a means of payment.

8.3 Recent or Forthcoming Changes

No relevant changes are expected.

9. Advertising

9.1 Regulatory/Supervisory Agency

The DGA monitors the gambling market and the DGA also monitors licence holders' compliance with marketing provisions. Note that where infringement of such marketing provisions will result in fines or imprisonment, the case is handed over to the Danish police (see **11. Enforcement**).

Games that are regulated by the Danish regulation on marketing and consumer protection are also the responsibility of the Danish Consumer Ombudsman.

A Gambling Advertisement Board was established in 2022. The board has the authority to handle complaints made regarding the advertising of gambling in Denmark. All verdicts are published on their [website](#).

9.2 Definition of Advertising

Neither the Gambling Act nor the Danish Marketing Practices Act defines advertising. It may be defined as a business person's or a company's commercial communication to a consumer that is directly related to promotion, sale, or supply of a product.

9.3 Key Legal, Regulatory and Licensing Provisions

The provision of gambling in Denmark is subject to general rules on marketing in the Danish Marketing Practices Act, which supplements the marketing provisions in the Gambling Act.

The marketing and advertisement of bonuses (eg, a sign-up bonus) is regulated by the executive orders on the provision of both land-based and online betting, and on the provision of online casinos.

9.4 Restrictions on Advertising

According to the Danish Gambling Act, all marketing of gambling must:

- present the odds of winning in a correct and balanced way so that the impression is not given that the chance of winning is greater than it actually is;
- present gambling as entertainment;
- not be targeted at children or persons under 18 in relation to the design of the communication or the choice of media used;
- not use well-known persons to suggest, contrary to the truth, that participation in gambling has contributed to the person's success; and
- not have any content that gives the impression that participation in gambling offers a solution to financial problems or gives the player social acceptance.

When marketing a bonus offer, all conditions must be disclosed in a clear and unambiguous manner within the immediate context of the bonus offer. However, depending on the media type, a referral to another medium for additional information concerning the offer can generally be accepted in the form of "one click away". Bonuses may not be offered to individual play-

ers on conditions that differ from the conditions offered to other players. The player will have at least 60 days to meet any conditions associated with the payment of a bonus.

It is a requirement under the Danish regulation that the website (and all communication with the players) is available in Danish and the gambling duty is calculated and payable in Danish kroner. However, the website can also be available in other languages and use other currencies.

There is certain information that the gambling operators must state in marketing material. Information such as the age limit for participating in the game, the DGA's hotline concerning responsible gaming and the possibility of listing in the state-controlled ROFUS must all be stated when marketing games. The gambling operator must also use the DGA's labelling scheme in the marketing material.

In addition, limits are set for deposits on gaming accounts or stakes in games to obtain promotional measures and to limit the amount of promotional measures. There is also a limit to the number of re-wagering requirements. Winnings from promotional measures may not be subject to re-wagering requirements. Furthermore, promotional measures must be granted on the same terms when given to individual players, and they must be given to all players playing within the same fixed interval or who meet another set criterion.

The interval must be fixed so that the promotional measure is offered to a minimum of 100 players.

Furthermore, consumer loans companies are prohibited from marketing consumer loans and consumer lending businesses in conjunction

with advertisements for gambling and gambling operators. It is important to note that the companies to be charged are the consumer loans companies and the companies that provide consumers with credit facilities in connection with gambling and gambling operators. The gambling operators themselves are not directly subject to these provisions.

9.5 Sanctions/Penalties

Violations of advertising regulations in the Gambling Act may be sanctioned with fines.

9.6 Recent or Forthcoming Changes

There are still ongoing discussions regarding further restrictions on marketing, including a prohibition on the advertising of gambling before and after broadcast sports events. In addition, a ban on the use of well-known people in commercials for gambling is being considered.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

A Danish gambling licence cannot be transferred.

In the event of corporate restructuring – such as a merger, demerger or an exchange of shares – the DGA must be notified in advance in order to obtain prior approval. It is not possible to transfer (delegate) a licence or the rights and obligations that follow with the licence.

It should be noted that the DGA has expressed indeterminacy on this topic, which is why the matter of acquisitions and changes of control of a gambling licence are not certain at this time.

10.2 Change of Corporate Control Triggers

A change of corporate control occurs when a person or legal entity crosses the threshold of owning 10% of the shares or the voting rights in the company holding the licence.

10.3 Passive Investor Requirements

Similar requirements apply as in **10.2 Change of Corporate Control Triggers**, as there are no exemptions for passive investors.

10.4 Recent or Forthcoming Changes

There have been no relevant changes recently.

11. Enforcement

11.1 Powers

The DGA monitors the gambling market and can at any time open a procedure for revocation of a licence if it finds that the licensee can no longer supply games in a sound financial and professional manner. The DGA also has legal grounds under the Gambling Act to ask the bailiff's court to issue an ISP block of an unlicensed website.

The DGA currently has no jurisdiction to issue fines for violation of the Gambling Act. Consequently, even minor violations of the act carry the risk of being investigated by the police in response to a report from the DGA. Amendments to the Gambling Act, which came into force on 1 July 2024, give the DGA the power to issue reprimands and enforcement notices to a gambling operator or a game supplier if there has been a violation of gambling legislation. Non-compliance or late compliance with this may result in a police report and a revocation of the licence.

11.2 Sanctions

Sanctions for breaching the Danish gambling legislation/regulations range from a warning to up to two years in prison, depending on the specific offence. If the offence is sanctioned with a fine or imprisonment, the case will be handled by the Danish police and the Danish prosecution service.

In relation to online gambling operators that provide gambling on the Danish market without a valid licence, the DGA will request the bailiff's court to issue an ISP block of the website. The DGA has used this sanction on several occasions. Every time an ISP block is granted, the relevant websites are listed on the DGA's website.

The DGA monitors the gambling market and can at any time open a procedure for revocation of a licence if it finds that the licensee can no longer supply games in a sound financial and professional manner. Such a procedure has, to the best of this firm's knowledge, not yet been opened.

Decisions made by the DGA may be appealed to the National Tax Tribunal for a fee of DKK1,200. An appeal against a decision made by the National Tax Tribunal must be brought before the Danish courts within three months of the decision. Otherwise, the decision of the National Tax Tribunal will be final.

11.3 Financial Penalties

The calculation of a fine is based on a business's net turnover at the time of the violation.

11.4 Recent or Forthcoming Changes

As described above in **11.1 Powers**, the DGA has the authority to issue reprimands and enforcement notices to a gambling operator or a game supplier.

In addition to this new authority, the DGA is also now obliged to publish all fines or sentences given in relation to a violation of Danish gambling legislation. The publication will be on the DGA's own website and will be visible for five years.

12. Tax

12.1 Tax Rate by Sector

The provision of games covered by the Gambling Act is subject to duty under the Danish Gambling Duties Act. The duty percentage and the regulation and frequency of payment vary depending on the type of game. Thus, in the following, the gambling tax rates are outlined by sector.

The duty is based on a percentage of the GGR, which is the received stakes minus paid-out winnings.

A negative GGR in one duty period cannot be carried forward for set-off against positive GGR in subsequent periods. Subsequently, if there is a negative GGR for one period, the duty must be declared as DKK0.

Marketing costs that are not actual winnings for the players (eg, bonuses and free spins) cannot be deducted when calculating the GGR.

Online and Land-Based Betting

The operator of online and land-based betting must pay duty at 28% of the GGR. As regards betting exchanges, the duty is 28% of the amount charged in commission. In both cases, the duty is due on a monthly basis.

Online Casinos

The operator of online casinos must pay duty at 28% of the GGR. For poker and other cases where the gambling operator's profit is the com-

mission charged, the operator must pay duty at 28% of the amount charged in commission. In both cases, the duty is due on a monthly basis.

Land-Based Casinos

The operator of land-based casinos must pay duty at 45% of the GGR minus the amount of special tipping chips, plus an additional 30% on the part of the GGR that exceeds DKK4,610,600. The duty is due on a monthly basis.

Physical Gaming Machines in Restaurants or Gaming Arcades

The operator of physical gaming machines in restaurants or gaming arcades must pay duty at 41% of the GGR. For gaming machines in restaurants, an additional 30% on the part of the GGR that exceeds DKK34,600 is added. For gaming machines in gaming arcades, an additional 30% on the part of the GGR that exceeds DKK288,200 is added, plus DKK3,500 per machine up to 50 machines and DKK1,800 per machine exceeding 50. The duty is due on a monthly basis.

Non-profit Lottery and Prizes in Connection With Free Games

With regard to cash prizes, operators of a non-profit lottery and prizes in connection with free games must pay duty at 17.5% of the amount that exceeds DKK200. Regarding prizes consisting of goods or services (market value), such operators must pay duty at 17.5% of the amount that exceeds DKK750. In both cases, the duty is due 15 days after the result of the lottery has been decided.

However, as mentioned previously, a new draft bill for non-profit lotteries is expected to be passed soon. This bill will change the tax rules for non-profit lotteries. See 3.7 Recent or Forth-

coming **Legislative Changes** for more information.

Other Duties and Relevant Fees

In addition to these duties, a licensed online gambling operator must pay an annual fee for the licence. The annual fee is fixed in classes varying from DKK63,100 to DKK5,674,500 (2024 price). The annual fee is due one month after the effective date of the licence and then on an annual basis.

Having a gaming machine is subject to an annual fee of DKK723 per gaming machine.

Gambling operators that provide gambling on horse racing will be charged 6% of the GGR of betting on horse races at Danish horse-racing tracks. The fee will be calculated based on a three-month period.

Depending on the circumstances, the gambling operator may also be obliged to pay regular Danish company tax (particularly if the gambling operator is established/incorporated in Denmark).

12.2 Recent or Forthcoming Changes

There have been no relevant changes recently.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

If an individual wishes to obtain a licence, there are several requirements that must be fulfilled. See **4.7 Application Requirements** for further information on these requirements.

13.2 Application Process

In addition to the requirements described in **4.7 Application Requirements**, an assessment is made by the DGA based on a large number of financial and technical documents.

Individuals such as ultimate beneficial owners, members of the management board of the applicant's company and members of the board of directors of the applicant's company and others are required to submit personal information. This information includes, among other things, the person's criminal records, a list of employment and a declaration of debt.

If the application is well prepared and there are no questions from the DGA, the expected timescale is three to four months according to the DGA. However, a longer timescale is more realistic.

Regarding the fees, see **4.9 Application Fees**.

13.3 Ongoing Annual Fees

See **4.10 Ongoing Annual Fees** and **12.1 Tax Rate by Sector**.

13.4 Ongoing Requirements

In addition to the requirements described in **13.1 Types of Authorisations and Licences** and **13.2 Application Process**, other requirements are set forth regarding managers in certain shops.

A manager of a betting shop or kiosk where gaming machines are available and/or where lotteries are being sold, must be approved by the DGA prior to the start of employment. A manager must fulfil the requirements as described in **4.7 Application Requirements**.

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The authorisation of a manager can be revoked if the manager no longer fulfils the requirements or if they are convicted of a criminal offence.

Beyond this, licences and authorisation for employees without a managerial position in a betting shop, kiosk or casino are not required.

13.5 Personal Sanctions

See **11.1 Powers** and **11.2 Sanctions** for information on the enforcement powers of regulatory bodies.

13.6 Recent or Forthcoming Changes

There have been no relevant changes recently.

Trends and Developments

Contributed by:

Nina Henningsen

Mazanti-Andersen

Mazanti-Andersen (Mazanti) is one of Denmark's major law firms, with strong international relations. The firm represents a large number of Danish and international corporate clients and is characterised by professional competence and integrity, with expertise in a number of legal areas, including corporate/M&A, real estate, bankruptcy and restructuring, banking and finance, litigation and arbitration, together with IP, TMT and gambling law. Mazanti has the largest and most experienced gaming and gambling law group in Denmark. Due to its compre-

hensive knowledge of the regulation of the Danish gambling market and the different market players, Mazanti has a deep understanding of the regulatory, technical and operational conditions of relevance, and it advises major national and international B2C as well as B2B operators in the industry regarding highly complex regulatory matters, transactions, licensing issues and matters related to media and marketing. The group also has substantial experience in litigation.

Author



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The Current State of the Danish Gambling Market

The Danish gambling market was liberalised in 2012 and the monopoly on betting and online casinos was lifted. This has shaped trends and developments in the Danish gambling market significantly.

Overall, spending in the Danish gambling market has increased. Figures from the Danish Gambling Authority (DGA) show that Danish gross gambling revenue (GGR) increased by 15% between 2012 and 2023. However, the amount an average Danish person spends on gambling annually only went up by 5.4% between 2012 and 2023. This is primarily explained by an increase in population. Although the Danes have increased their yearly spending on gambling per person since 2012, they still spend slightly less on average on gambling per person per year compared to the other Nordic countries. In total, Denmark ranks 11th in Europe when it comes to average annual spending on gambling per person.

According to figures from the DGA, in 2022 young men were the largest demographic group among Danish gamblers. In total, men had registered for 72% of all active online casino accounts and 84% of all active online betting accounts. Overall, it is mostly younger people who participate in gambling. Of persons gambling on online casinos, 53% are under the age of 36, while 57% of persons participating in online betting are under the age of 36.

Although the age limit for online gambling in Denmark is 18, studies over the past year show that 15% of young people aged 15–17 have gambled online. This equates to approximately 32,000 young people. These studies also speak to the increased political focus on the need for

more regulation in the area of gambling among children and young people.

The most significant change brought about by the liberalisation of the Danish gambling market in 2012 was the fact that most betting and the majority of online casino activity now happens on sites with a Danish licence. In 2011, before the liberalisation of the Danish gambling market, only around 40% of Danish online gambling happened on sites managed by operators with a Danish licence. In 2012, just after the liberalisation of the Danish gambling market, this number had already increased to 69%, and in 2023, this number reached 90%. In comparison with other European countries, the percentage of Danish online gambling taking place on regulated websites is among the highest.

While the total number of licences for betting and online casinos has been fairly consistent over the years (approximately 60 licences), the holders of the licences have changed over time. This is a sign of both a continued interest in providing betting and online casino services to Danish players, but also of ongoing competition between the different gambling operators in the Danish market.

The statistics on the Danish gambling market show a clear trend towards more gambling happening online. In 2012, only a third of Danish GGR came from online gambling. In 2017 the ratio of Danish GGR coming from land-based and online gambling was almost 1:1, whereas today there is a significant difference between the two. In 2023, 64% of Danish GGR came from online gambling. As a result, in 2023 the Danish gambling market ranked third in Europe measured on GGR coming from online gambling.

Expected Changes in the Regulation of the Danish Gambling Market

In the past few years, two political agreements from November 2021 and February 2022 concerning the Danish gambling market have been cemented. Both political agreements are based on support from a broad majority of the Danish parliament, and the Danish government has expended a lot of energy over the last few years implementing these political agreements through legislative initiatives, with more to come. The already implemented amendments to the Danish Gambling Act include further prevention of match-fixing, extension of the DGA's sanction powers and a new requirement for B2B licences. For further information on this, go to [the Danish Law and Practice chapter](#).

A draft bill for non-profit lotteries is also in process and is expected to be passed by the Danish parliament by the end of 2024. The bill aims to simplify the tax rules for non-profit lotteries and make it possible to hold land-based bingo without the need to fulfil the requirements for a non-profit lottery. This is not an exhaustive list of the expected changes, and the specific details of the bill will only be known when it has been passed.

The Danish government's official programme for scheduled amendments to Danish legislation in the coming parliamentary year 2024/2025, which was launched 1 October 2024, includes amendments to the Danish Gambling Act. According to the official programme, the amendments will cover new marketing regulations, especially regarding children and young people. However, since the draft bill has yet to be presented and negotiated, the exact scope and content of the bill is still subject to change.

Illegal Gambling

According to the DGA, the illegal gambling market is still considered to constitute only a limited part of the Danish gambling market. It is, however, an area that the DGA continues to increase its focus on.

In 2022 the DGA, together with the Danish Tax Agency, carried out several investigations and blocked a number of websites providing illegal gambling. In 2024 the number of blocked websites reached its highest so far in Denmark in the span of one year. By October 2024, a total of 162 websites had been blocked for providing illegal gambling. The DGA has continued its focus and the monitoring of websites providing illegal gambling, and this is expected to continue in the future.

In its fight against illegal gambling, the DGA is working together with Facebook and is in the process of establishing a similar set-up with Google.

Furthermore, the DGA has noted a rise in streamers on platforms such as Twitch inviting followers to take part in community hunts or other illegal gambling. Community hunts are not allowed under the Danish Gambling Act, as gambling on behalf of other persons is not permitted. In addition, the return of any winnings from a community hunt to followers of the streamer might result in violations of Danish tax law. After observing the trend of community hunts, the DGA warned in April 2023 against participation in any such activity. The DGA furthermore expressed concern that followers of streamers participating in community hunts might be under 18 years old.

In response to the increased focus on the use of Twitch and other similar platforms for community hunts and to advertise illegal gambling, the DGA

has also taken steps to guide streamers on gambling legislation, to make them aware of the fact that their actions on the platform in some cases might be considered illegal. In August 2023 a streamer was fined DKK10,000 (approximately EUR1,340) for illegally facilitating gambling with unlicensed gambling operators. This was the first and only time so far that the DGA has reported a streamer in a matter like this.

Marketing and Consumer Protection

Initiatives to limit the intense marketing of gambling products are still being debated and there is increased political focus on this issue. This focus includes limiting gambling commercials in connection with live sports events broadcast on TV and the implementation of a ban on commercials during specific timeslots. In relation to this, there is increased focus on the general level of consumer protection in connection with gambling.

As mentioned, the Danish government's official programme for scheduled amendments also includes amendments to the Danish Gambling Act. The detail of the draft bill is unclear, but it is expected to focus on more protection of children and young people from gambling, including a limitation on the scope of marketing.

Furthermore, there has been increased political focus on marketing and advertising of games and gambling. One particular area of focus is on advertising social gaming for children, where multiple politicians have expressed a need for more regulation in this regard.

There is also an increased interest in influencer marketing and the use of celebrities in commercials. Initiatives to regulate this area, including implementing a total ban on using celebrities

in commercials related to gambling, has been discussed.

Even though many of the new amendments have been successfully implemented, more concrete initiatives in relation to marketing and consumer protection are still in process.

Gambling Addiction

The Danish Register of Voluntarily Excluded Players (*Register Over Frivilligt Udelukkede Spillere* or ROFUS) makes it possible for players to exclude themselves from gambling for varying time periods. In April 2024, the number of people registered with ROFUS reached 50,000 and almost two thirds have chosen to exclude themselves permanently. The DGA has noted a constant rise in the number of persons registered with ROFUS.

As part of a wider political agreement reached in June 2022, an annual DKK10 million will be allocated to combating gambling addictions from 2023 to 2025. The primary focus will be to conduct further research and carry out information campaigns to address gambling addiction, especially among children and young people.

In connection with this political agreement, several information campaigns have been carried out. These include a campaign called "*Stop-Spillet*" (which roughly translates to "Stop the Gambling") and a campaign specifically for educational purposes called "*StyrPåSpillet*" (which roughly translates to "Control the Gambling").

The *StopSpillet* campaign focuses on relationships with family and friends, which can be affected by excessive gambling. The campaign also aims to raise awareness of the DGA's national helpline on gambling addiction, which can be contacted directly by gamblers, or by

people who know someone who gambles too much, or people who have a colleague with a gambling problem.

The *StyrPåSpillet* campaign has a focus on informing parents and relatives how to deal with problems related to gambling or a gambling addiction. The campaign also includes materials to be used by teachers and other professionals for school projects, among other things. The content of this campaign includes articles, videos and podcasts, etc.

Further initiatives aiming to prevent gambling addiction, especially in young people, are anticipated. In this regard, initiatives in relation to “skin betting” and “loot boxes” are likely to be considered in the future.

The DGA has a continued focus on prevention and treatment of gambling addiction. In this regard, the intention is to improve the current treatments for gambling addiction and to focus on how to establish funding and initiate co-operation with the Danish health authorities.

At the time of writing (November 2024) there are more than 15 different treatment options, all of which provide free treatment for gambling addiction.

The Gambling Advertising Board

The Gambling Advertising Board was established in 2022 at the initiative of several actors in the Danish gambling market. The guideline in the Gambling Advertising Board’s evaluations is the code of conduct for the gambling industry agreed upon by all the actors in the Danish gambling industry in 2018.

In July 2024 the Gambling Advertising Board entered into a co-operation agreement with the Danish Consumer Ombudsman and the DGA in an effort to tighten the overall co-ordination of regulations controlling gambling companies’ marketing in Denmark. The Gambling Advertising Board will now forward cases to the Consumer Ombudsman or the DGA, depending on the content of the particular case.

The board still holds authority to handle complaints made regarding violations of the code of conduct, but only if the rules of either the Consumer Ombudsman or the DGA are not applicable. The Consumer Ombudsman is responsible for consumer protection and companies’ compliance with the Danish Marketing Act, while the DGA oversees the implementation of the marketing regulations in the Gambling Act.

Thus, the Gambling Advertising Board’s scope of work will be significantly reduced with this agreement.

All verdicts reached by the Gambling Advertising Board are published on its [website](#).

ESTONIA

Law and Practice

Contributed by:

Karolina Ullman, Henrik Link, Triin Kaurson and Linell Raud

NJORD Law Firm



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NJORD Law Firm is the only law firm in Estonia with a clear Nordic focus and coverage. It is strong on technology law and regulatory matters, including banking, fintech, IT, and gaming. The team for handling gaming clients consists of four lawyers and one assistant. For clients in the gaming industry, the firm starts with identifying the needs, creates tailored GAP analysis, and considers gambling taxation structures, corporate matters, privacy policies, terms and conditions, AML/KYC compliance, and other

parts of licensing. For already up-and-running gaming businesses, the firm provides day-to-day legal assistance within AML, marketing, and consumer protection. Its compliance and AML expertise are on a very high level as it serves many clients in the banking and fintech sectors. Among its gaming clients are well-known online providers of various platforms. The firm also serves land-based casino providers, as well as all kinds of different service providers to the gaming sector.

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NJORD
LAW FIRM

1. Introduction

1.1 Current Outlook and Recent Changes Operators in the Estonian Market

Currently, there are around 38 licensed gambling operators in the Estonian market (both online and land-based). This number is not impressive but it needs to be seen in the context that Estonia is a small country (1.3 million inhabitants). Out of the licensed operators, there are some with a stable local presence (including land-based facilities), such as the listed Olympic Entertainment Group and Fenix Casino, but also some regional operators such as:

- Paf, Åland's (a partly self-governed part of Finland) publicly held organisation;
- NinjaCasino and CoolBet – with a strong focus on the Nordics; and
- the big international players.

Out of the total of 38 licensed gambling operators, 17 have been issued to foreign legal entities.

In 2024, a new land-based casino operator commenced operations in Estonia – Chesterfield Poker Club.

Sector Developments

Carrying on from previous years, the authors have noticed a consistent increase in interest in Estonian online licences. The Estonian digital landscape attracts international companies due to the convenience of the e-residency programme, which allows for companies to be managed digitally from wherever there is an internet connection, and the wide range of digital services offered by the public authorities, as well as co-operation partners, including the regulator. Over the previous 3–4 years, there has been a steady increase in the online market, as well as a steady decrease in the offline market.

Professional advisers expected an increase in the online market in the following years, in accordance with international trends. The land-based market is expected to remain the same, mainly due to the difficulties in achieving consent from the local municipalities and higher costs than online gambling.

Receipt of Gambling Tax

The receipt of gambling tax has shown a substantial year-on-year increase over the last few years. The increase from 2021 to 2022 was over 40%. In 2023, the gambling tax receipts continued to grow by about 2–3%, marking a steady

but smaller increase compared to the previous year.

2. Jurisdictional Overview

2.1 Online

In Estonia, the following sectors are regulated and permitted:

- sports betting (defined as toto);
- bingo;
- casino;
- lotteries; and
- poker.

See **3.2 Definition of Gambling** for types of gambling.

Social gaming and fantasy sports are not regulated by the law. Fantasy sports are mainly within a smaller group of friends for fun. There are no large platforms, such as those in the USA or the UK, where they can be played professionally for money.

Organising of gambling is prohibited if the prerequisite for determining the outcome of a game is to achieve a certain number of participants or bets, and the return of the full bet to the player is not guaranteed if the prerequisite is not achieved.

2.2 Land-Based

See **2.1 Online**.

3. Legislative Framework

3.1 Key Legislation

In Estonia, the following acts apply to the gambling sector:

- the Gambling Act;
- the Gambling Tax Act;
- the Advertising Act; and
- the Money Laundering and Terrorist Financing Prevention Act.

3.2 Definition of Gambling

According to the Gambling Act, Section 2, Sub-section 1, gambling is a game that meets all the following criteria:

- it is a precondition for participating in a game that the player makes a bet;
- the player may win a prize as a result of the game; and
- the outcome of the game is partly or fully determined by an activity based on chance or depends on the occurrence of a previously unknown event.

There are four types of games in Estonia.

- Games of chance (games organised on gaming tables and gaming machines) – games in which the outcome depends on chance and that are played by means of a mechanical or electronic device or by mediation of the organiser of the game.
- Lotteries (bingo, etc) – games in which the outcome depends on chance, the prize pool constitutes up to 80% of the selling price of the circulation of the lottery tickets, and the outcome of the game is not determined more than three times per 24 hours or it is determined by opening the ticket field on the lottery ticket.
- Totos – games in which the outcome depends on the occurrence, non-occurrence, or manner of the event predicted by the player, where the event on which the player is betting is beyond the control of the gambling operator. The winning of a prize depends on

whether the bet turns out to be true or not and the amount of the prize depends on the amount of the bet and the winning coefficient determined before the making of the bet (betting) or percentage of the total amount of the bets as determined by the gambling operator, the number of people who bet correctly, and the amount of their bets (totalisator).

- Games of skill (poker, etc) – games in which the outcome depends predominantly on the physical skills or abilities or knowledge of the player, and that are played by means of a mechanical or electronic device.

3.3 Definition of Land-Based Gambling

Land-based gambling is not specifically defined but this is the starting point of the legislation.

3.4 Definition of Online Gambling

Online gambling is considered a way of organising gambling. According to the Gambling Act, Section 5, Subsection 1, remote gambling (online gambling) is the organisation of gambling in a manner where the outcome of the game is determined by an electronic device and the player can participate in the game by electronic means of communication, including telephone, the internet, and media services. Gambling is not considered remote gambling where electronic means of communication are used only for receiving bets, providing information about the outcome of the game, or transferring a prize amount to the account of a player.

3.5 Key Offences

All offences are covered in Chapter 5 of the Gambling Act. The key offences and penalties are as follows (one fine unit is EUR4).

Violation of the Age Limit Established for Players of Gambling Games

A person under 21 years of age being present in a gaming location for games of chance or enabling a person under 21 years of age to play a game of chance or a game of skill organised as remote gambling, or enabling a person under 18 years of age to be present in a gaming location for a toto or enabling such person to play a toto, or enabling a person under 16 years of age to play the lottery is punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

Violation of the Requirement for Identification and Registration of Persons Entering a Gaming Location

Failure to identify or register persons entering a gaming location for games of chance by the organiser of the game of chance or violation of the requirements established for registration is punishable by a fine of up to 100 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR2,000.

Violation of the Rules of the Game and Deceit of a Player

Violation of the established rules of the game, deceit of a player, and failure to submit the rules of the game to a player at the player's request are punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

Violation of the Restrictions on the Participation of Persons Under 21 Years of Age in Gambling

A person under 21 years of age is punished for playing a game of chance or a game of skill organised as remote gambling or for being pre-

sent in a gaming location for games of chance by a fine of up to ten fine units.

3.6 Penalties for Unlawful Gambling

The organisation of prohibited gambling is punishable by a fine of up to 200 fine units or detention. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

The organisation of gambling by a gambling operator holding an activity licence without an operating permit or at a location not indicated in the decision on the issue of the operating permit, as well as organisation of gambling not indicated in the decision on the issue of the operating permit are punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR2,600.

3.7 Recent or Forthcoming Legislative Changes

The Gambling Act entered into force on 1 January 2009 and there have been only minor changes made to it. There are no pending amendments to the legislation.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

State supervision over the organisation of gambling is exercised by the Tax and Customs Board, which decides on issuing, refusing, and revoking activity licences for the organisation of gambling and operating permits for gambling.

4.2 Regulatory Approach

The Estonian regulator, the Tax and Customs Board, is approachable and co-operative.

4.3 Recent or Forthcoming Changes

There are no recent or upcoming changes regarding licensing and the regulatory framework.

4.4 Types of Licences

In Estonia, licensing is a two-step process.

- First, the intended operator will be scrutinised when applying for the activity licence.
- Then the application for an operating permit, whereby the actual organising of the gambling will be examined and assessed.

The activity licence and operating permit must be applied for with regard to each type of gambling separately. See the types of gambling in 3.2 **Definition of Gambling**.

Gambling must be the sole activity of the gambling operator. The organiser of gambling may engage in ancillary activities related to the organisation of gambling at the gaming site, including catering, currency exchange and the organisation of leisure and cultural events (only for land-based).

4.5 Availability of Licences

Both licences are issued by the Tax and Customs Board and are readily available after complying with the requirements of the law and submitting the documents and information necessary.

4.6 Duration of Licences

Activity licences are issued for an unspecified term and are not transferable.

An operating permit is issued for up to 20 years and it is not transferable. Operating permits for remote (online) gambling are issued for up to five years.

An operating permit for an instant lottery is issued for up to five years.

4.7 Application Requirements

The key application requirements are as follows.

- Activity licence – the purpose of the activity licence is to ensure that the company and the people related to the company are experienced in this field and have the funding needed to organise gambling. Documents proving the reliability and competence of the persons involved must be submitted (including shareholders, management board members, and supervisory board members). All shareholders who own at least 10% in the gambling operator must disclose additional information and documents.
- Operating permit – the purpose is to assess whether the games to be provided are in compliance, all the necessary systems are up and running, and the documents comply with the provisions set by the law. This includes AML/KYC procedures, consumer protection, and gaming rules, as well as the technical solution. A gambling operator must ensure that it has access to the list of persons that have self-restricted their playing of games, with the help of the Tax and Customs Board. Also, an electronic record-keeping and control system must be adapted to the gaming operator system.

The electronic record-keeping and control system is an electronic communications network connecting the gaming machines of the gambling operator or additional games of chance, or gaming equipment used for the organisation of remote gambling or toto. The gambling operator shall ensure the possibility of connecting the electronic record-keeping and control system with the information system of the Tax and

Customs Board. This system shall ensure the registration and recording of data in a manner that enables calculation of the turnover of the gambling operator and the percentage of the distributions made to players in the total amount of all bets for each gaming machine, each gaming table connected with the system, and remote gambling at any moment of time. This is important from a gambling tax perspective.

4.8 Application Timing

The decision to issue an activity licence, or refuse to, must be made within four months of the receipt of all the necessary documents and information but not later than six months after receipt of the application. From the authors' practice, a well-prepared application may secure the licence within one month only.

As to step two, the operating permit, the decision shall be made within two months but not later than four months after receipt of the application for the operating permit. Again, a well-prepared application will result in a fast process.

4.9 Application Fees

The state fee for applying for an activity licence is set at EUR47,940 (games of chance), EUR31,960 (toto/sports betting), and EUR3,200 (games of skill).

The state fee for an operating licence is EUR3,200 (regardless of type).

The state fee for reviewing a lottery operating permit is EUR640.

4.10 Ongoing Annual Fees

There are no annual fees. Once the licence needs to be renewed, the same fees apply as for a new one.

5. Land-Based Gambling

5.1 Premises Licensing

For a land-based casino, you must obtain the written consent of the local municipality government for opening at a certain location. Such a location may not be situated together with preschools and childcare institutions, schools, and youth organisations. A gaming location for games of chance may only be situated in a separate building, a hotel, conference centre, or recreational establishment, or in a business building or shopping centre and if there are no residential parts in the same building.

The consent for opening a gaming location for a game of skill is granted for up to 20 years, and the consent for opening a gaming location for a game of chance or toto is granted for 5 to 20 years.

5.2 Recent or Forthcoming Changes

As the local government must give its consent to the location, it is vitally important to have competent local advisers who know how to approach it in the best way. This topic can be sensitive and needs to be handled diligently.

6. Online Gambling

6.1 B2C Licences

A gambling operator is engaged in the organisation of gambling and needs a licence in order to engage in its activities. In practice, it means that Estonia does not regulate B2B licences, only B2C ones.

A gambling operator may transfer its activities aimed at organising gambling to another person only upon the written consent of the regulator. The Tax and Customs Board shall decide upon

granting the consent or refusing to grant the consent within 30 working days after receipt of an application.

6.2 B2B Licences (Suppliers, Software, Etc)

See 6.1 B2C Licences.

6.3 Affiliates

See 6.1 B2C Licences.

6.4 White Labels

The company that is organising the gambling and offering it to the Estonian market is the one that needs licensing. In the case of white labels operating under the licence of the white-label provider, there is no additional licensing; however, the licensee needs to keep the regulator informed regarding the trade marks and websites used by the operator.

6.5 Technical Measures

For gambling operators that have no activity licence or operating permit in Estonia, the Estonian Tax and Customs Board implements measures to restrict gaming. There is a list of domain names for blocked illegal remote gambling servers (HAMPI). There are over 1,600 sites listed and the list is constantly updated.

6.6 Recent or Forthcoming Changes

There are no recent or upcoming changes regarding online gambling.

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

7.1 RG Requirements

HAMPI contains a list of persons that have self-restricted their playing of games. The purpose

of maintaining the list is to provide persons with an opportunity to limit their gambling in order to mitigate the potential negative social and economic consequences of gambling to the persons themselves and to society. A person may choose which type of game they are going to restrict. It is not possible to file a request for setting restrictions for others; for example, a family member or a friend. It is possible to set restrictions on games of chance (land-based and online), toto, and classical lotteries. The restrictions do not apply to instant lottery (ie, scratch lottery tickets). The holder of the list of persons with restrictions on gambling is the Estonian Tax and Customs Board.

Before allowing a player to play a game for the first time, the gambling operator shall conspicuously present the opportunity to set an upper limit for the amount that the player will be ready to lose as a result of gambling with the given operator during a week or month. An operator is prohibited from accepting bets that may increase the loss to a player beyond the limit set by the player. The limit must be enforced across all of the operator's websites and platforms.

The gambling operator must ensure that a clear warning is presented to the player regarding the addictive nature of gambling and that a reference is made to the contact details of organisations that assist gambling addicts.

The player must be constantly shown clear information about how long they have been playing and must be able to see the details of their bets and winnings.

7.2 Gambling Management Tools

In addition to HAMPI (see 7.1 RG Requirements), the gaming operators may also propose precautionary measures. Some of the key man-

agement tools used by the gambling operators are as follows:

- timers;
- reality checks;
- timeouts;
- self-assessment tests; and

supportive insurance (developed to prevent problem gaming by helping customers to get the professional counselling they need).

7.3 Recent or Forthcoming Changes

There are no recent or upcoming changes with respect to responsible gambling.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The relevant legislation is the Estonian Money Laundering and Terrorist Financing Prevention Act from 2017 with amendments. The legislation has implemented the Fifth Anti-Money Laundering Directive.

The supervisory authority in this respect is the Financial Intelligence Unit (FIU), which is a governmental authority under the Ministry of Finance. There are no guidelines issued specifically for the gambling sector.

The Financial Intelligence Unit has the right to forward data that it has registered, as well as analyses and assessments, to the Tax and Customs Board for proceedings related to a gambling activity licence.

8.2 AML Requirements

Changes to the Money Laundering and Terrorist Financing Prevention Act entered into force in late 2023, which significantly increased the

potential penalties for obliged entities, including gambling operators, for breaches against the requirements of the act. The FIU has let the operators know that they intend to place a significant focus on gambling operators by late 2024 or early 2025 and expect full co-operation.

8.3 Recent or Forthcoming Changes

Following the Fifth Anti-Money Laundering Directive, the Money Laundering and Terrorist Financing Prevention Act requires gaming operators as obligated entities to:

- be diligent;
- to know the identity of their customers;
- to identify politically exposed persons (PEPs);
- to map their own risk appetite and implement procedural rules for KYC and AML, including monitoring obligations; and
- to report suspicions or unusual transactions.

In addition to the general rules, a gambling operator is required to apply due diligence measures at least upon the payment of winnings, the making of a bet, or on both occasions where the sum given or receivable by the customer is at least EUR2,000.

9. Advertising

9.1 Regulatory/Supervisory Agency

The supervisory agency is the Estonian Consumer Protection and Technical Regulatory Authority (TTJA).

9.2 Definition of Advertising

Advertising means information that is made public in any generally perceived form for a charge or without charge for the purpose of increasing the provision of services or the sale of goods, promoting an event, or directing the conduct of

a person in the public interest (Advertising Act, Section 2, Subsection 1, clause 3).

9.3 Key Legal, Regulatory and Licensing Provisions

Following the Advertising Act, Section 292:

- the advertising of gambling shall not contain an incitement to participate in gambling or visit a gaming location or information that may suggest that gambling contributes towards social success; and
- the advertising of gambling shall include the textual warning (in Estonian): *“Tähelepanu! Tegemist on hasartmängu reklaamiga. Hasartmäng pole sobiv viis rahaliste probleemide lahendamiseks. Tutvuge reeglitega ja käituge vastutustundlikult!”* (“Attention! This is advertising of gambling. Gambling is not a suitable means for solving financial problems. Examine the rules and behave responsibly!”) The warning shall, given ordinary attention, be noticeable, understandable, and clearly distinguishable from other information.

The website of a gambling operator has to include an additional warning, notifying the players of the addictive nature of gambling and urging them to play responsibly.

9.4 Restrictions on Advertising

The following restrictions stipulated in the Advertising Act are relevant.

Advertising of gambling, a gaming location, or an organiser of gambling (“advertising of gambling”) is prohibited if the organiser of gambling has no operating permit required under the Gambling Act.

Advertising of games of chance is prohibited except:

- on the premises where a game of chance is organised;
- on board a watercraft or aircraft used for international carriage of passengers;
- in the building of a passenger terminal of an airport or port that provides regular international services;
- in a hotel where gaming premises for games of chance are located;
- on the website of an organiser of games of chance; and
- advertising communicated by post, email, or phone, provided that the client has subscribed to it, it is communicated only to the client's own postal or email address, or the telephone number used by the client, and the client is able to terminate the communication of advertising at any time by notifying the organiser of the games of chance of one's wish.

Advertising of toto is prohibited:

- in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps, and youth project camps, and in close proximity thereof;
- on websites directed at children;
- at a place and during the time of holding an event that is mostly directed at children, and on the tickets for such event;
- on television and radio programmes;
- on the front and back covers of newspapers or magazines, unless published together with the sponsor's announcement; and
- as outdoor advertising, unless published together with the sponsor's announcement.

Advertising of games of skill is prohibited:

- in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps, and youth project camps, and in close proximity thereof;
- on websites directed at children;
- before or during television and radio programmes that are mostly directed at children;
- on the front and back covers of newspapers or magazines, unless published together with the sponsor's announcement; and
- as outdoor advertising, unless published together with the sponsor's announcement.

Advertising of lotteries is prohibited:

- in and on the buildings and territories in the use of preschool childcare institutions, basic schools, upper secondary schools, vocational educational institutions, hobby schools, permanent youth camps, and youth project camps, and in close proximity thereof;
- on websites directed at children;
- before or during television and radio programmes that are mostly directed at children; and
- at a place and during the time of holding an event that is mostly directed at children, and on the tickets for such event.

9.5 Sanctions/Penalties

The placing, producing, or publicising of advertising that violates the general requirements for advertising is punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR400,000.

Advertising Act, Section 34 – Violation of Prohibition on Advertising of Goods and Services

The placing, producing, or publicising of advertising that ignores the prohibition on advertising of goods and services is punishable by a fine of up to 300 fine units. If committed by a legal person, the same act is punishable by a fine of up to EUR400,000.

9.6 Recent or Forthcoming Changes

There are no recent or upcoming changes to advertising in Estonia.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

A qualifying holding in a gambling operator is any direct or indirect holding in the share capital of a company organising gambling that represents 10% or more of the share capital of the company, or all rights related thereto, or of the voting rights in the company, or that makes it possible to exercise a significant influence over the management of the company in which that holding subsists. Before acquiring a qualifying holding in a gambling operator, or increasing such holding so that its proportion in the share capital of the gambling operator, or all rights related thereto, or votes represented by shares will exceed 20, 30, or 50%, a person shall submit to the Tax and Customs Board data about the size of the holding to be acquired and additional information and documents regarding the acquirer.

10.2 Change of Corporate Control Triggers

See 10.1 Disclosure Requirements.

10.3 Passive Investor Requirements

Passive investors are treated the same way as active ones.

10.4 Recent or Forthcoming Changes

There are not any forthcoming changes to acquisitions and changes of control in Estonia.

11. Enforcement

11.1 Powers

The Tax and Customs Board may revoke an activity licence if the gambling operator and its platform do not meet the requirements set by the law. For example:

- the holder of the activity licence has organised gambling without an operating permit for organising gambling;
- the holder of the activity licence has committed an intentional violation of tax law; or
- incorrect information has been knowingly submitted upon the application for the activity licence.

The invalidity of an activity licence renders all the operating permits, issued to the same gambling operator for organising gambling of the same type, invalid. The person whose activity licence has been revoked shall close down all gaming locations of the same type of gambling and stop making the same type of gambling available within three days after the day of revocation of the activity licence.

An operating permit can be revoked if, for example:

- the gambling operator has not engaged in organising gambling at the location indicated

- in the decision for over a whole running year without good reason; or
- the gambling operator has repeatedly violated the regulation governing the advertising of gambling or the gaming location.

11.2 Sanctions

See 11.1 Powers, 3.5 Key Offences, and 3.6 Penalties for Unlawful Gambling.

11.3 Financial Penalties

The proceedings in the Estonian Tax and Customs Board are not open to the public and they do not publish statistics.

The public statistics available for 2024 by the Estonian Consumer Protection Board (consumer protection and marketing) do not reflect gambling disputes at all, which means that there are very few of them, if any. They also keep a “blacklist” of companies that do not comply with decisions made by the Consumer Protection Board: as of the beginning of October 2024, no licensed gambling operator has been entered on that blacklist.

11.4 Recent or Forthcoming Changes

There are not any forthcoming changes to enforcement.

12. Tax

12.1 Tax Rate by Sector

Estonian gambling tax is paid by the gambling organiser. The period of taxation is a calendar month. The tax rates for gambling tax as of 10 October 2024 are the following.

- EUR300 per gaming machine used for the organisation of games of chance and 10% of the amount received from the bets made

on the gaming machines used by the gaming operator for the organisation of games of chance, less winnings.

- EUR1,406 per gaming table and EUR32 per gaming machine of skill.
- When organising a lottery, the gambling tax rate is 22% of the amount received from the sale of lottery tickets.
- When organising a commercial lottery, 22% of the prize fund of the commercial lottery, if the value of the prize fund exceeds EUR10,000.
- In the case of remote gambling, toto, and games of chance and skill, the rate of the gambling tax is 6% of the amount received from the bets made, less any winnings.
- When organising a gambling tournament as a tournament, the gambling fee rate is 6% of the amount received from the participation fees of the gambling tournament, from which the part of the prize fund received has been deducted.
- When organising a gambling tournament as a round game, the gambling tax rate is 6% of the amount received from the participation fees of the gambling tournament.
- When organising a gambling tournament as a tournament and a round as a remote gambling tournament, the gambling tax rate is 6% of the amount received from the participation fees of the gambling tournament.

Gambling tax is paid into the state budget, where it is distributed among ministries in accordance with the Gambling Tax Act. Declarations are submitted electronically. As of writing this guide, there is a draft law in the Riigikogu that would change the distribution of the revenues from gambling tax to be more flexible. Whereas previously the law directly stated what proportions of the tax would be allocated to specific cultural institutions, the proposed changes would mean

that the tax is distributed directly to the general revenues of the Estonian state.

12.2 Recent or Forthcoming Changes

Gambling taxes will be subject to increase in 2026. See **12.1 Tax Rate by Sector**.

The following changes will be made to tax rates for gambling.

- The tax rate on remote gambling and toto will increase from 6% to 7% in 2026.

The changes to these tax rates can be found in the Gambling Tax Act. According to the explanatory memorandum, these changes should not have a significant effect on market operators and there will not be a need to restructure the gambling industry.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Individuals associated with the gambling operators are not licensed. The persons occupying the managing bodies and persons holding or wishing to acquire a qualified holding in a gambling operator must submit certain documents and information to the regulator for authorisation, either as part of the activity licence application or prior to being appointed as a member of the managing body or acquiring a qualified holding, as applicable.

Before acquiring a qualifying holding (any direct or indirect holding in the share capital of a company organising gambling which represents 10% or more) in a gambling operator, or increasing their shareholding exceeding 20, 30 or 50%, a

person shall submit the following information to the regulator:

- the acquirer's name, place of residency, and date of birth/personal identification code;
- documents certifying the financial status of the person during the last three years (including a full list of the individual's immovable property, construction works and securities belonging to the person, and authenticated copies of the person's tax returns for the last three years); and
- a certificate from the police of the place of residence confirming the absence of penalties.

A gambling operator should submit the following information regarding a person to be appointed to a managing body (eg, a director):

- their given name and surname, personal identification code or, in the absence thereof, their date of birth;
- their place of residence, full list of places of employment and positions;
- documents which prove the trustworthiness and conformity to the requirements of the Gambling Act, which the applicant considers important to submit (proof of the absence of punishments from the police of the place of residence);
- documents certifying the financial status of the person during the last three years, including a full list of the immovable property, construction works and securities belonging to the person; and
- authenticated copies of the person's income tax returns for the last three years.

13.2 Application Process

See **13.1 Types of Authorisations and Licences**.

There are no fees associated, other than the general state fee paid upon the submission of the application for the activity licence.

13.3 Ongoing Annual Fees

There are no annual fees.

13.4 Ongoing Requirements

The regulator must be informed upon a change in the managing bodies of the gambling operator, as well as prior to a person acquiring or increasing their qualified holding in the gambling operator.

13.5 Personal Sanctions

Regulatory bodies can revoke the operator's licences or impose fines if the notification obligation is not followed.

13.6 Recent or Forthcoming Changes

There have been no recent changes and there are no forthcoming changes with respect to personal approvals and licensing.

Trends and Developments

Contributed by:

Karolina Ullman, Triin Kaurson, Henrik Link and Linell Raud
NJORD Law Firm

NJORD Law Firm is the only law firm in Estonia with a clear Nordic focus and coverage. It is strong on technology law and regulatory matters, including banking, fintech, IT, and gaming. The team for handling gaming clients consists of four lawyers and one assistant. For clients in the gaming industry, the firm starts with identifying the needs, creates tailored GAP analysis, and considers gambling taxation structures, corporate matters, privacy policies, terms and conditions, AML/KYC compliance, and other

parts of licensing. For already up-and-running gaming businesses, the firm provides day-to-day legal assistance within AML, marketing, and consumer protection. Its compliance and AML expertise are on a very high level as it serves many clients in the banking and fintech sectors. Among its gaming clients are well-known online providers of various platforms. The firm also serves land-based casino providers, as well as all kinds of different service providers to the gaming sector.

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The Outlook for Gambling in Estonia *Continuous influx of online gambling operators*

Over the past few years, the number of online gambling operators in the Estonian market has steadily grown. Previously it has been hypothesised that the reasons have ranged from various regulatory aspects relating to anti-money laundering (AML) circumstances in other jurisdictions as well as the straightforward nature of the Estonian licensing structure. While the steady growth of new operators has continued, it has not been at the levels seen 2–3 years ago.

Use of Estonia to target other markets

Even with the amount of gambling operators in Estonia not increasing as much as previously, Estonia still has a large number of authorised operators compared to the size of the local market (approximately 1.3 million people). The reason for this is that most online casinos and sports betting sites making their way to Estonia and applying for the Estonian licence do so with the intention of providing their service to players from neighbouring countries, such as Finland.

Upcoming changes in Finland

Finland is preparing to introduce a licence-based system for gambling operators, similar to

Estonia's model. From 2026, it is expected that operators will be able to apply for licences for lotteries, toto and games of chance, ending the monopoly of state-owned Veikkaus Oy in 2027. While the full details are still under development and it is too early to predict the exact impact, this shift could influence the Estonian market by increasing regional competition. The evolving regulatory landscape in Finland is worth monitoring as its effects on Estonia remain to be seen.

That being said, Finland is far from being the only country that is serviced by companies licensed in Estonia. Obtaining the licence and operating in Estonia is comparatively cheap and efficient. Therefore, Estonia has proved to be a good place to set up operations, which should not change, regardless of what happens in Finland.

Updates to AML regulation and supervision

Amendments to the Estonian Money Laundering and Terrorism Financing Prevention Act (MLTFPA) entered into force in late 2023. The amendments focus on the potential penalty amounts for breaches of the law and the requirements therein. Gambling operators are obliged entities under both the MLTFPA as well as the EU-wide AML Directive. Consequently, the anti-money laundering and terrorism financing regulations

apply to the gambling industry and the substantial increase in potential penalties is of undoubtedly significant importance to the sector as a whole. Being obliged entities, gambling operators have to conduct due diligence on their clients and notify the local FIU of suspicious transactions.

In recent developments, the Financial Intelligence Unit (FIU) has announced plans to increase its focus on gambling operators' AML measures, signalling a shift towards stricter regulatory oversight in the coming years. Although the FIU has had the legal authority to supervise gambling operators' AML measures, this area has not been a priority until recently. It has been announced that the FIU intends to place significant focus on gambling operators by late 2024 or early 2025. This shift in attention follows the FIU's latest inquiries in 2023 and 2024, during which they sent requests for information to Estonian-licensed operators. Due to the unexpected nature of the requests in Estonian, many operators failed to respond to them, leading to fines.

The FIU has since emphasised that gambling operators must update their contact details to ensure they are able to respond to future inquiries in time. Going forward, the FIU will closely review Estonian-licensed operators' documents and AML/KYC policies. They will also be expected to implement stronger measures, including verifying the origins of their clients' funds and ensuring that these funds are legitimate. Additionally, the FIU has made it clear they expect the operators' due diligence measures to be in Estonian and they expect full co-operation.

Changes in the gambling tax in the coming years

The gambling tax rates in force in 2023 had remained unchanged from 2015. In June 2023

the law amendment act to the Gambling Tax Act was announced, which is part of a large initiative by the Estonian government of increasing multiple tax rates to alleviate the deficit of the Estonian state budget, ensure Estonia's security, and ensure the sustainability of public finances.

The increase in the tax rate for remote gambling and toto (sports betting) will have two steps. The gambling tax was increased from the current 5% to 6% at the beginning of 2024, and after two years, in 2026, the tax will increase by another one percentage point to 7%. The lottery tax rate was increased from 18% to 22% as of 2024. In doing so, significant changes are avoided in order to maintain Estonia's strong competitive advantage, especially in the remote gambling sector. Foreign-based operators licensed in Estonia generally do not come to Estonia with the sole or even main intention of offering services on the Estonian market, and, therefore, a significant part of gambling tax revenue comes from the bets of players from other countries. At this time, there do not appear to be any further initiatives planned to increase the gambling tax rates beyond 2026.

According to Statistics Estonia regarding taxes received in the state budget in 2023, the gambling tax brought in EUR48,327,431, which is a marginal rise in comparison to previous years (in 2022 it was EUR47,064,677, in 2021 it was EUR33,010,111, and in 2010 it was EUR28,123,117). The growth is mainly supported by the rise of remote gambling.

The receipt from the gambling tax made up 0.07% of the GDP (2022). Some examples of the main changes in gambling habits were due to the COVID-19 pandemic and tax competition. The lottery, land-based slot machine gambling,

and remote gambling make up more than 90% of the total gambling tax receipts as of 2023.

There has been a big rise in the popularity of remote gambling mostly due to the COVID-19 pandemic. At the same time, the share of regular casinos in gambling tax receipts has dropped significantly since the pandemic. Estonia has seen a rise in the closure of land-based casinos and changing consumer preferences favouring online gambling. The costs and regulatory compliance obligations have made it difficult for traditional casinos to compete with online sites. Consequently, many players are opting for the convenience of online casinos, leading to a significant increase in online platforms while several land-based casinos have shut down (the number of land-based casinos in Estonia is currently 51, down by five compared to 2023).

Gambling ads scrutinised

In April 2023, the Estonian Consumer Protection Authority (TTJA) decided to supervise the marketing activities of 19 companies that hold an Estonian gambling licence. Out of the checked companies, TTJA identified that 15 had marketing campaigns ongoing. All in all, the TTJA found 152 ads out of which 150 were in breach of the law. Some of the ads contained multiple breaches. In the statistics published by the TTJA on 11 May 2023, it can be seen that among the 150 faulty ads were 26 cases of totally prohibited marketing, 128 cases of non-compliant warnings about gambling addiction, and 133 cases of breaches against the rule that ads for gambling cannot contain an invitation to play or show benefits from playing.

In light of the above and in the general context of gambling addiction becoming more prevalent, the then-current government in Estonia, upon acceding into power, publicised its main prin-

ciples and goals for the next four years. Among them were proposed restrictions for gambling advertisements, the most noticeable of such restrictions being a prohibition for sports teams to have gambling operators as sponsors. This was met with a significant outcry from the Estonian sports scene, as sports betting companies have been an important source of sponsor revenue for teams over the years. The decisions surrounding the prohibitions of sponsorships were quickly reversed with the relevant government officials confirming that there are no immediate plans to outlaw gambling operators from sponsoring sports teams in Estonia.

Since the TTJA's findings in April 2023, there have not been any further significant actions taken by the authority regarding the advertising of gambling. The initiatives proposed by the then coalition appear to have stalled, with little public discussion on new restrictions or policies. As a result, any potential changes in gambling advertising regulations may be deprioritised in favour of more immediate state-fiscal concerns. Therefore, the regulatory landscape for gambling advertising remains unchanged and the existing practices continue to prevail.

Gambling fraud and match fixing

Fraud and match fixing is a concern for casinos and sports betting operators in all jurisdictions, and Estonia is no exception. Whilst Estonia is not a major market, there regularly tends to be at least a few cases of match fixing that end up in the public sphere.

For instance, in 2023 there was media coverage of match fixing cases affecting sports betting related to lower league football matches, as well as e-sports matches. Some of these have also resulted in criminal investigations and convictions under the Estonian Penal Code for fraud.

Market trends

Like all other fields, online gambling has been proliferated with voices announcing the imminent arrival and takeover of the market by virtual currencies and the “metaverse”. So far, that has not been the case. While there are gambling operators in Estonia who do allow for payments to be made with cryptocurrencies, it is in no way the prevailing payment method and the vast majority of deposits and withdrawals are made via bank transfers. Whilst there are certain regulatory inhibitions that make the use of virtual currencies somewhat more cumbersome, the main culprit is a general bursting of the bubble and an inability to draw the public at large to use alternative payment methods on an everyday basis. The same broadly applies for the metaverse. Whilst improvements in technology can and will influence the gambling market both in Estonia and on a global scale, it is becoming more and more difficult to credibly say that crypto and the metaverse will be the future.

There is a trend of increasing popularity for live casinos in Estonia’s gaming market, which is driven by technological advancements and changing consumer preferences. Players seem to be attracted to the experience and social interaction offered by live dealer games which seem to replicate the ambiance of physical casinos while providing the convenience of online access. As the demand for online casinos rises, gambling operators are significantly investing in live casino technology which is made appealing by Estonia’s enhanced proactive regulatory framework. The authors expect this segment to play a vital role in the shaping of the future of remote gambling in Estonia.

Another trend that does not seem to be speeding up with the same ferocity as previously expected is e-sports betting. Largely thanks to COVID-19-related restrictions starting from 2020, e-sports became significantly more visible in the public eye. This is understandable as it was the main competitive outlet for the public to enjoy for a while. Now that traditional sports have returned to the public eye, it is clear that e-sports have taken a step back and serious questions regarding the long-term sustainability of the leagues and tournaments have to be asked. From a gambling operator standpoint, whilst e-sports provide a logical alternative, the brunt of the clients’ wagers are still directed at more traditional and bigger sports events.

The [iGaming industry](#) is growing in Estonia, where online casinos and sports betting are very popular for both domestic and international players. The main reasons for this growth are:

- a favourable tax environment for operators;
- the importance of ethical gambling; and
- investments in technology and infrastructure.

Blockchain and AI are important in ensuring a quality gaming experience and security measures.

Trends that may determine the direction of the online gambling market in 2024 are:

- cryptocurrency;
- VR/AR;
- betting on e-sports;
- portable devices and accessories; and
- [micro betting](#).

FINLAND

Law and Practice

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Legal Gaming Attorneys at Law is a Finland-based law firm specialising in legal and compliance services for the iGaming industry, with a dedicated team of experts operating out of Finland and Malta, supported by a network of partner firms and independent consultants.

With a focus on gambling law, the firm provides in-depth regulatory guidance, industry-specific legal counsel, and innovative compliance solutions that establish it as a leading authority within the Finnish iGaming landscape.

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1. Introduction

1.1 Current Outlook and Recent Changes Ongoing Transition to a Partial Licensing System

Finland submitted its new draft Gambling Act to the European Commission on 1 November 2024. The standstill period will end on 4 February 2025. The Finnish Parliament is scheduled to consider and decide on the draft Gambling Act in spring 2025.

The draft introduces a dual system. According to the notified draft, the future monopoly will be based on exclusive licenses which can only be granted to a company under the direct control of the Finnish state. Exclusive licenses cover the operation of lottery games, scratch cards and physical casino operations, including slots machines located around Finland.

Other gambling operators will be eligible to apply for a gambling license starting on 1 January 2026. These licenses may cover fixed-odds and pool-based betting, virtual betting, digital casino games, digital bingo, and digital slot-machine games.

For betting, licenses may be granted for games offered through both digital and physical sales

channels. Licensed operators will be permitted to operate in the Finnish market by 1 January 2027, or potentially as early as 1 July 2026 if the practical implementation of the new system is finalised.

The draft Gambling Act also introduces a B2B software license. Applications for B2B software licenses will open at the beginning of 2027, with the requirement to hold a B2B license coming into effect at the start of 2028.

The reform will comprehensively overhaul the market, introducing new regulations encompassing player protection, marketing practices, sanctions, and additional key areas.

Cutting the Ties Between Beneficiaries and Gambling Proceeds

Starting from 1 January 2024, gambling proceeds will be forwarded to the normal state budget procedure without any designated purposes, unlike in the current situation. The connection between the state-owned gambling exclusive rights-holder Veikkaus and the beneficiaries was considered problematic, as the funding of the so-called good causes should not depend on the level of gambling proceeds.

Gambling Law Reform of 2022

Finland has undergone a gambling law reform in 2022, which:

- introduced new responsible gambling features;
- clarified the situation regarding marketing restrictions;
- extended compulsory identification to all regulated gambling; and
- provided the regulator with new supervisory tools, namely administrative penalties and PSP-blocking of operators that have conducted illegal marketing in Finland.

The new features were implemented in phases, with the last entering into force at the beginning of 2024.

Resulting partly from the gambling law reform of 2022, the state-owned gambling exclusive rights-holder Veikkaus' gross gaming revenue has notably decreased, especially as compulsory identification has caused considerable gross gaming revenue losses. The resources designated for the supervision of foreign gambling marketing directed towards Finland were also considerably increased, and the regulator was assigned new and more effective tools.

2. Jurisdictional Overview

2.1 Online

Finland has a gambling monopoly in place under which the state-owned operator, Veikkaus, has exclusive rights to organise and market gambling. Licences to organise lotteries or bingo games with non-monetary prizes, or to operate non-monetary prize machines, are only available to organisations whose registered office is in Fin-

land, and when the lottery is conducted to raise funds to promote a non-profit activity.

Fantasy sports and social gaming fall under Veikkaus' exclusive rights if participants may win a prize of monetary value, based in full or in part on chance, and if there is a charge for participation.

2.2 Land-Based

Please refer to 2.1 Online.

3. Legislative Framework

3.1 Key Legislation

The Finnish gambling market is regulated by the Lotteries Act (1047/2001). The main supplementary provisions include:

- the Government Decree on Lotteries (1345/2001);
- the Government Decree on Games Operated by Veikkaus Oy (1414/2016);
- the Ministry of Interior's Decree on rules of Veikkaus' games (7593/2022);
- the Government Decree on the Advisory Board on Gambling (658/2017);
- the Lottery Tax Act (552/1992);
- the Criminal Code (39/1889);
- the Act on the Prevention of Money Laundering and Terrorist Financing (444/2017);
- the General Data Protection Regulation (GDPR) 2016/679;
- the Data Protection Act (1050/2018);
- the Consumer Protection Act (38/1978);
- the Act on Electronic Communications Services (917/2014);
- the Act on the Autonomy of Åland (1144/1991);
- Åland's Provincial Law on Lotteries (10/1966);

- the State Shareholdings and Ownership Steering Act (1368/2007);
- the Act on the Financing of Education and Culture (1705/2009);
- the Act on Discretionary Government Grants (688/2001);
- the Act on Virtual Currency Providers (572/2019); and
- the Limited Liability Companies Act (624/2006).

3.2 Definition of Gambling

Gambling means an activity in which participants may win money based in full or in part on chance, and in which there is a charge for participation.

3.3 Definition of Land-Based Gambling

Finnish gambling legislation is technology-neutral, and it applies both to online and to land-based gambling. Land-based gambling has not been defined in the legislation. In general, all gambling activities taking place in mainland Finland fall within state-owned gambling operator Veikkaus' exclusive rights.

3.4 Definition of Online Gambling

Online gambling games means gambling games which are provided remotely, by electronic means or by any other technology for facilitating communication.

3.5 Key Offences

Administrative and Criminal Sanctions

Finnish law includes both administrative and criminal sanctions for gambling violations.

Administrative sanctions include:

- a prohibition order;
- blacklisting for PSP blocking;
- conditional fines; and

- administrative penalties, which range from EUR500 to EUR40,000 for private individuals, and from EUR10,000 to EUR5 million for legal entities.

Gambling-related criminal offences include:

- organising an illegal game of chance;
- a gambling offence; and
- a lottery offence.

The maximum penalties vary between six months and two years of imprisonment, depending on the act.

Gambling Offence

The provision and marketing of other gambling services, except those of the exclusive rights-holders, qualify as a gambling offence, punishable by up to two years of imprisonment.

Also, providing premises for the use of a slot machine, a specialty gaming machine, or a casino game other than those of the exclusive rights-holder is considered a gambling offence.

Similarly, selling or supplying tickets, receiving stakes, or distributing winnings connected to exclusive rights-holders' games without permission constitutes a gambling offence.

Organising an Illegal Game of Chance, and Lottery Offence

Organising an illegal game of chance, including keeping premises or allowing a game of chance to take place in accommodation or in food and beverage service businesses, is punishable by up to one year of imprisonment.

The following also qualify as a lottery offence, punishable by up to six months of imprisonment:

- running a lottery with non-monetary prizes without a licence;
- using the proceeds of such a lottery in violation of the law; or
- violating the conditions or provisions of a licence to run a lottery.

Additionally, breaching the marketing restrictions of the Lotteries Act (1047/2001) qualifies as a lottery offence (please refer to **9.4 Restrictions on Advertising**).

3.6 Penalties for Unlawful Gambling

Participation in unauthorised gambling is not penalised. For penalties related to key gambling offences, please refer to **3.5 Key Offences**.

3.7 Recent or Forthcoming Legislative Changes

As noted above, on 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission and, in the future, will be transitioning from an exclusive rights system to a dual system where certain products will remain under monopoly control while the market will open to other products. This represents a substantial legislative reform. Please refer to **1.1 Current Outlook and Recent Changes**.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gambling Administration at the National Police Board supervises gambling services in Finland. It is an independent organisation within the administrative sector of the Ministry of the Interior. In its gambling supervision duties, the Gambling Administration co-operates with the police, and may submit requests for investi-

gations into suspected criminal matters to the police.

4.2 Regulatory Approach

Finland has a distinct regulatory approach to gambling, which is characterised by a combination of government control and a monopoly system. It focuses especially on:

- social responsibility;
- player protection; and
- the use of gambling revenue for the greater good.

4.3 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission and, in the future, will partly open the market. The reform is set to comprehensively overhaul the segment, introducing new regulations encompassing player protection, marketing practices, sanctions, and additional key areas. In addition, a new gambling authority is to be established. Please refer to **1.1 Current Outlook and Recent Changes**.

4.4 Types of Licences

Please refer to **2.1 Online**.

4.5 Availability of Licences

Please refer to **2.1 Online**.

4.6 Duration of Licences

No gambling licences are available in Finland. The maximum operational lengths are as follows:

- for operating a non-money lottery – one year;
- for operating bingo games – three years; and
- for operating non-monetary prize machines – two years.

4.7 Application Requirements

No gambling licences are available in Finland. Licences to organise lotteries or bingo games with non-monetary prizes or to operate non-monetary prize machines are only available to organisations whose registered office is in Finland, and when the lottery is conducted to raise funds to promote a non-profit activity.

The operation of these games must not be manifestly inappropriate in respect of the public interest, and the licensing authority must not have reasonable grounds to suspect that the applicant will act in violation of the provisions on running the games in question.

There are additional requirements related to:

- the payment of the lottery tax;
- revocation of a licence;
- purpose limitations concerning the proceeds from certain games; and
- certain game-specific requirements such as the maximum allowed ticket sales and the limits for the combined value of prizes.

4.8 Application Timing

Applications for organising lotteries or bingo games with non-monetary prizes or for operating non-monetary prize machines are processed without delay, and the process is fast.

4.9 Application Fees

The fees related to licence applications for organising lotteries or bingo games with non-monetary prizes or for operating non-monetary prize machines vary between EUR35 and EUR79, depending on the game type.

4.10 Ongoing Annual Fees

The licence holders are only required to pay the gambling tax, which is:

- 1.5% for non-money lotteries, guessing competitions and non-money prize machines; and
- 5% of the total value of distributed prizes for bingo games.

5. Land-Based Gambling

5.1 Premises Licensing

Please refer to 2.1 Online.

5.2 Recent or Forthcoming Changes

Finland recently submitted its new draft Gambling Act to the European Commission. Under the draft act, new, exclusive licenses granted to the monopoly operator cover the operation of lottery games and scratch cards and physical casino operations, including slots machines located around Finland. Other gambling operators will be eligible to apply for licenses for fixed-odds and pool-based betting, virtual betting, digital casino games, digital bingo, and digital slot-machine games. For betting, licenses may be granted for games offered through both digital and physical sales channels.

6. Online Gambling

6.1 B2C Licences

Online gambling B2C licences are not available.

6.2 B2B Licences (Suppliers, Software, Etc)

Online gambling B2B licences are not available.

6.3 Affiliates

The state-owned exclusive rights gambling operator Veikkaus is the only entity for whom marketing of gambling services is legal in Finland. The law sets out extensive marketing restrictions for Veikkaus; consequently, it is not

de facto possible even for them to use affiliate marketing in the form it is commonly used in the gambling sector.

6.4 White Labels

Use of white-label solutions is currently not possible under Finnish law.

6.5 Technical Measures

Finland is in the process of opening the market. The reform will comprehensively overhaul the market regulation. Please refer to **1.1 Current Outlook and Recent Changes**.

6.6 Recent or Forthcoming Changes

The monopoly operator, Veikkaus, is required to adhere to a comprehensive range of technical specifications to ensure fair play, security and compliance with regulatory standards. However, the technical specifications applicable to Veikkaus are not publicly available.

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

7.1 RG Requirements

According to the Lotteries Act (1047/2001), gambling games must be run in such a manner as to:

- ensure legal protection of gambling participants;
- prevent misuse and crime; and
- prevent and reduce the economic, social and health-related harm resulting from gambling.

Below are the main responsible gambling requirements.

- From the beginning of 2024, all regulated gambling will be identified.

- Each player is permitted to have only one player account.
- Persons under the age of 18 shall not be allowed to gamble.
- When registering on the Veikkaus website, before the first money transfer, the player must set daily and monthly money transfer limits.
- Players cannot transfer money to their gaming account between 12am and 6am.
- The gaming account can have a maximum of EUR20,000 at any given time.
- The fast-paced games have a daily loss limit of EUR500 and a monthly loss limit of EUR2,000. Players may also set lower daily and monthly limits for themselves.
- Veikkaus electronically transmitted gambling games include a game reminder, which notifies the player every 60 minutes about the time spent playing with a notification appearing on the screen. After receiving the notification, the player must choose whether to continue playing or to log out.
- The player may also change the appearance interval of the game time reminder to less than 60 minutes.
- The player can set a self-exclusion, preventing them from playing electronically transmitted gambling games. The player can set the self-exclusion on a game or game group basis.
- In all electronically transmitted gambling games, there is always a visible and accessible quick-closure feature (a “Pause Gambling” button) that allows the player to stop playing. Using this button prevents the player from purchasing electronically transmitted gambling games until the end of the following day.

Finland also has strict marketing restrictions in place – please refer to **9.4 Restrictions on Advertising**.

7.2 Gambling Management Tools

Please refer to **7.1 RG Requirements**.

7.3 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The draft Gambling Act introduces a centralised player exclusion system.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The Act on Preventing Money Laundering and Terrorist Financing (444/2017) forms the key AML legislation relevant to the Finnish gambling sector.

8.2 AML Requirements

The gambling exclusive rights-holder Veikkaus and its agents are obligated (subject to certain conditions) to:

- identify their customers;
- verify their customers' identities;
- monitor any unusual transaction patterns;
- submit money laundering reports on suspicious transactions to the Financial Intelligence Unit of the National Bureau of Investigation; and
- draw up a risk assessment to identify and assess the risks of money laundering and terrorist financing.

8.3 Recent or Forthcoming Changes

Directive (EU) 2024/1640 of 31 May 2024 on the mechanisms to be put in place by Member States to prevent the use of the financial system

for money laundering or terrorist financing was published in the Official Journal of the EU on 19 June 2024. Finland is required to implement the new 6th EU Anti-Money Laundering (AML) Directive and is currently assessing and preparing the necessary amendments to its national AML legislation, with the legislative drafting process set to commence shortly.

9. Advertising

9.1 Regulatory/Supervisory Agency

Please refer to **4.1 Regulatory Authority**.

9.2 Definition of Advertising

Broad Legal Definition

The definition of marketing within the meaning of the Lotteries Act (1047/2001) is extremely broad. In general, marketing has been defined to include:

- advertising;
- indirect advertising; and
- other sales promotion activities.

Indirect advertising, in particular, is the promotion of a product in combination with the advertising for another product, where the distinctive mark of another product or its seller is used as such or is recognisably adapted to the product, or where the advertising of another product conveys an image of a certain product or its seller.

Exceptions

It has been clarified in the Lotteries Act that keeping a gambling website accessible online, regardless of its language, is not considered marketing as long as the website is not linked to other material promoting gambling in Finland. Furthermore, gambling marketing in a foreign publication distributed in Finland – where the

main purpose of the publication is not the marketing of gambling games and gambling marketing is not aimed at Finland in particular – is not considered gambling marketing within the meaning of the Lotteries Act.

9.3 Key Legal, Regulatory and Licensing Provisions

The Lotteries Act (1047/2001) regulates the Finnish gambling market:

- Section 4(1)(8) defines marketing (please refer to **9.2 Definition of Advertising**);
- Section 62(2)(1) prohibits marketing of games other than those provided by the exclusive rights-holder; and
- Section 14b sets out the limits for permitted marketing (please refer to **9.4 Restrictions on Advertising**).

Additionally, the Consumer Protection Act (38/1978) Chapter 2 includes certain general marketing provisions that bind the gambling exclusive rights-holder.

9.4 Restrictions on Advertising General Marketing Rules

Marketing is only allowed to the exclusive rights-holder Veikkaus, and involves heavy restrictions. In general, gambling marketing must be:

- moderate in quantity, scope, visibility and recurrence; and
- necessary to direct gambling demand towards the regulated provision of gambling services.

Marketing must not promote gambling that causes economic, social and health-related harm by doing the following.

- Idealising gambling, by presenting it as a desirable or exaggeratedly positive activity, or by inciting gambling.
- Describing frequent gambling positively, or describing non-playing or moderate gambling negatively.
- Portraying gambling as an everyday activity by equating gambling with:
 - (a) everyday life;
 - (b) a person's everyday routines; or
 - (c) a person's everyday or normal consumer behaviour, such as purchasing food or clothing.
- Presenting gambling as a necessary or harmless pastime.
- Presenting gambling as:
 - (a) a solution to a person's financial problems;
 - (b) a means of improving a person's financial position;
 - (c) a means of addressing a person's challenges with life management; or
 - (d) an alternative to work;
- Describing gambling as a way of promoting a person's social success or acceptance.
- Providing a misleading or unrealistic picture of the chances of winning in a gambling game.
- Over-emphasising the potential for high winnings.
- Characterising gambling as an activity that has no economic, social or health-related risks.
- Exploiting ignorance, inexperience or credulity associated with gambling.
- Providing play money or providing gambling games free of charge, or at a reduced price or with combined offers.
- Offering other gambling games to be purchased or selected in connection with the selection of a gambling game or other commodity, or in the collection of winnings.

- Providing a random advantage other than the possibility of winning in connection with a gambling game purchase.
- Encouraging the financing of non-profit activities through gambling.

Minors Under Special Protection

Marketing must not be targeted at minors or otherwise vulnerable persons. Minors must not be presented in marketing. Gambling games must not be marketed in:

- television and radio broadcasts;
- public performances of visual content in cinemas; and
- publishing activities aimed at minors, or media services aimed at minors or appealing particularly to minors and young persons.

The marketing of gambling games must always include information on:

- the permissible age limit for gambling; and
- where to obtain information on gambling management tools and service providers providing assistance for problem gambling.

Marketing of High-Risk Games Only Allowed at Their Point of Sale

Certain games – namely electronic money lotteries, fast-paced electronic pools, slot machines, casino games and combination games with a particular risk of gambling harm – may not be marketed outside the specific game rooms, casinos and racetracks where the games or their points of sale are located. Gambling locations for slot machines must not be marketed; however, information on the gambling locations can be provided.

Marketing Prohibited for Self-Excluded Players

Marketing shall not be targeted at a player who has self-excluded from all gambling. If a player has self-excluded from a specific game, the player may only be subject to marketing of gambling games from which the player has not self-excluded.

9.5 Sanctions/Penalties

The supervisory authority may prohibit marketing that infringes the regulations. The prohibition order may be reinforced with a conditional fine. Administrative penalties ranging from EUR500 to EUR40,000 for private individuals and from EUR10,000 to EUR5 million for legal entities may also be imposed against infringers (please refer to **11.3 Financial Penalties**). Finally, illegal gambling advertising qualifies as a criminal offence punishable by up to two years of imprisonment (please refer to **3.5 Key Offences**).

9.6 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The draft Gambling Act establishes extensive marketing restrictions, permitting advertising only through specific channels outlined in the draft. Additionally, the draft suggests a prohibition on affiliate marketing.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

According to the Lotteries Act (1047/2001) the gambling exclusive rights-holder Veikkaus is a wholly state-owned company, and acquisitions or changes in control would require legislative changes.

10.2 Change of Corporate Control Triggers

Please refer to 10.1 Disclosure Requirements.

10.3 Passive Investor Requirements

Please refer to 10.1 Disclosure Requirements.

10.4 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The liberalisation of Finland's gambling market, transitioning from a state monopoly to a partial license-based system, will introduce new disclosure requirements for all licensed operators.

11. Enforcement

11.1 Powers

The Gambling Administration of the National Police Board has the power to impose prohibition orders enforced with conditional fines, and, if the infringer is a gambling operator, to place them on the payment blocking list.

The Gambling Administration may also propose to the Market Court the imposition of an administrative penalty payment for the infringer. It is also within the Gambling Administration's discretion to forward an investigation to the police, who may then continue the procedure in the criminal process. For key offences, please refer to 3.5 Key Offences.

11.2 Sanctions

In general, the enforcement appetite of the Finnish authorities may be described as moderate. However, since the Gambling Law reform of 2022 (please refer to 1.1 Current Outlook and Recent Changes) introduced new tools and

increased supervision resources, the authorities have been increasingly active in enforcement.

Relevant authorities impose gambling-related fines/penalties in accordance with their powers and forward the fines/penalties to the Legal Register Centre, which is responsible for collection in accordance with Finnish law. Regarding PSP-blocking, the Gambling Administration of the National Police Board is responsible for maintaining and updating a list of gambling operators. Banks, virtual currency providers, and other payment service providers are obliged to block gambling-related money transfers from mainland Finland in compliance with these regulations.

11.3 Financial Penalties

Conditional Fines

Conditional fines have no maximum or minimum limits. When determining the amount of a conditional fine, the authorities must take into account the circumstances related to the case, such as:

- the nature and scope of the main obligation;
- the financial capability of the obligated party; and
- other factors relevant to the matter.

Conditional fines in gambling-related cases have ranged between EUR10,000 and EUR2.4 million.

Administrative Penalties

The amount of administrative penalties is based on an overall assessment, and is determined taking into account:

- the nature, extent, seriousness and duration of the violation;
- the benefits of the violation;
- actions taken by the perpetrator to mitigate or repair the damage; and
- any previous violations of the perpetrator.

For private individuals, the penalty shall not exceed 4% of the person's taxable income in the year preceding the end of the violation; while for legal entities, the penalty shall not exceed 4% of their turnover.

The minimum penalty is EUR500 for private individuals and EUR10,000 for legal entities; and the maximum penalties are EUR40,000 and EUR5 million, respectively.

Personal Sanctions

Gambling-related administrative penalties are applicable against private individuals; please refer to **11.3 Financial Penalties**. Additionally, criminal charges are possible; please refer to **3.5 Key Offences**.

11.4 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The draft Gambling Act introduces changes to the existing sanctions regime. Consequently, further changes are anticipated once the law is enacted by Parliament and comes into force.

12. Tax

12.1 Tax Rate by Sector

Tax Rate for Gambling Games

The tax rate applicable for games arranged under exclusive rights, including all gambling games, was temporarily decreased for the period of 2021–2023 during the COVID-19 pandemic. In 2023, the tax rate is 5% of the gross gaming revenue, and from 2024 onwards will return to 12%.

Tax Rates for Games With Non-Money Prizes

The relevant tax rates are as follows:

- for non-money lotteries, guessing competitions, and operating non-money prize machines from the profits – 1.5%;
- for bingo games – 5% of the total value of distributed prizes; and
- for lotteries that do not require a permit – 30% of the total value of distributed prizes.

12.2 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The draft Gambling Act suggests a tax rate of 22 percent on gross gaming revenue (GGR).

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Finland currently operates a gambling monopoly under which the state-owned operator, Veikkaus, holds exclusive rights to organise and market gambling activities. There is no licensing system in place that would introduce personal licenses.

13.2 Application Process

There is no licensing system in place that would introduce personal licenses.

13.3 Ongoing Annual Fees

There is no licensing system in place that would introduce personal licenses.

13.4 Ongoing Requirements

There is no licensing system in place that would introduce personal licenses.

13.5 Personal Sanctions

There is no licensing system in place that would introduce personal licenses.

13.6 Recent or Forthcoming Changes

On 1 November 2024, Finland submitted its new draft Gambling Act to the European Commission. The draft Gambling Act does not introduce a personal licensing system.

GERMANY



Law and Practice

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Melchers has been advising companies on the law and legal matters in the gaming and betting industry for over 30 years, and today has offices in Heidelberg, Mannheim, Frankfurt am Main and Berlin. The gaming and betting law practice group consists of specialised regulatory and commercial lawyers. As a full-service law firm, Melchers' advice in gambling-related matters also includes all corresponding areas of

law, such as competition, company and administrative law. The firm advises national and international clients, has developed an excellent global network, and pays attention to elaborate communication with regulators, which in many cases may be helpful in avoiding litigation. Melchers also has considerable experience in lobbying.

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LAW FIRM

1. Introduction

1.1 Current Outlook and Recent Changes

On 1 July 2021, the new Interstate Treaty on Gambling 2021 (the “Interstate Treaty”) came into force in Germany and introduced the possibility of new licences for the online gambling market. Prior to the introduction of the treaty, the heads of all German federal states had decided upon a transitional regime in order to assess market behaviour, but also to allow operators to enter the white market on a tolerance basis. However, this toleration regime has since come to an end.

The joint gambling supervisory authority of the German federal states (*Gemeinsame Glücksspielbehörde der Länder* GGL) publishes a white list on its website, which is continuously updated. Only gambling operators listed on this white list are considered legal. A prerequisite for inclusion in the white list is the granting of a gambling licence by the German regulator. Since 1 January 2023, the GGL has taken over from the Regional Council of Darmstadt and the Administration Office in Saxony-Anhalt.

The Expansion of Licensable Forms of Gambling

While sports betting continues to be licensable, operators can now, for the first time, apply for licences to organise virtual slot-machine games and online poker in addition to organising and brokering sports betting. This marks a significant transition from the previous treaty-based regulatory regime (which postulated a total ban on these games of chance) to the expansion of forms of gambling that can be licensed, especially on the internet. While online-casino gaming licences are subject to numerical limitations, at least sports betting licences, virtual slot gaming licences and online poker licences have no such limitations. The regulator is obviously trying to control the black-market supply in this way. According to the current white list (as of October 2024), 30 licences to operate sports betting, 39 licences to operate virtual slot machines and five licences for online poker have already been granted to (private) operators. Since September 2024, five operators are licensed to offer online casino games (covering bank holder games, eg, Roulette, Black Jack, live games) on the internet for customers in Schleswig-Holstein only. These licences were granted by way of public tender.

Challenges

With the above-mentioned as the main basis, operators face numerous challenges throughout their licensing procedures and thereafter. These range from practical issues concerning the various measures intended to protect players (deposit limits and their regulatory enforcement, security deposits and overall technical implementation of minor legal requirements, to name a few) to an opaque network of competencies and a new and unfavourable taxation law. Above all, several legal questions with regard to data protection law and overall compatibility with European law remain a structural predicament of the Interstate Treaty. Moreover, the Interstate Treaty contains numerous new rules that are open to interpretation – eg, the permissible range of sports bets or advertising restrictions.

Advertising Law

Further regulatory changes have occurred in the field of advertising law, as each operator licence includes extensive ancillary provisions regarding permissible realms of advertising. Due to numerous open questions in connection with the unclear ancillary provisions of advertising, legal uncertainties can also be expected in the coming months or years. The ancillary provisions under advertising law are therefore also the subject of numerous pending court cases in Germany, of which some have progressed during 2024 to second instances before the competent courts in Germany.

Recent Changes

The most significant change to the gambling market is the new Interstate Treaty and the simultaneously ratified new taxation law, which flanks the operation of all permissible games of chance by a 5.3% tax on players' stakes. As of 1 July 2021, the tax obligation applies to all gambling operators, regardless of their registered

office, as soon as the gambling offer can be accessed within Germany. The tax obligations generally must be observed by any operator irrespective of whether they hold a licence. The new tax rate will result in burdening the player with the tax rate or a reduction of gross gaming revenue (GGR). Not only were new licensable games of chance introduced, but so was a new regulator, the GGL, seated in Saxony-Anhalt, which is responsible for permitting and supervising all games of chance in Germany that are operated online. As of 1 January 2023, the GGL is responsible nationwide for the licensing and supervision of:

- online poker;
- virtual slot machine games;
- horse betting on the internet;
- sports betting;
- nationwide social lotteries;
- commercial gambling brokerage in several states; and
- the class lotteries.

Social Gaming

German gambling regulation does not regulate social gaming, as social games are usually designed to fall outside the definition of a game of chance.

Esports

Esports is a growth sector and betting on esports is becoming increasingly popular. It is currently unclear whether esports will be recognised as a sport, making the regulatory situation complex. However, an increasing number of voices in the scientific sports and legal community see esports as a sport; and it seems possible that in the coming years regulators will be more open to recognising esports as a sport. Betting on virtual sports is prohibited.

Fantasy Sports

Depending on how a fantasy sports offering is designed, it may fall outside the scope of German gambling regulation. A key criterion will be whether the payments made qualify as a stake given in exchange for a chance to win. In the case of a football manager game that spans an entire football season, the Federal Administrative Court did not assume it was a game of chance.

Skill Gaming

A game will be considered a game of skill if the likelihood of winning predominantly depends on skill rather than chance. If this can be established, the game will not fall within the definition of a game of chance and, as a result, will not be subject to gambling regulation.

Blockchain or Cryptocurrency

Blockchain technology has so far only played a role in the cryptocurrency context with regard to gambling in Germany. As German regulators have traditionally taken a critical stance on cryptocurrencies, they are not expected to be relevant in the near future in the regulated gambling sector.

2. Jurisdictional Overview

2.1 Online

Betting

Under the Interstate Treaty, online sports and horse race betting are licensable. All other forms of online betting are considered to be games of chance that are still not licensable. If offered online, such activities would be considered unauthorised gambling by the Interstate Treaty. Betting on social or political events (eg, who will be the next German chancellor) is prohibited. At the time of writing, 30 sports betting licences have been issued.

Bingo

Bingo is considered to be a lottery product. Lotteries in general remain subject to a state monopoly.

Online Casino, Virtual Slots and Online Poker

Since 1 July 2021, operators may apply for licences for virtual slot games as well as for online poker. At the time of writing, the GGL has issued 39 licences to slots operators and five licences for online poker. A very recent development is that four casino operators have been licensed to operate casino games in the territory of Schleswig-Holstein.

Special requirements also apply to virtual slot games, for example:

- a stake limit of EUR1 per game;
- a minimum duration of five seconds per spin;
- the prohibition of simultaneous playing of several virtual slot games on one domain; and
- the prohibition of an auto-play function.

In terms of marketing/branding, in connection with the operation of slot machines, operators may no longer use the term “casino” or “casino games”. Due to a high tax on stakes, low return to player (RTP) is to be expected.

Online poker (now being permissible) will also be restricted – eg, players may not play at more than four tables at the same time. The licence will contain further restrictions in its ancillary provisions. Video poker is prohibited. Online poker is only allowed in variants without a banker, where different natural persons play against each other at a virtual table. The player is also not allowed to choose a particular table; the allocation must be random.

Under the Interstate Treaty, the federal states may decide to run online casino games as a state monopoly, in collaboration with private operators, or to grant licences to private operators. Online casino games as defined by regulation are bank-holder games such as roulette and blackjack. These licences also cover the live broadcasting of table games. The number of licences will be strictly limited and must not exceed the number of licences of brick-and-mortar casinos in the respective state. Each federal state may decide individually, and the licence will be valid only within that state. States may join their territories for licensing purposes.

The first federal states have drafted legislation. Only North Rhine-Westphalia and Schleswig-Holstein decided to issue online casino game licences to private operators. Schleswig-Holstein has already carried out its tender, which was concluded in September 2024, where it issued four licences to private operators, allowing them to operate casino games for customers based in Schleswig-Holstein only. North Rhine-Westphalia is still preparing its tender. On the other hand, Thuringia is one of the first federal states to rely on a state monopoly, similarly to Bavaria. The latter is the first state that started to go live with online-casino offerings in 2024.

Lotteries

Lotteries are subject to a state monopoly. Private operators may only obtain licences allowing them to sell lottery tickets on behalf of the state lottery companies. Secondary lotteries are considered as unauthorised betting and, therefore, are a priority for regulatory enforcement.

Fantasy Sports

There are no specific rules under gambling law with respect to fantasy sports. Whether a fantasy sports offering qualifies as a game of chance

or falls outside the scope of German gambling regulations needs to be assessed on a case-by-case basis.

Social Gaming

Whether a social gaming offering qualifies as a game of chance or falls outside the scope of German gambling regulations also needs to be assessed on a case-by-case basis.

2.2 Land-Based Betting

Land-based sports betting is permitted at various points of sale operated by the state lottery companies as well as in betting shops operated by licensed private operators. As the licensing procedure for sports betting was carried out unlawfully in 2012, operators were left without licences at first. Now that the sports betting licensing process has continued and the first licences have been granted, betting operators are expected to implement further requirements to their retail business.

Under the Interstate Treaty, betting shops must be separated legally, economically and organisationally from the organisation of sporting events or the sporting event itself. Terrestrial betting shops are restricted to offering and distributing only a single betting operator's bets. Apart from the nationwide regulations based on the Interstate Treaty, further legal cornerstones will have to be set out by the federal states.

Poker

Poker is generally considered to be a game of chance and, as such, is defined as a licensable product in most state casino acts and ordinances. It forms an integral part of land-based casino offerings. Under exceptional circumstances and only when adhering to strict requirements,

cash poker tournaments may be offered outside licensed casinos.

Bingo

Bingo is classified as a form of lottery, and the regulations on lotteries apply accordingly.

Casino

Land-based casino regulation is a matter of state law and, accordingly, regulatory requirements and licensing differ from state to state. It will depend on the state in question as to whether licences are only available for state-owned companies or for private operators as well.

Slot Machines

Slot machines outside casinos are restricted at federal level under the Trade Regulation Act and the Gaming Ordinance. In addition, the Interstate Treaty and the gaming acts/transposition acts of each state include further restrictions. These concern slot machines that may be set up in restaurants and bars, but also those set up in gaming halls. The relevant laws restrict the maximum spin amount and maximum winnings, and they define the minimum spin duration as well as the maximum number of machines that may be set up in any one gaming hall.

Lotteries

Lotteries are subject to a state monopoly. However, sales of state lottery products may be licensed to private companies.

3. Legislative Framework

3.1 Key Legislation

The Interstate Treaty is the main legal framework for online and land-based gambling in Germany.

Beyond the Interstate Treaty and the gambling acts transposing it into state law, the casino acts and casino ordinances of each German state constitute the main gambling legislation. These, however, only affect brick-and-mortar casinos.

At federal level, retail slot-machine gambling is regulated under the Trade Regulation Act and the Gaming Ordinance. Horse-race betting at racetracks is also regulated at federal level. The relevant law is the Race Betting and Lottery Act of 2021 (*Rennwett- und Lotteriegesetz*), which is also relevant from a tax perspective as it includes the tax base for a variety of gambling taxes, such as the lottery, sports betting, online poker and virtual slot games tax.

Other federal laws impacting on gambling are:

- the German Criminal Code;
- the Anti-Money Laundering Act;
- the Act Against Unfair Competition;
- youth protection laws; and
- regulations on advertising, including sweepstakes.

Online casino acts in each federal state are expected in the near future.

3.2 Definition of Gambling

As per the legal definition, a “game of chance” consists of three elements that have to be met collectively in order for an activity to be subject to German gambling regulations:

- a valuable consideration;
- the valuable consideration is given in exchange for a chance to win; and
- determination of winnings is entirely or predominantly a matter of chance.

A game of chance is defined in Section 3 of the Interstate Treaty.

3.3 Definition of Land-Based Gambling

The Interstate Treaty does not include an express definition of land-based gambling. It merely defines what constitutes a game of chance. In general, any game of chance offered in land-based premises and not remotely may be considered land-based gambling.

3.4 Definition of Online Gambling

The Interstate Treaty only defines what constitutes a game of chance. Online gambling must be assumed whenever games of chance are offered via the internet or by any means of remote communication within the meaning of Section 312c (2) of the German Civil Code. This includes games offered via mobile devices.

3.5 Key Offences

What constitutes a “key” offence depends on the gambling sector and how this sector is specifically regulated. For licensed operations, key offences will mainly be licence violations. Operations that are affected by the Interstate Treaty’s total ban on unauthorised – ie, not licensed – gambling, or product or marketing restrictions may be confronted with other allegations; particularly, alleged unlawful operations and/or advertising. Enforcement in this context will mostly be under administrative law based on the practice applied by the German authorities. There are provisions in the law, however, that would theoretically allow enforcement under administrative offence law or criminal law.

The public organisation of “unauthorised” gambling may incur criminal liability. Enforcement has mainly focused on regulatory measures. Criminal proceedings against operators have only become publicly known in a few high-

profile cases. These are usually aimed at major operators, and it is reasonable to assume that the public authorities use such cases to deter unregulated operators. However, there is also a clear tendency for public authorities to significantly increase the number of enforcement measures, including those against payment service providers.

3.6 Penalties for Unlawful Gambling

The Interstate Treaty provides for penalties of up to EUR500,000 per issue or for retaining the profits gained as a result of the violation. The latter is usually calculated by means of a gross evaluation and will not consider any expenses or costs.

Penalties that are not set in the Interstate Treaty vary between the states as they are defined in state legislation. In administrative proceedings, interdiction letters will be issued on pain of fine in the range of approximately EUR10,000 to EUR50,000 per infringement, depending on the relevant state law. Penalties under an administrative offence law would be higher (up to EUR500,000/proceeds of the crime), but again depend on state law. The sanctions set out under criminal law range from monetary fines to imprisonment for up to five years (Section 284 (1), (2) of the German Criminal Code).

3.7 Recent or Forthcoming Legislative Changes

Germany underwent one of the biggest legislative changes in 2021, when the Interstate Treaty came into force. The new regulatory framework:

- brought new forms of games of chances to the white market;
- introduced a new and comprehensive regulator, the GGL; and

- established various monitoring systems to ensure safer gambling and player protection.

In order to assess whether the provisions of the Interstate Treaty may be changed in the near future, one must make a distinction between regulations in the Interstate Treaty that do not grant the GGL any room for interpretation or discretion and those that do contain room for discretion.

The latter (namely, those that grant the regulator room for discretion) can be re-evaluated on an ongoing basis and adjusted in a practice-oriented and purposeful manner. Other regulations, which do not provide for any discretion on the part of the authority in their application and interpretation, are subject to a pending process of an initial reassessment and will be evaluated in detail at the end of 2026. This is based on Section 32 of the Interstate Treaty.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The New Regulator in Saxony-Anhalt

The Prime Ministers had decided that the federal states would delegate their responsibilities to the GGL, which has been exclusively responsible for the supervision and licensing of gambling on the internet since the beginning of 2023. The authority is located in the federal state of Saxony-Anhalt. Until the end of 2022, the State Administration Office of Saxony-Anhalt was responsible for new online poker and virtual slot game licences.

Other State Regulators

Certain states have assumed the role of a centrally responsible regulator for clearly defined areas of the law.

Since the states are primarily responsible for regulating retail gambling or such offerings that do not cross state borders, the majority of licensing, supervisory and enforcement powers are vested in regulatory authorities at state level. Most key responsibilities are assigned to the Ministries or Senates of the Interior, which may employ lower authorities to act on their behalf. Those responsibilities comprise the licensing and supervision of land-based casinos, and co-ordinating enforcement actions against suspected unlawful gambling operators.

4.2 Regulatory Approach

The regulatory approach in Germany aims to:

- prevent gambling addiction;
- ensure the protection of minors and players;
- ensure fairness;
- channel players towards licensed offerings, to combat the black market and crimes related to gambling; and
- ensure the integrity of sport.

The means envisaged by the Interstate Treaty for achieving these objectives are as follows.

- A state monopoly on lotteries.
- Licensing opportunities in selected areas such as sports betting, online poker and virtual slot games.
- Player protection measures, including:
 - (a) the range of permissible sports bets;
 - (b) the deposit limit database and activity database (LUGAS);
 - (c) an exclusion database (OASIS); and

- (d) deposit limits in online poker, sports betting and virtual slot games.

4.3 Recent or Forthcoming Changes

Germany saw one of its biggest legislative changes in 2021, when the Interstate Treaty came into force. With this regulatory update, new forms of games of chance were introduced to the legalised market. In addition to sports betting, which had been permissible prior to 2021, online poker, virtual slot machine games and online casino games (ie, bank-holder games) all became permissible. Application procedures have largely been completed, but new licence applications are still being submitted.

The GGL was instated and established in 2021, but only took up its responsibilities in 2022, taking over the enforcement against illegal gambling on July 1st. All other areas, in particular licensing supervision, regulation, research and evaluation, have been completely and solely administered by this regulatory authority since January 2023. Prior to this date, competencies were split, which meant that several bodies had to manage similar fields of regulation. During 2023 and 2024, the regulator decided to grant licensed operators the opportunity to increase obligatory deposit limits from EUR1,000 per customer per month to up to EUR30,000. However, the increases are only allowed in limited, tightly restricted cases.

4.4 Types of Licences

Licences are only available for certain products, such as sports betting, online poker and virtual slot games; other licences, including the licence to operate lotteries, may not be issued to private operators. Unless a licence is issued by a centrally responsible regulator, licences will be issued on a state-by-state basis and will only take effect in the state or in relation to the prem-

ises for which they are issued. German licences will always be issued to B2C companies. There is no B2B licensing system.

4.5 Availability of Licences

The following licences are available for private operators:

- online/land-based sports betting;
- online poker;
- virtual slot games;
- land-based casino gaming, including retail poker (but only in certain states);
- land-based and online horse-race betting bookmaker licences/licences pursuant to Section 27 (2) of the Interstate Treaty;
- land-based slot-machine gaming in gaming halls or restaurants and bars;
- land-based and online brokerage of state lottery products; and
- small-scale/charitable lotteries (traditional lotteries are subject to a state monopoly).

4.6 Duration of Licences

The duration of available licences varies depending on the product in question and the licence conditions, which are often determined by state laws.

Under the Interstate Treaty

Sports betting licences that were issued under the former Interstate Treaty had a licence term until 30 June 2021. The Interstate Treaty stipulated that these licences were further extended by virtue of the law until 31 December 2022. Almost all licences were renewed before they expired. The new licence period is basically five years. Sports betting, online poker and virtual slot games licences, granted since the Interstate Treaty came into being, have a duration of five years. Licence renewals have a term of seven years.

Land-Based Casino Licences

In the land-based casino sector, the average licence term is ten to 15 years. Often, there will be an option to extend licences for another five years.

4.7 Application Requirements

An overarching requirement is that the applicant entity and its representatives are “reliable”, meaning that they are expected to demonstrate that they are capable of operating a licensed business in compliance with the regulations. Certain documentation – eg, criminal records, certificates of good conduct, confirmations regarding tax compliance and other commercial records – will need to be provided for that purpose. This includes excerpts from corporate registers and disclosing relevant shareholders. Disclosure thresholds, however, are not always clearly defined and vary depending on the specific licensing process. Furthermore, certain key staff will need to prove their expertise in the respective field by submitting CVs, certificates and other qualifications.

Another common aspect in all German licence application procedures is that operators will be asked to submit so-called concepts, which are essentially company policies describing how the applicant intends to conduct its future business under the licence. Key policies include:

- details on how to ensure responsible gambling and IT security;
- a business and marketing plan;
- a payment-processing concept; and
- an anti-money-laundering concept.

4.8 Application Timing

The application timing varies depending on the licensing process in question, the number of staff available to review applications and other

factors. The issuance of licences will, for example, be delayed or even prevented if the licensing process is not designed and conducted in a lawful manner. This occurred in relation to the sports betting licensing process that was initiated under the Interstate Treaty in 2012. Under the former Interstate Treaty, the granting of licences was again delayed, as it was suspended by court order.

Based on experience, land-based casino application proceedings tend to take between six and 18 months. The duration of the licensing process for gaming halls/amusement arcades is generally a matter of weeks or a few months. The issuance of sports betting licences under the former Interstate Treaty took about six to nine months. Even under the regime of the new Interstate Treaty, the licensing process usually takes several months.

4.9 Application Fees

Application, or rather licensing, fees vary depending on the licensing process in question, but will usually depend on projected turnover. In addition, certain state laws on fee calculations can apply.

4.10 Ongoing Annual Fees

Ongoing annual fees vary depending on the licence in question, as well as on the state laws on the calculation of administrative fees applicable in the state issuing the licence. There will usually be different types of administrative actions that take into account the time spent on the part of the authority undertaking the supervision.

5. Land-Based Gambling

5.1 Premises Licensing

Land-based gambling includes:

- slot machines in gaming halls, bars and restaurants;
- gambling in land-based casinos;
- horse-race betting at racecourses;
- sports betting in local premises; and
- lottery brokers.

Requirements for retail outlets for lottery brokers are regulated by the local gambling acts of each German state.

For gaming halls, certain minimum distance requirements apply, which are specified in state legislation. They vary from 250 to 500 metres between licensed premises. In some German states, gaming halls must further respect a minimum distance from schools, other child and youth institutions and/or addiction centres. The number of slot machines allowed per premises is also regulated and depends on the type of premises (gaming hall, restaurant or bar) and, in relation to gaming halls, the size of the premises. In general, a maximum of 12 slot machines per gaming hall licence is permissible, as is a maximum of two slot machines in restaurants or bars.

5.2 Recent or Forthcoming Changes

Since gaming hall regulation became part of the gambling regulation under the Interstate Treaty in 2012, the legal situation for operators of gaming halls has become considerably stricter over recent years. Gaming halls used to be regulated only at local level applying federal trade laws; specifically, the Trade Regulation Act. While the Trade Regulation Act provided for licences, these were not gambling licences.

Operators of gaming halls now require a gambling licence to conduct their business. Such gambling licences may only be issued if the gaming hall meets the criteria set out in the law. In particular, the gaming hall must not violate the applicable minimum distance requirements. Due to the number of existing gaming halls in Germany, this is a problem for both newcomers and existing gaming hall operators. This led to a wave of litigation to prevent regulators from closing established premises that could not meet those distance requirements. In some cases, lawsuits are still pending.

In a land-based sports betting context, similar problems as in the gaming hall sector are expected to arise because multiple state laws stipulate minimum distance requirements and/or limit the number of available betting shops. Litigation against disproportionate restrictions must therefore be expected.

6. Online Gambling

6.1 B2C Licences

Under the regulatory framework of the Interstate Treaty, B2C licences are only available for:

- online sports betting;
- horse-race betting;
- online poker;
- virtual slot games; and
- distribution of state lottery products.

Online casino games licences may become available on a state-by-state basis.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B licences do not exist in Germany. Relevant B2B partners will merely need to be included in the B2C operators' applications.

6.3 Affiliates

Generally, there is a far-reaching liability for operators that employ affiliates. Therefore, a gambling operator will want to make sure that its affiliates respect relevant marketing requirements for gambling operators to avoid being held accountable for any infringements. Those could, in particular, trigger interdiction letters and claims under competition law.

In the Interstate Treaty, no "variable remuneration" may be paid for advertising on the internet. This includes affiliated links. In particular, revenue, deposit or stakes-based remuneration is prohibited. Regulators aim to prevent risks from players placing the highest possible stakes or making the highest possible deposits and suffering large losses.

Remuneration models therefore remain permissible in which the advertiser receives from the operator a previously agreed fixed amount per customer, to whom an advertisement is displayed and who clicks on the advertisement.

6.4 White Labels

German gambling laws do not include specific provisions on white-label constellations. The entity entering into contracts with players is usually considered to be the operator. Licence holders must specify the domains on which players may play, and these domains become part of the licence.

6.5 Technical Measures

New databases were introduced with the Interstate Treaty 2021. While the barring database remains to filter blocked players, a new limit database has been introduced. Across online gambling operators, the limit database ensures that players do not deposit more than EUR1,000 per month. Certain players may be eligible for a higher deposit limit of up to EUR30,000 monthly across all sectors of gaming. Initial approvals for an increased deposit limit have already been approved for sports betting, online poker and virtual slot games. Approval for the increases in the deposit limit will expire on 31 December 2024. At the time the editorial deadline was reached, the form in which they would be replaced was still unknown.

The new activity database will prevent simultaneous play on several domains or websites. Therefore, a check with the activity database is concluded once a player wishes to participate in any game of chance. Additionally, the database OASIS, by which the regulator intends to supervise the exclusion of players due to unsafe or worrying gambling behaviour, concludes the list of the three nationwide server files in Germany. An integration with all three databases is obligatory for any operator wishing to obtain a licence, irrespective of the specific game of chance to be offered.

Furthermore, blocking of websites has been introduced under the Interstate Treaty. So far, this measure has not been applied, as its admissibility in its current form has been challenged by the courts. The authority may also enforce action against payment service providers that process payments for gambling operators which act unlawfully – ie, without a licence.

6.6 Recent or Forthcoming Changes

The most recent development is the introduction of the new Interstate Treaty. As mentioned before, the authorities and operators had to adjust to the new rules, including to their interpretation. Even after the GGL has taken full responsibility, there is still much to be developed as the authority implements the requirements of the new Interstate Treaty.

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

7.1 RG Requirements

Protection of Minors and Players

Land-based and online operators are required to ensure the protection of minors and players by suitable responsible gambling measures. In a licensing environment, these measures have to be documented by way of responsible gambling policies and guidelines, also referred to as a “social concept”. First and foremost, this means blocking access for minors by age verification procedures, and for players who have opted to exclude themselves or have been excluded from gambling, particularly due to problematic gambling behaviour, by checking them against OASIS. They must also not be targeted by advertising.

Staff Training

In addition, operators will need to train their staff to be able to detect early signs of problematic gambling behaviour and apply the appropriate responsible gaming measures. Such measures can include:

- speaking to the customer;
- suggesting that breaks be taken; and

- if necessary, offering advice on where to find help.

In an online context for example, it is necessary to offer:

- the possibility for the player to set stake, deposit or loss limits, or to exclude themselves; and
- to offer information on the risk of addiction.

Operators are required to use technical measures to detect potential addicts early.

Additionally, operators have to provide information about responsible gambling. Among other resources, operators must include:

- general and specific information on the addiction risk associated with the offering;
- an overview of the available responsible gaming measures; and
- contact details for institutions that provide help.

Further measures include gaming breaks every hour and, for virtual slot games, for five minutes every hour. The activity database must prevent players from using several online gambling sites simultaneously. Advertising must be tailored to the specific risks attached to the games of chance and must also avoid any deliberate addressing of minors or players at risk.

7.2 Gambling Management Tools

One of the key gambling management tools is to verify the player's identity prior to allowing access to the gambling offering. In an online context, the Interstate Treaty defines a EUR1,000 monthly deposit limit per player and sets out that players must be given the opportunity to define daily, weekly and monthly stakes, deposits or

loss limits at registration. It must also be possible for them to change the limits they have set. However, if a player opts to increase a limit, operators have to ensure that the increase only takes effect after a period of seven days. Reductions of limits take effect immediately.

In addition, players must be offered sufficient self-exclusion tools and, in relation to some products, operators are expected to check the central player barring database (OASIS) for excluded players before allowing a player to register or log in. The same applies to the limit and activity database.

On top of that, operators are obliged to limit sessions to an hour; after which, so-called reality checks have to be performed. These are intended to notify the player of the time already spent gambling and the risks that align with any form of game of chance.

7.3 Recent or Forthcoming Changes

Germany's new regulatory framework, namely the Interstate Treaty on gambling, introduced several changes that were intended to extend the level of player protection. Those provisions include:

- specific in-game restrictions;
- setting limitations on deposits and stakes;
- session time limits; and
- obligatory information to be put on websites, during advertising and within session breaks.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The most relevant AML legislation in Germany is the Anti-Money Laundering Act (the "AML Act"), which implemented the Fifth Anti-Money Laundering

Directive. Its newest amendment came into force in January 2021. It follows a risk-based approach and requires gambling operators that are affected by the scope of the AML Act to undertake a risk analysis of their business and to implement appropriate measures to prevent money laundering and the financing of terrorism. Only certain gambling sectors are excluded from AML obligations, as follows:

- operators of gaming machines, including gaming halls;
- race clubs that carry on the business of a totalisator;
- land-based lotteries; and
- charitable lotteries.

8.2 AML Requirements

In order to prevent money laundering and terrorist financing, obliged entities must have an efficient risk management system in place, which must be proportionate to the nature and size of the business. It must include a risk analysis – ie, an identification and assessment of the money-laundering risks of the business, considering the risk factors that have been identified in the law/the national risk analysis – and adequate customer and transaction-related internal safeguards need to be implemented to manage and mitigate the risks of money laundering and terrorist financing by means of policies, procedures and controls.

Measures include:

- the implementation of compliant customer due diligence (know your customer – KYC) procedures;
- the appointment of an AML officer and deputy AML officer;
- vetting and training of staff;
- monitoring, record-keeping and reporting;

- internal revision and audits; and
- compliance with the special provisions for online gambling (namely, regarding player accounts and payments).

Drafting an AML concept that describes in detail how the internal safeguards are implemented in practice and why the implemented measures are adequate is certainly useful in this respect. Measures are deemed adequate if they are proportionate to the risk exposure of the respective obliged entity and sufficiently cover such risks. The risk analysis has to be regularly reviewed and updated (at least once a year) and the efficiency of the internal safeguards has to be monitored and updated as and when required.

A member of the management (who may not at the same time act as the AML officer) must be appointed as the person responsible for the overall risk management system. The risk analysis and internal safeguards will be subject to that member's approval.

Transparency of payments is also a key requirement that needs to be observed; particularly, operators are obliged to ensure that the identity of the player account holder aligns with the identity of the payment account holder.

8.3 Recent or Forthcoming Changes

Although the Interstate Treaty foresees enhanced monitoring and due diligence obligations, the AML Act remains applicable nonetheless. This affects not only the registration process for players to some extent, but also the range of permissible payment service providers.

In August 2022, the German Minister of Finance Christian Lindner announced that he intends to counteract non-transparent financings and money laundering through the establishment

of a Federal Financial Criminal Police Office, in which competencies are to be bundled in order to recognise complex cases of (international) money laundering in the future and to combat them sustainably.

9. Advertising

9.1 Regulatory/Supervisory Agency

Under the Interstate Treaty, advertising permits are no longer required. While the Interstate Treaty sets the framework for advertising, additional conditions are set within the licence.

9.2 Definition of Advertising

German law applies a very broad interpretation of what constitutes advertising. Article 2 litera a of Directive 2006/114/EC provides a helpful definition: "Advertising is the making of a representation in any form in connection with a trade, business, craft or profession in order to promote the supply of goods or services, including immovable property, rights and obligations."

9.3 Key Legal, Regulatory and Licensing Provisions

Key legal, regulatory and licensing provisions include:

- the provisions of the Interstate Treaty;
- the licensing conditions;
- the Act Against Unfair Competition;
- the Law for the Protection of Children and the Youth;
- the Interstate Treaty on the Protection of Children and Minors in the Media; and
- the Interstate Treaty on Broadcasting.

Other laws and guidance may apply depending on the product in question.

9.4 Restrictions on Advertising

As a general principle, only licensed operators may advertise and only licensed products may be advertised. The Interstate Treaty, however, defines additional restrictions with regard to TV and online advertising applicable to:

- licensed sports betting;
- horse-race betting;
- online poker;
- virtual slot games;
- online casino games; and
- lottery advertising.

Licensed Gambling

According to the Interstate Treaty, advertising and sponsorship for licensed gambling operators in Germany will be permitted in general, whereby individual special features of the game of chance may also be highlighted, such as in the case of lotteries, the size of the jackpot or the use of the proceeds for good causes. However, on the internet and on radio and television, gambling advertising for virtual slot games, online poker and online casino games is only permitted between 9pm and 6am. Additionally, virtual slot-machine games must not be described as “casino games”.

Sports Betting

This “watershed” does not concern advertising for sports betting, but it is worth noting that immediately before or during the live broadcast of sporting events, advertising for sports betting on that sporting event is not permitted on the broadcast channel.

Sponsorship

Section 5 (3) 3 of the Interstate Treaty is important for companies engaged in sponsorship, since according to this, advertising for sports betting with active athletes or sports officials is

not permitted. This applies, in particular, to the popular kind of advertising with brand ambassadors. Perimeter advertising and jersey advertising would still be allowed in sports arenas and stadiums. However, the advertising of games of chance in sports facilities (on jerseys and boards, as well as similar advertising material) will only be permitted in the form of family brand advertising (umbrella advertising). Advertising of unauthorised gambling remains prohibited (Section 5 (7) of the Interstate Treaty).

Advertising Standards

Certain advertising standards apply, such as the prohibition of misleading, excessive or native advertising.

Remuneration

Finally, affiliates may only receive fixed – and not variable – remuneration for advertising.

9.5 Sanctions/Penalties

Sanctions and penalties for infringing advertising regulations vary depending on the type of violation, its gravity and the overall situation affecting the gambling offering that is being advertised. Advertising-related enforcement by German authorities overall, however, has been limited in the past, but is expected to pick up. Competitors, especially the state-owned lottery companies, may seek to challenge certain advertising by filing cease-and-desist orders with German civil law courts.

9.6 Recent or Forthcoming Changes

Until 2021, private operators were only allowed to advertise for their licensed products when they had obtained a necessary advertising licence. This was issued by a separate regulator only competent for issuing such advertising licences. Permissible advertising was regulated by the Interstate Treaty from 2020 and by further

advertising guidelines. Since the new Interstate Treaty came into force in mid-2021, those guidelines have become obsolete and all advertising measures are regulated by the sole regulator, the GGL. Operators must apply for an intended advertising concept, which is to be reviewed by the regulator. Permissible advertising is detailed and regulated within operator licences and secures a uniform and safe advertising landscape.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosure requirements for acquisition and change of control of gaming and gambling companies vary depending on the state and product in question. They tend to be rather vague and generally lack specification with regard to the exact percentages triggering notification and timings. More specific guidance is sometimes included in the relevant licences and some requirements can be derived from corporate law.

Licensed operators under the Interstate Treaty are subject to transparency rules. All partners of partnerships and all owners of at least 5% of share capital or voting rights of capital companies must be disclosed.

10.2 Change of Corporate Control Triggers

Provisions on corporate control triggers are usually very abstract, mostly lacking specification – eg, with regard to the exact percentages and timings. More specific guidance may sometimes be included in the relevant licences and some requirements can be derived from corporate law.

10.3 Passive Investor Requirements

Even indirect changes of corporate control (eg, passive investors) may require notification in certain situations, but these will depend on the relevant state provisions and product in question, which is why no general statements can be made and a case-by-case assessment is required.

10.4 Recent or Forthcoming Changes

There have been no recent changes in this area.

11. Enforcement

11.1 Powers

Gambling regulators are empowered under the administrative law or administrative offence law with respect to the territory of their state, unless they have been authorised to act on behalf of other German states as well. Criminal enforcement falls within the competency of the state prosecutors. Usually, the place where the alleged violation took place will determine which state prosecutor may assume responsibility. Enforcement in a gambling context has been focused on administrative enforcement in the past. In the meantime, however, a few criminal proceedings have been initiated against major operators and there seems to be a tendency on the part of the authorities to take a more rigorous approach towards unauthorised gambling. Enforcement was already transferred to the new GGL in July 2022.

11.2 Sanctions

Historically, enforcement has been focused on administrative law. In line with general principles under German administrative law, licensed and unlicensed operators will usually be approached first by the regulator by means of a hearing letter, to give them the chance to comment on the

allegations. If the alleged infringement cannot be rectified or the authority continues to believe that there is a violation, the regulator will issue an order interdicting the alleged infringement. This interdiction letter will usually threaten a fine, but regulators tend to actually impose fines at a later stage. In most cases, fines are only imposed after the court proceedings – initiated by the operator to challenge the interdiction – have ended and the operator has lost.

Apart from this, criminal enforcement will generally focus on the respective persons representing the legal entity, who are equipped with the power of representation. Criminal enforcement measures range from monetary fines to imprisonment and, due to the European arrest warrant, these prospects appear to be possible and enforceable, even if the operators or their managing directors are not themselves domiciled in Germany.

11.3 Financial Penalties

Enforcement has become one of the pillars to help end the black market. Hence, aside from licensing, it is the biggest responsibility of the GGL. Up until 30 June 2022, its predecessor, the Federal Administrative Authority, had begun to take action against illegal operators and affiliates. The GGL has adopted this approach. The Interstate Treaty foresees using several measures to ensure effective enforcement against the black market – namely:

- payment blocking;
- IP blocking;
- cease-and-desist orders; and
- penalties of up to several thousand euros, as well as criminal prosecution.

11.4 Recent or Forthcoming Changes

Liability under the German Criminal Code (CC) still only pertains to individuals and not to legal entities. Organising or distributing unauthorised games of chance at a commercial level may be sanctioned with imprisonment from three months to five years as per Section 284 (1) CC. In addition, managing directors and authorised representatives are liable to prosecution for participating in the organisation of unlawful gambling. If it is solely a matter of unauthorised (gambling) advertising, this also constitutes a criminal offence, although it is not a felony but a misdemeanour, so that a prison sentence of up to one year or a fine may be imposed.

The unauthorised organisation and distribution of games of chance on the internet is prohibited. Under “market behaviour rules” in terms of Section 3a of the Unfair Competition Act – as confirmed by multiple German civil courts – competitors may attempt to file claims for cease-and-desist orders and damages with the civil law courts. In gambling-related cases, cease-and-desist orders are usually on pain of fine amounting to EUR250,000 per contravention or – where this amount cannot be enforced – imprisonment of the director(s) for up to six months or, alternatively, imprisonment of the director(s) for contempt of court for six months. If the civil court grants this order, the director(s) of the operator are held responsible for obeying the order.

12. Tax

12.1 Tax Rate by Sector

The types of taxes imposed on gambling operators are determined by the specific gambling product and the respective state legislation.

Land-based casino operators are exempted from corporate taxation, but are taxed on the basis of GGR or a combination of GGR and profit tax. Tax rates between 20% and 80% apply. The applicable tax rate depends on the relevant state provisions. In some states, additional levies or progressive tax rates that depend on the economic capability of the casino operator apply.

The legislature reacted late to the coming into force of the new Interstate Treaty by amending the gambling tax law, the Race Betting and Lottery Act of 2021.

A 5.3% tax on stakes in sports and horse-race betting, virtual slot games and online poker was implemented. The effective tax rate is 5.03% as the tax itself is excluded from the tax base.

Although concerns about the tax level were explicitly expressed in the legislative process, the tax rate on stakes in virtual slot games remained at 5.3% (effectively 5.03%), which will lead to a drastic reduction in RTP.

The gambling tax is self-declared each month. An operator's products subject to the Race Betting and Lottery Act are exempt from VAT.

Online gambling operators are not excluded from corporate taxation. Therefore, further profit taxes apply.

Betting shop taxes of up to 3% on stakes may be imposed on betting shop owners at local level by municipalities.

Retail slot-machine operators must pay municipal amusement tax in addition to regular corporate taxes. Amusement tax rates differ from municipality to municipality, but range between

12% and 20% and will usually be based on the GGR generated from the slot machines.

Lotteries are subject to 20% lottery tax.

12.2 Recent or Forthcoming Changes

For the foreseeable future, no changes in taxation are expected.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

In Germany, a personal licence is not required for board members and ultimate beneficial owners, nor for executives or key officials. Thus, the aspects relevant in this context in other jurisdictions can be left out here. However, in Germany, as part of the application process for an operator licence, proof is required that all individuals concerned are sufficiently qualified and reliable. If there is a change, this must be substantiated again for each successor.

13.2 Application Process

In Germany, a personal licence is not required for board members and ultimate beneficial owners, nor for executives or key officials. Thus, the aspects relevant in this context in other jurisdictions can be left out here. However, in Germany, as part of the application process for an operator licence, proof is required that all individuals concerned are sufficiently qualified and reliable. If there is a change, this must be substantiated again for each successor.

13.3 Ongoing Annual Fees

In Germany, a personal licence is not required for board members and ultimate beneficial owners, nor for executives or key officials. Thus, the

aspects relevant in this context in other jurisdictions can be left out here. However, in Germany, as part of the application process for an operator licence, proof is required that all individuals concerned are sufficiently qualified and reliable. If there is a change, this must be substantiated again for each successor.

13.4 Ongoing Requirements

In Germany, a personal licence is not required for board members and ultimate beneficial owners, nor for executives or key officials. Thus, the aspects relevant in this context in other jurisdictions can be left out here. However, in Germany, as part of the application process for an operator licence, proof is required that all individuals concerned are sufficiently qualified and reliable. If there is a change, this must be substantiated again for each successor.

13.5 Personal Sanctions

In Germany, a personal licence is not required for board members and ultimate beneficial owners, nor for executives or key officials. Thus, the aspects relevant in this context in other jurisdictions can be left out here. However, in Germany, as part of the application process for an operator licence, proof is required that all individuals concerned are sufficiently qualified and reliable. If there is a change, this must be substantiated again for each successor.

13.6 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes; reforms are scheduled for 2026.

GREECE

Law and Practice

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Kyriakides Georgopoulos Law Firm is a leading Greek multi-tier law firm and the largest in Greece, dating back to the 1930s. It has more than 120 highly skilled lawyers who are actively involved in the provision of legal services to high-profile Greek and international clients in complex and innovative cross-border deals. KG is one of the very few Greek law firms with extensive and longstanding experience in the provision of legal services to the gambling industry. It provides a full service to a number of gaming,

betting, and software operators, on regulatory, compliance, and corporate matters, and has advised many of the world's largest gambling operators, online casinos, software developers, and manufacturers of gambling equipment on marketing, licensing, and operational matters. It also acts for and represents clients in litigious and administrative disputes, and often assists leading international corporate law firms, providing specialist insight particularly in relation to M&A in the gaming industry.

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1. Introduction

1.1 Current Outlook and Recent Changes

The key legislation in Greece with respect to gambling has been amended by Law 4635/2019. This Law has introduced a series of innovations to the long-standing regulatory regime, but has also imposed new restrictions. With regard to online gaming, in particular, Greece has achieved remarkable progress in market regulation, reflected in a cohesive legal regime already in force and several provisions governing almost every aspect of the online gaming segment.

The implementation of a whole new legal and regulatory regime in the Greek gambling market within a quite strict timeframe was definitively a success story for the Greek Regulator (the Hellenic Gambling Commission – ‘HGC’), despite its non-deniable drawbacks and shortcomings.

To date, more than 18 B2C online gambling operators have been granted licences, while the B2B market is also booming, since more than 140 online content providers have also acquired the respective licences. Affiliate marketing has also been regulated for the first time and there are currently 141 affiliate companies which are legally operating in the Greek online market.

Lastly, with respect to land-based gambling, the industry is said to be going through a difficult period, especially after the COVID-19 period and the lock-down restrictions, which boosted the online market and have taken a toll on land-based casinos. The HGC in co-operation with the Greek government is considering reforms to boost the industry (see 3.7 **Recent or Forthcoming Legislative Changes**).

2. Jurisdictional Overview

2.1 Online

The applicable legal framework provide for two different types of licences:

- The first type of licence is granted for online betting games, including fantasy sports, whereas the second type of licence is granted for online casino-type games. In the latter category, only casino games and poker (in all its variations) are licensable, which means that every other online game of chance is prohibited.
- No restrictions of any kind are imposed on social games with no monetary element in the outcome such as points or rankings, or in a form of virtual currency, which prohibits

the player from waging/gaining real-world financial benefits through the redemption of attributes or the conversion of achievement for money or anything of monetary value. As such, social gaming is considered to fall outside the traditional gaming space and is operated freely without the need of being regulated and licensed.

2.2 Land-Based

Games such as betting, bingo, casino, lotteries, and poker are considered as games of chance, since the result of the game depends, even partly, on the influence of chance. Consequently, the conduct of these games is permitted only after a proper licence is granted from the HGC.

In this context, it must also be noted that the operation of video lottery terminals (slot machines – VLTs) is restricted to a maximum of 25,000 VLTs, the licences for which are granted to the official monopoly supplier, namely “OPAP SA” (Article 39, Law 4002/2011).

3. Legislative Framework

3.1 Key Legislation

The main legislative act that governs gaming in Greece is Law 4002/2011, as published in Government Gazette 180 on 22 August 2011 and as amended by several consequent Laws.

Moreover, the Minister of Finance and the HGC have issued several Regulations, containing more specific rules with regard to gaming activity, with the most important being as follows:

- Decision No 56580/2022, which specifically regulates online gaming licensing;
- Decision No 509/1/2020, which regulates affiliate marketing;

- Decision No 79292/2020, which regulates marketing and commercial communication;
- Decision No 79835/2020, which regulates the conduct of online games of chance;
- Decision 14/2/2012, which regulates lotteries; and
- Decision 107/5/2014, which regulates video lottery terminal matters.

3.2 Definition of Gambling

Pursuant to Article 25 of Law 4002/2011, the following conditions must be met in order for a game to be defined as game of chance:

- the result of the game must depend, even partly, on the influence of luck;
- there must be a wager or bet – ie, the choice of the player to undertake the risk of gambling on the result of the game – of any amount of money or any financial element regardless of its value, in order to seek an economic profit from the outcome of the game, directly or indirectly.

3.3 Definition of Land-Based Gambling

No special definition of land-based gambling is provided by the applicable Greek legal framework. However, it is generally accepted that games of chance are divided into those where the physical presence of the player is necessary (land-based), and those that can be conducted remotely, without the physical presence of the player, using the internet and telecommunication and/or other broadcasting systems.

3.4 Definition of Online Gambling

“Online gambling” is construed to cover any online game conducted through the internet, which requires, in addition to the electronic and other supporting mechanisms (hardware), the presence and operation of a game software program that is incorporated or installed in it

and contains all the information, instructions, and other details concerning the use and play of the game.

3.5 Key Offences

The provision and/or conduct of games of chance without having the required licence and/or proper certification is prohibited and constitutes a criminal offence under Greek law (Article 52 paragraph 1 of Law 4002/2011).

The participation in a game of chance conducted without a licence is also punishable, although in this case the criminal offence is a misdemeanour (Article 52 paragraph 3 of Law 4002/2011).

Lastly, whoever enters into a commercial communication for games of chance that are conducted or operated without a licence either as an advertiser or as an advertised entity (Article 52 paragraph 2 of Law 4002/2011) is also punishable.

3.6 Penalties for Unlawful Gambling

The penalties provided for by the law vary, depending on the way in which the game is conducted.

If the games are conducted via gaming machines, the penalty is imprisonment for a term of at least three years and a monetary fine of between EUR100,000 and EUR200,000 per gaming machine.

If the games are conducted online, the penalty is imprisonment for a term of at least three years and a monetary fine of between EUR200,000 and EUR500,000.

If the game provided is a game of chance, the penalty is imprisonment for a term of at least ten years and a monetary fine of EUR700,000,

regardless of the means of conduct of the games.

Whoever provides games without holding the required licence to this effect, if the games are not finally conducted, shall be punishable with imprisonment for a term of at least one year and with a monetary fine of between EUR70,000 and EUR150,000.

It is important to note that Article 52 paragraph 2d of Law 4002/2011 treats the illegal online provision of games of chance (ie, non-recreational/skill games) as a felony offence, in which case potential infringers may be sentenced to imprisonment ranging from a minimum of ten years to a maximum of 15 years.

3.7 Recent or Forthcoming Legislative Changes

On August 2023, a draft Regulation was published by the HGC containing provisions regarding land-based casinos. The draft Regulation introduces several innovations, including the provision governing a Live Studio operation with a live dealer for land-based casinos in Greece.

The public consultation was concluded on 15 September 2023, but there has been no update since. It is unknown when and in fact whether the draft Law will be adopted by the Greek Parliament, although this would give the fading land-based casinos a boost, which was the rationale behind this draft piece of legislation.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The HGC is the key regulatory authority supervising the gambling sector.

The HGC was initially established in 2004 through Law 3229/2004, as an administrative authority under the name “Hellenic Gambling Commission”. In 2011, by virtue of Law 4002/2011, the Commission was renamed the “Hellenic Gaming Commission (HGC)”; in February 2012, by virtue of Law 4038/2012, it was converted and has functioned ever since as an independent administrative authority, enjoying full administrative and financial independence and autonomy, as per Law 3051/2002, without prejudice to the special provisions referring to it.

4.2 Regulatory Approach

The law sets the prior authorisation (licensing) of all operators offering gaming and betting services as a general rule. As the competent authority, the HGC has issued several regulations concerning almost every type of gaming, in which every detail is laid down. The approach to regulation in Greece could therefore be characterised as prescriptive.

The HGC develops and implements three-year Action Plans, in order to achieve better management of the design, implementation, and evaluation of its work. In doing so, the Authority undertakes in advance the commitment to carry out specific and pre-planned work, so that its effectiveness is assessed on this ground.

4.3 Recent or Forthcoming Changes

Given the recent reform of the gambling market, there are no further changes anticipated in the near future in this respect.

4.4 Types of Licences

A licence is only required for games of chance, whereas skill games are conducted freely (Articles 25–27 of Law 4002/2011).

The following points are of particular note:

- With regards to online gaming, there are two types of licences available to B2C operators:
 - (a) “Type A” licence, regarding Online Betting; and
 - (b) “Type B” licence, for “Other Online Games”, to which casino and poker games are included.

A Suitability Licence is also required for B2B companies (manufacturers, suppliers, and affiliates). All games and gaming machines, as well as the means used for conducting them, must be certified in accordance with the provisions of Law 4002/2011.

Licences for persons who supply facilities to the providers of games of chance are categorised into the following six certifications (Article 42 paragraph 1, 43):

- Certification “A”, for up to 30 slot machines in exclusively gaming facilities;
- Certification “B”, for up to 50 slot machines in exclusively gaming facilities;
- Certification “C”, for slot machines in mixed facilities;
- Certification “D”, for the installation of technical-recreational game machines on sea-going vessels;
- Certification “E”, for the installation of slot machines on sea-going vessels under the Greek flag, which are engaged in international voyages; and
- Certification “F”, for the installation of up to 15 slot machines in “ΟΠΑΠ Α.Ε.” agencies.

Lastly, casino licences are divided into simple type casino licences and wider range casino licences, depending on the available infrastructure (Article 359 of Law 4512/2018):

- simple-type casino licences include gaming areas and can also offer accommodation establishments of at least 3-stars or 3-keys classification, as well as shops and other facilities; and
- wider-range casino licences are for casinos that combine gaming facilities with accommodation establishments of at least 5-stars classification, as well as shops and other facilities and at least one installation of special tourism infrastructure (such as conference halls or golf course facilities) or one installation of special forms of tourism (eg, healing therapy centres).

4.5 Availability of Licences

Licences are “readily available” in the sense that there is no applicable *numerus clausus*. All applicants who qualify for a licence, provided they submit the requisite certificates and pay the corresponding fees, will obtain their licence. On average, online licences are granted by the HGC within two months following the filing of the application. If there is no response from the HGC within the two-month period, it can be considered as an implicit dismissal of the application.

4.6 Duration of Licences

Online B2B and B2C licences are valid for seven years and can be renewed following a new application. In case of a renewal, the fees must be paid anew. Affiliate licences have no expiry date.

The duration of casino licences depends on the category in question. Simple-type casino licences are valid for 15 years, while wider-range casino licences are valid for 30 years (Article 359 of Law 4512/2018).

4.7 Application Requirements

The common application requirement for obtaining a gaming licence of any type is the absence of criminal convictions for felony crimes or financial offences (such as theft, fraud, tax evasion, etc), or sexual, gun, or drug-related offences of the directors and ultimate beneficial owners (UBOs) of the applicant.

With regards to online B2C operators, the following requirements must be met:

- applications shall be made only by capital companies with a paid-up share capital of at least EUR200,000;
- a Letter of Guarantee is required, which shall be equal to EUR500,000 and issued from a bank established and operating lawfully in Greece or another EU member state; and
- in order to receive a licence, the legal entity must maintain a safe server in Greece, which will be connected to the HGC, according to Article 30 of Law 4002/2011.

The applicant entity is also required to have a permanent residence or a registered establishment in Greece or in another member state of the EU or the European Economic Area (EEA). The gambling domain names must have the suffix “.gr”, and, in case the applicant is neither registered nor maintains a branch in Greece, it must appoint a local representative (a process agent).

4.8 Application Timing

The timescale for licence applications depends on a series of factors, such as the applicant company’s corporate structure, the translation workload, and the apostille requirements. On average the HGC will conclude the review of the application within one to two months following submission. The preparation of the application,

though, may take several months, depending on the level of readiness of each applicant.

4.9 Application Fees

Land-Based Market

According to Article 50 paragraph 10 of Law 4002/2011, the application fees to be paid are determined by a Decision of the Minister of Finance upon the recommendation of the HGC. On the basis of said provision, Decision 92/2014 was published in the Government Gazette (Section B, 545/05-03-2014), which provides for a fee amounting to EUR50 per slot machine.

Online Market

As per Article 45 paragraph 4 of Law 4002/2011, the application fee to be paid for an online B2C licence amounts to EUR10,000.

Regarding B2B licences, the application fees depend on the specific category of the B2B licence. Online B2B licence applications also each entail a fee ranging from EUR250 for hardware manufacturers and up to EUR5,000 for online content providers and aggregators.

4.10 Ongoing Annual Fees

Land-Based Market

The aforementioned Decision of the Minister of Finance also provides for an annual fee, amounting to EUR50, which must be paid in advance. An annual fee is also applied in the case of B2B providers.

Online Market

The annual fee for the maintenance of an online B2B licence ranges from EUR500 to EUR25,000.

5. Land-Based Gambling

5.1 Premises Licensing

Premises licensing requirements are described in detail in Article 45 of the HGC's 115/2/2014 Regulation.

One of the basic requirements for granting a premises licence is to provide the name of the company and the beneficial owner, as well as a full list of all slot machines.

Moreover, a qualified engineer's official document is required, to certify the safety and suitability of the premises, as well as their suitability for hosting gaming activities.

5.2 Recent or Forthcoming Changes

On 3 August 2023 the HGC published a new draft Regulation containing provisions regarding land-based casinos, which introduced several innovations such as:

- the use of an individual player card for participation in games of chance conducted in casinos;
- the redesign of the player exclusion process;
- the new framework of responsible gaming and player protection and the creation of a register of banned players;
- employee training procedures;
- the operation of the Information System of Supervision and Control (PSEE); and
- the provision of online Live Dealer Studio operation within the land-based casino.

The draft Regulation remained under public consultation until 15 September 2023. Following the receipt of the proposals submitted by the stakeholders, it is estimated that the HGC will submit a completed proposal to the Minister of Finance. It is noted that legislative work is the

sole responsibility of the Ministry of Economy and Finance and broad consultations are carried out in accordance with the procedure foreseen for all bills. Final decisions and legislative drafting are the responsibility of the Ministry and/or the Greek Parliament, and the HGC can contribute to any area where requested.

6. Online Gambling

6.1 B2C Licences

There are two types of licences available to online B2C operators:

- “Type A” licence, regarding “Online Betting”, which also includes fantasy sports; and
- “Type B” licence, for “Other Online Games”, including casino and poker games.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B licences are available to software providers, suppliers, and hardware manufacturers. More specifically, content providers, aggregators, and other software providers fall under the scope of Category A1 or Category A2 “Manufacturer Suitability Licence”, depending on whether they offer management services to operators or not, while suppliers fall under the scope of a “Suppliers Suitability Licence”. Regarding manufacturers who manufacture hardware used in Live Dealer Studios and other equipment, they fall under the scope of Category D “Manufacturer Suitability Licence”.

6.3 Affiliates

Affiliate marketing was regulated for the first time in the recent amendments, which were adopted by the Greek Parliament in 2020. Affiliates should also acquire an “Affiliate Suitability

Licence” and be registered in the HGC’s online Register of Affiliates.

6.4 White Labels

White-label providers are not recognised by the current gambling laws.

6.5 Technical Measures

There are no changes anticipated in the near future.

6.6 Recent or Forthcoming Changes

Pursuant to Article 48 of Law 4002/2011, as amended by Article 173 paragraph 14 of Law 4261/2014, the HGC drafts and revises a list of illegal gaming providers (blacklist) who provide services of land-based games, online games, or by remote gambling. This list is posted on its website, and this post is adequate notification and proof to start proceedings for the imposition of sanctions from all competent bodies, services, or authorities. The list mentions the entities providing illegal services of games of chance and/or their legal representatives, administrators, members of the board of directors, partners, and shareholders, as well as any other proven violation and imposed sanction.

The listed entities cannot be granted a licence, nor can they participate in any other way in a licensed body for providing game services in Greece. The Gaming Operation and Control Regulation regulates the time period of maintenance of the record, as well as the condition for its release.

According to this list, ISPs are obliged to immediately transmit the data of a legal entity or individual that has the ownership, use, and/or responsibility for the operation of these websites to the HGC, so as to start the proceedings for

the imposition of sanctions provided by the legislation.

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

7.1 RG Requirements

One of the key responsible gaming requirements introduced by Law 4002/2011 is the use of an individual player's card. The player's card was provided in order to ascertain the player's age – through the identification of the registered data (such as tax registration number) – and maximum participation time, and to guarantee that any additional restrictions imposed by the players themselves are observed. It is worth mentioning that the age standard applied in Greece is higher than in most other countries. Significantly, access to minors and persons under 21 years old is not permitted in places where gambling is conducted.

The individual player card may be issued by licence holders pursuant to the procedure and terms and conditions laid down in an HGC decision, published in the Government Gazette. Gaming without an individual player card is strictly prohibited.

Specifically, in order to participate in games of chance conducted by slot machines or via the internet, the publication and the use of a unique card by each player is required, so that the additional restrictions of the player and/or the HGC are ensured. The restriction of use of a unique personal card may be extended by the Gaming Control Regulation, even to games of chance all over Greece. The individual player card may be issued by holders of permits in accordance

with the procedure and conditions established by the HGC.

7.2 Gambling Management Tools

There are no changes anticipated in the near future.

7.3 Recent or Forthcoming Changes

Licensees should provide information about services against addiction, by displaying all the relevant details on every store and screen where gambling is occurring, in a measure aimed at combating gambling addiction. Additionally, the use of a unique card by each player is required, so that the additional restrictions posed by the player (eg, self-exclusion) and/or of the HGC are ensured.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML legislation is included in Law 4557/2018, which was published on 30 July 2018 and incorporated Directive 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing. Law 4557/2018 is divided into two parts. The first part (Articles 1–46) incorporates the provisions of Directive 2015/849:

- scope and definitions of the law;
- the basic offences;
- the obliged entities and the due diligence requirements;
- the beneficial ownership information;
- the responsibilities of the competent authorities; and
- the criminal and administrative sanctions.

The second part (Articles 47–51) includes the organisational provisions for the Anti-Money Laundering Authority.

Furthermore, important AML guidance relevant to the gambling sector is provided by Decision 554/5/2021 of the HGC (see 8.2 Recent or Forthcoming Changes). One of the HGC's main goals is to safeguard public and social interest, public revenues and the legitimacy of the gambling providers, in the stages of both licensing and operating. In this context, the HGC monitors the implementation of its provisions regarding AML/CTF to casinos, casinos on board vessels under the Greek flag, enterprises/businesses, and organisations and agencies that organise and/or conduct gambling in Greece, plus their land-based agencies.

8.2 AML Requirements

According to Law 4557/2018, the HGC is the competent authority for monitoring the implementation of its provisions according to AML/CTF, in casinos, casinos on board under Greek flag, enterprises/businesses, organisations, and agencies who organise and/or conduct gambling in Greece, plus their land-based agencies.

On 21 April 2021, the HGC adopted the Decision 554/5/2021, which is a Regulation on the implementation of measures to combat money laundering criminal activities and the financing of terrorism by the Responsible Persons in the gambling market pursuant to point (f) of Article 28(3) of Law 4002/2011. The Regulation outlines a procedure of establishment and operation of an independent internal audit function to verify the implementation of the application of internal policies, preventive controls and procedures, and compliance with the provisions of the AML Law and the AML Regulation via a compliance officer. Moreover, the regulation sets out an

authentication and verification process of the identity of the player of games of chance conducted via a Player's Electronic Account.

8.3 Recent or Forthcoming Changes

Article 4 of Decision 554/5/2021 of the HGC provides for the existence of a compliance officer, who takes every measure necessary in order for money laundering to be avoided, including due diligence measures and the reporting of every suspicious transaction to the competent authorities.

All licensees must implement the procedures and measures suggested by the compliance officer, and also have the duty to monitor themselves on an ongoing basis for the possible conduct of suspicious or unusual transactions.

9. Advertising

9.1 Regulatory/Supervisory Agency

The Hellenic Gaming Commission is the regulatory/supervisory authority regarding advertising.

9.2 Definition of Advertising

“Advertising” or “commercial communication” means any form of communication designed to promote, directly or indirectly, the goods, services, or image of an undertaking, organisation, or person engaged in gaming activities, as well as any information that allows the immediate access to those games and, lastly, the communication about products or services of the company that operates in the gaming sector.

9.3 Key Legal, Regulatory and Licensing Provisions

With the purpose of better regulating advertising activities, the HGC has issued the 106/2/2014 Decision, as amended by its 163/4/2015 Deci-

sion, where specific rules and restrictions are imposed.

9.4 Restrictions on Advertising

Paragraph 2 of Law 4002/2011 provides that any commercial communication, direct or indirect, regarding entities providing credit to players in order for them to participate in games of chance is prohibited.

Furthermore, restrictions are posed mainly by the HGC's 163/4/2015 Decision, which provides in Article 3 that advertising "...cannot aim to encourage consumers' natural propensity to gamble by stimulating their active participation in it, for example, by trivialising gambling, or increasing the attractiveness of gambling by means of enticing advertising messages holding out the prospect of major winnings."

9.5 Sanctions/Penalties

Anyone who enters into a commercial communication for games of chance that are conducted or operated without a licence either as an advertiser or as an advertised entity (Article 52 paragraph 2 of Law 4002/2011) is punishable with potential imprisonment, ranging from a minimum sentence of two years to a maximum sentence of five years. This offence is considered a misdemeanour.

9.6 Recent or Forthcoming Changes

Decision 9322/2020 of the HGC adopts the EU Directive 2/2020 on the procedure for the management and evaluation of Gambling Commercial Communication Plans (CCPs). Pursuant to the said Decisions, B2C operators are instructed to draft and send their commercial plans to the HGC for approval.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Every licence holder who wishes to proceed with a disposal of shares at the percentage of 2% of the total share capital or more is obliged to report it to the HGC. In the event of inheritance, there is an obligation to report it to the HGC within 15 days of the inheritance (Article 47 of Law 4002/2011, as amended by the adopted omnibus bill).

10.2 Change of Corporate Control Triggers

Acquisitions that lead to a direct or indirect change of corporate control must be approved in advance by the HGC, or will be considered to be null and void. Furthermore, non-observance of the obligation to report the changes of corporate control entails the deprivation of corporate rights and transactions relating thereto (Article 47 of Law 4002/2011, as amended by the adopted omnibus bill).

Under Greek Law the notion of corporate control shall exist in the following cases:

- when a shareholder holds the majority of voting rights in a company;
- when a shareholder has the right to appoint or discharge the majority of the company's directors/board members;
- when a shareholder has the right to exercise dominant influence over the company, either by virtue of a contract entered into with the company or a provision of the company's incorporation document or articles of association; or
- when a shareholder has, independently, under an agreement entered into with other shareholders of the company, the majority of the

voting rights, or, being the shareholder and the following jointly applying:

- (a) when the majority of the members of the administrative, management, or supervisory bodies of the company, who have been in office during the current and previous fiscal year, have been appointed only as a result of the exercise of voting rights;
- (b) when the voting rights held by the parent entity represent at least 20% of the total voting rights in the subsidiary;
- (c) when no third party has the rights under bullet points one to three above in respect of the company; or
- (d) when a shareholder has the power to exercise or exercises actual control or dominant influence on the company.

10.3 Passive Investor Requirements

No special requirements for passive investors in acquisitions or changes of control are provided.

10.4 Recent or Forthcoming Changes

There are no further changes anticipated in the near future.

11. Enforcement

11.1 Powers

The monitoring of all gambling is the responsibility of the police, if it takes place without a licence. In all other cases, the HGC is the only competent authority and has been equipped by law with broad and important powers in order to efficiently supervise and regulate every gambling activity in the country (Article 52A of Law 4002/2011).

11.2 Sanctions

The HGC takes all measures necessary to effectively regulate the gaming market. In serious breaches, criminal and administrative sanctions are the most likely methods of enforcement, due to their direct and onerous character.

The HGC's activity is rapidly increasing, as the HGC itself points out in its annual reports. In the latest blacklist there are over 6,000 illegal B2C operators and the said list is updated every three months by the HGC.

11.3 Financial Penalties

Law 4002/2011 and HGC Decision 23/3/2012, as amended by HGC Decision 51/3/2013, provide for administrative penalties for the infringers of its provisions.

The administrative penalties pursuant to Article 51 of Law 4022/2011 provide that, in a violation of any provisions of the Law or of its regulatory decisions issued under the motion or conditions of licences, by decision of the HGC, a fine of EUR1,000 to EUR2,000 or a percentage of gross receipts can be imposed, per violation or per game machine, depending on the severity and frequency of the offence, or the licence can be recalled temporarily for up to three months, or permanently.

At its discretion, the HGC may provide instructions, guidelines, and recommendations for the infringers to comply with the law, before imposing any administrative penalty, non-compliance with which constitutes an aggravating factor when imposing the administrative penalty (amendment issued by Law 4261/2014).

11.4 Recent or Forthcoming Changes

There are no further changes anticipated in the near future.

12. Tax

12.1 Tax Rate by Sector

According to Article 50 paragraph 8 of Law 4002/2011 and Decision No 1248/2011 (issued by authorisation of the provision of Article 50 paragraph 12 of Law 4002/2011 and published in the Government Gazette, Section B, 2854/2011) of the Deputy Minister of Finance, the profits deriving from the exploitation of the online gaming market shall be subject to tax, according to the general provision of Income Taxation. Moreover, the Greek state participates in the profits deriving from the exploitation of games of chance in general, at a rate of 35%, 20% of which is consequently spent on social policy and other good causes (Article 50 paragraph 5, 6). On horse race betting, the amount withheld and spent on good causes is 30%.

Customer winnings are also subject to tax. According to Article 60 of law 2961/2001, as replaced by Article 22 paragraph 18 of Law 4141/2013, which pertains to the taxation of customer winnings, the winnings from online chance games played through columns are subject to tax per game column, after the deduction of an exempted amount of EUR100, at a rate of 15% for winnings up to EUR500 and at a rate of 20% for winnings of EUR500.01 or more.

With regard to chance games played through gaming sessions, the winnings are paid or credited to the player at the end of the gaming session, and are subject to tax per gaming session, after the deduction of an exempted amount of EUR100, at a rate of 15% for winnings up to EUR500 and at a rate of 20% for winnings of EUR500.01 or more.

According to the definitions provided by the same law, games played through gaming ses-

sions refers to the chance games played through gaming machines as well as the chance games of a casino type, the result of which is not produced by means of a random number generator, known as live casino games, such as, indicatively, poker tournaments. A gaming session is the time period starting from the moment the player inserts his/her individual playing card into a gaming machine or from the moment the player is connected to the central informative system (KPS per its Greek initials) of an online gaming server (internet provider) by inserting the data of the individual playing card, and ending when the player either extracts the individual playing card from the gaming machine, or is disconnected from the KPS of the internet provider. In any case, each gaming session ends 24 hours after the player inserts their individual playing card into a gaming machine or is connected to the KPS of the internet provider by inserting the data of their individual playing card.

All the above refers to the entities regulated under Article 50 paragraph 12 – ie, holders of interim licences.

12.2 Recent or Forthcoming Changes

There are no further changes anticipated in the near future.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Ministerial Decision 56580/2022 sets out the personal authorisations and licences that are applicable to individuals. These personal licences are known as Suitability Licences and vary depending on the type of gambling activity. The

following individuals are required to obtain a Suitability Licence:

- shareholders and managers (CEOs, directors, etc) of online B2C operators;
- persons performing key functions, such as:
 - a) members of the board of directors; b) the CEO, executive directors and administrators; c) the gaming operations officer; d) the regulatory compliance officer; e) the head of finance and accounting; f) the head of commercial policy and commercial communications (marketing/advertising); g) the head of customer service and support; h) the head of information and communication technologies; i) the anti-money laundering/terrorist financing (AML/FT) compliance officer; j) the risk management and fraud prevention officer; k) the head of internal audit; and l) the head of logistics and human resources management.
- in the case of a land-based casinos, the following individuals, who are considered to perform 'key functions': a) the head of security, audit and supervision; b) the gaming staff management and supervision officer; and c) the games of chance technical means and materials management and maintenance officer.

Suitability Licences are readily available and have an indefinite duration (ie, they are valid unless they are revoked).

13.2 Application Process

In order to obtain a Suitability Licence, directors and shareholders must meet certain requirements which are laid down in Articles 3, 6 and 9 of Ministerial Decision 56580/2022. These requirements pertain to an individual's criminal record (which must be clear from specific offences), as well as past professional (or other) involvement in the gambling industry.

The application process is completed exclusively online through the HGC website. There is an application fee of EUR50, an approval fee of EUR50, and an additional annual maintenance fee of EUR50.

13.3 Ongoing Annual Fees

There is an annual maintenance fee of EUR50 (see 13.2 Ongoing Annual Fees).

13.4 Ongoing Requirements

In accordance with Article 9.5, the individuals holding a personal Suitability Licence are subject to the following licence conditions:

- they must not have been convicted by a final court ruling of a felony or have been subject to any penalty for theft, embezzlement, fraud, breach of trust, anti-money laundering, extortion, forgery, active or passive bribery, bodily harm, concealing a crime, currency relates offences, crimes which are commonly considered dangerous, crimes against personal freedom, sexual offences, drug offences, weapons, explosives or tax evasion, crimes related to the wider financial sector and crimes specified in the legislation on games of chance, in Greece or abroad;
- they must not be declared bankrupt or have been forced to wind up their business, be in receivership and/or in any other similar situation.

13.5 Personal Sanctions

The HGC has the power to permanently revoke the personal Suitability Licence if the requirements are not met at any stage.

13.6 Recent or Forthcoming Changes

There are no further changes anticipated in the near future.

INDIA

Law and Practice

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Nishith Desai Associates is an India-centric global law firm with offices in Mumbai, Bengaluru, Delhi, Silicon Valley, Singapore, Munich and New York. The gaming practice comprises three leaders and 12 qualified lawyers. The team has been a pioneer in the industry, and the gaming practice has existed almost as long as the online

gaming industry in India. The team has worked on several cross-jurisdictional investments and entry strategies for foreign clients. Nishith Desai Associates has also been instrumental in industry-wide efforts and policy advocacy on behalf of the Indian gaming industry.

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1. Introduction

1.1 Current Outlook and Recent Changes Policy Changes

Co-regulatory federal framework for online games shelved, proposed establishment of a government regulator for online games

In April 2023, certain amendments (“IT Rules Gaming Amendments”) to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (the “IT Rules”) sought to introduce a co-regulatory framework between the Ministry of Electronics and Information Technology (“MeitY”) and designated self-regulatory industry bodies (SRB) to regulate online gaming in India. The IT Rules Gaming Amendments sought to introduce specific regulations for permissible online real money games (PORMG) and online gaming intermediaries (OGI); ie, entities that enable their users to access one or more online games.

However, the IT Rules Gaming Amendments were never operationalised through the designation of SRBs. MeitY, the nodal Ministry for online gaming, has now reportedly rejected applications by SRBs, due to concerns over the SRBs being heavily dominated by certain industry operators.

Given that the IT Rules Gaming Amendments were not brought into effect, the authors have not discussed their provisions in these chapters.

Introduction of 30% withholding tax on net winnings for OGIs

The Finance Act, 2023 overhauled the tax regime for income from online games and created a distinction between taxation of online and offline games. In this regard, Section 115BBJ was introduced in the Income Tax Act, 1961 (ITA) to provide for 30% tax on net winnings earned

by players from an “online game”. An “online game” is defined as a game that is offered on the internet and is accessible by a user through a computer resource, including any telecommunications device. Hence, this tax is applicable to all types of online games; ie, games of skill or games of chance.

Section 194BA was also introduced in the ITA to impose a withholding tax obligation on persons responsible for paying any income by way of winnings from any online game during a financial year at the rates in force. Tax is required to be withheld on the “net winnings” amount, which is computed as per the manner prescribed by the Central Board of Direct Taxes (CBDT). These provisions have been effective from 1 April 2023.

Introduction of 28% Goods and Services Tax for online gaming, casinos and horse racing

In August and September 2023, the central government amended the Central Goods and Services Tax Act, 2017 (the “CGST Amendment Act”) as well as the Central Goods and Services Tax (Third Amendment) Rules, 2023 (the “CGST Amendment Rules”) to implement goods and services tax (GST) at the rate of 28% on the full value of the amount paid, or payable to, or deposited with, the online gaming platform, starting 1 October 2023.

The tax amendments are addressed in greater detail in **12. Tax**.

Developments in Animation, Visual Effects, Gaming and Comics, and Extended Reality

In September 2024, the Union Cabinet approved the establishment of a National Centre of Excellence for Animation, Visual Effects, Gaming, and Comics and Extended Reality (AVGC – XR) in Mumbai, Maharashtra, India.

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This Centre is envisaged to promote skilling, education, industry development, research and innovation in the industry. It is also expected to act as an incubation centre for start-ups in the industry.

Additionally, the Ministry of Information and Broadcasting (MIB) has announced that a National AVGC-XR Policy will soon be implemented, along with the launch of a National AVGC-XR Mission. This will serve as a comprehensive framework to guide the sector's development. It will also provide direction to individual states, enabling them to formulate their own AVGC policies.

Telecom Regulatory Authority of India Recommendations on the MIB's National Broadcasting Policy

In April 2024, the MIB released a consultation paper seeking inputs for formulation of a draft National Broadcasting Policy. The consultation paper recognised the promising growth trajectory of the Indian online gaming industry, whilst seeking inputs on policy and regulatory aspects to (i) enhance the growth of the industry, (ii) enhance the growth of local game developers, and (iii) introduce measures to protect players.

The Telecom Regulatory Authority of India (TRAI) released its recommendations in response to the consultation paper in June 2024, recommending, amongst other things, promotion and facilitation of local Indian gaming content, incentives to attract skilled gamers, content creators and industry professionals to make India a "Gaming Content Hub".

Introduction of New Criminal Laws

The criminal laws in India have been revamped with the introduction of three new criminal statutes by the central government including the

Bharatiya Nyaya Sanhita, 2023 (BNS), with effect from 1 July 2024.

The BNS has expanded the definition of petty organised crime to include (i) unauthorised sale of tickets, and (ii) unauthorised betting or gambling by a member of a group or gang, either by themselves or jointly with others. This is punishable with imprisonment for a term not less than one year which may extend to seven years and a fine. Hence, persons engaging in unauthorised gambling as defined under the respective Gaming Enactments (as defined in **2.1 Online**), as part of a group, could be liable under this provision.

Advertising Restrictions State-specific changes

Certain state-level policy changes are expected. Currently, various states are in the process of introducing state laws to implement the newly introduced 28% GST for the gaming industry.

Tamil Nadu

The State of Tamil Nadu enacted the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2023 (TNOGA) effective on 10 April 2023.

The TNOGA (i) prescribes registration of local online games providers and (ii) prohibits offering, playing and advertising online gambling on games of chance with stakes. Poker and rummy were categorised as games of chance.

On 9 November 2023, the High Court of Madras struck down the prohibition on rummy and poker as unconstitutional, whilst upholding the constitutionality of other provisions of the TNOGA.

In August 2023, a five-member Tamil Nadu Online Gaming Authority was constituted to reg-

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ister online games and introduce regulations for such online games, including time limits, monetary limits, age restrictions, issue show-cause notices to defaulting online games providers, and suspending/revoking registrations in certain scenarios.

Pending Litigation

There are several cases pending before the Supreme Court and High Courts in India.

Supreme Court litigation

The Karnataka High Court struck down a GST “show-cause notice” issued by the tax authorities against Gameskraft Technologies Pvt. Ltd. (“Gameskraft”), a rummy operator, on the basis that the game was not “betting and gambling”, but a game of skill. On appeal by the tax department, the Supreme Court issued a temporary stay on the order, and the matter is still pending. Several other gaming operators have received similar show-cause notices, which the operators have challenged before the respective jurisdictional High Courts. These petitions pending before the High Courts have been transferred to the Supreme Court for a consolidated hearing with the Gameskraft matter.

The question of whether sports betting is a game of skill is pending before the Supreme Court in the case of *Geeta Rani v Union of India & Others* (the “Geeta Rani Case”). If the judgment concludes that it is a game of skill, sports betting will be exempt from prohibitions under most Gaming Enactments (as defined in **2.1 Online**) and may be offered in most Indian states.

The Supreme Court has also stayed the operation of a Bombay High Court order that held that fantasy sports games are games of skill. Accordingly, the Supreme Court may take up the question of whether fantasy sports qualify as games

of skill. Notably, several other High Courts in the country have recognised fantasy sports games as games of skill. The Supreme Court has also dismissed several petitions seeking permission to appeal against these orders.

The state of Karnataka sought to introduce legislation to prohibit all online games for stakes, including games of skill. These bans were struck down as unconstitutional before the respective states’ High Courts. These appeals are pending before the Supreme Court.

State litigation

GST matters in Bombay, Gujarat, Sikkim, Delhi, Rajasthan, Punjab and Haryana

Several skill gaming operators have filed petitions in the High Courts of Bombay and Gujarat, challenging show-cause notices issued by tax authorities seeking to impose 28% GST on the entire buy-in amount. Majority High Courts have granted stays on the enforcement of the notices or orders. These petitions have now been consolidated with the Gameskraft case and are pending adjudication before the Supreme Court.

Maharashtra

A public interest litigation has been filed in Maharashtra seeking a ban on offering and advertising online rummy, claiming that it amounts to gambling. Various Indian courts have previously recognised rummy as a game of skill.

Delhi

A non-government organisation has challenged the constitutional and legislative validity of the IT Rules Gaming Amendments in a petition before the Delhi High Court. Per reports, it has been alleged in the petition that the IT Rules Gaming Enactments go beyond the rule-making powers of the Information Technology Act, 2000 (the “IT Act”). The petition further reportedly alleges

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that the Centre has issued the amendments by usurping the state's exclusive legislative competence to regulate online gaming.

A suit was filed by a gaming operator against an app store in the High Court of Delhi, alleging that the app store discriminated against the operator by displaying a warning to users when downloading the game. The suit is currently pending final adjudication before the Delhi High Court.

Andhra Pradesh

The Andhra Pradesh Gaming Act, 1974 was amended to prohibit all online gaming activities for stakes (including games of skill). The amendments were challenged before the High Court of Andhra Pradesh, where the High Court directed the state government to form a committee to assess whether rummy, which has been held to be a game of skill, is still a game of skill in online form. The state of Andhra Pradesh appealed against the High Court's direction to appoint a committee in the Supreme Court. The Supreme Court dismissed the state's challenge to this direction and directed the High Court of Andhra Pradesh to proceed to assess the matter. There have also been certain restrictions introduced on misleading gaming advertisements and surrogate advertisements for gambling products, which are covered in **9.4 Restrictions on Advertising**.

2. Jurisdictional Overview

2.1 Online

Indian gaming laws operate at a state and a central level. There are specific Gaming Enactments (as defined below) to regulate gaming/gambling activities in each relevant state.

State Gaming Enactments

Betting and gambling are state matters under the Constitution of India, so each state has the exclusive legislative competence to enact laws relating to betting and gambling within the state. The Public Gambling Act 1867 (PGA) has been adopted by certain states in India, whereas other states have enacted their own pieces of legislation to regulate betting and gambling activities within the state (the "State Enactments") (the PGA and State Enactments are collectively referred to as "Gaming Enactments").

Most Gaming Enactments were enacted prior to the advent of virtual/online gambling and therefore primarily prohibit gambling activities within physical premises (defined as a "common gaming house"). Different states have taken different approaches with respect to whether these prohibitions apply to online operators.

Central Gaming Amendments

As discussed in **1.1 Current Outlook and Recent Changes**, the IT Rules Gaming Amendments have been shelved and the central government is considering appointing a federal (central) regulator for permitting and certifying online games instead.

Betting

Betting on games of chance is prohibited under most Gaming Enactments. The treatment of betting on sports and horse races under Indian law is discussed below.

Betting on horse races

In the case of *Dr KR Lakshmanan v State of Tamil Nadu* (the "Lakshmanan Case"), the Supreme Court held that betting on horse racing is a game of skill. Accordingly, it is exempt from the prohibitions under most Gaming Enactments.

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Most Gaming Enactments have carved out an exception for “wagering or betting upon a horse race” from the definition of gaming/gambling (the “Horse Racing Exemption”). However, the Horse Racing Exemption is subject to certain conditions under the Gaming Enactments – for example, wagering or betting must take place on the day on which the horse has run and in an enclosure that has been sanctioned by the state government. In the case of online horse racing betting, it would be difficult for these conditions to be met. However, one could argue that a horse racing bet is a game of skill independent of the Horse Racing Exemption.

During the COVID-19 pandemic, two Indian horse racing clubs (the Mumbai, and Calcutta Turf Clubs) received permission from the state governments of Maharashtra and West Bengal respectively to offer online betting on the horse races conducted in these clubs. The Hyderabad Race Club (“HRC”) also started accepting bets online with the club’s totalisator.

The state of Karnataka refused to grant a licence to the Bangalore Turf Club to conduct horse races and betting on horse races in June 2024, which has been challenged by the Bangalore Turf Club before the state High Court. The matter is still pending.

Sports Betting

The question of whether sports betting is a game of skill is pending before the Supreme Court in the Geeta Rani Case.

It can be argued that sports betting is also a game of skill based on the principles laid down in the Lakshmanan Case. However, the view held by most enforcement authorities in India is that sports betting is a gambling activity and is thus prohibited. Further, in the recent years,

there has been heightened scrutiny and enforcement action against remote gambling operators offering and advertising sports betting products in India.

Bingo

Depending upon the format, bingo may fall within the definition of a “lottery” or under the general definition of betting/gambling under most Gaming Enactments. It is a game of chance and prohibited in most Indian states. The Bharatiya Nyaya Sanhita, 2023 (BNS), which replaced the erstwhile Indian Penal Code, 1860, specifically prohibits private lotteries by prescribing that whoever keeps any office or place for the purpose of drawing any lottery, not being a state lottery or a lottery organised by the state government, will be punishable with imprisonments or fines. Accordingly, lottery products cannot be offered in most parts of India.

Only the Sikkim Online Gaming (Regulation) Act 2008 (the “Sikkim Online Act”) introduces a licensing regime for punto banco and bingo through the state-wide intranet.

Casino Games

Casino games are predominantly chance based. As such, they are treated as betting and gambling activities and are therefore prohibited under most Gaming Enactments.

The states/union territories of Goa, Daman and Diu, and Sikkim prescribe a licence regime for land-based casinos. The Sikkim Online Act covers certain casino games (eg, roulette, casino brag and blackjack) that may be offered through the state-wide intranet within Sikkim only.

Lotteries

Under the Lotteries (Regulation) Act 1998 and the Lotteries (Regulation) Rules 2010 (collective-

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ly, the “Lottery Laws”), state governments have the power to organise, conduct and promote lotteries, subject to certain conditions.

The Lottery Laws empower state governments to appoint individual or corporate entities as “distributors” or “selling agents” to market and sell lotteries on behalf of the organising state.

Some states permit and regulate state-run physical lotteries, whereas all types of lotteries have been banned in certain other states.

The BNS specifically prohibits private lotteries as stated above.

Fantasy Sports

It can be argued that certain versions of fantasy sports games are preponderantly skill-based games. Accordingly, such games can be treated as exempt under most Gaming Enactments.

The High Courts of Punjab, Haryana, and Rajasthan have held the Dream 11 format of fantasy sports to be a game of skill and the Supreme Court has also dismissed several petitions seeking permission to appeal against such High Court orders.

The High Court of Bombay has also recognised it as a game of skill. However, at the time of writing (October 2024), there has been a stay order imposed on the judgment of the High Court of Bombay by the Supreme Court. Accordingly, the Supreme Court may examine this issue now.

The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2015 (the “Nagaland Act”) expressly recognises virtual team selection games and virtual sports fantasy league games as games of skill. If

such games are to be offered online in Nagaland, a licence would be required.

Social Gaming

Social gaming refers to those games in which players don’t pay money to participate, and no real-money prize in terms of money or equivalent worth is offered to the winner.

Depending on the format and content of such games, certain other issues may need to be considered, such as:

- whether the game amounts to a “prize competition” and is therefore subject to regulation under the Prize Competitions Act 1995;
- whether the content of the game would trigger any laws prohibiting certain types of content;
- advertising regulations applicable to in-app advertisements displayed in the game; and
- applicable data protection laws if Indian users’ data is being collected, processed and/or transferred to a foreign entity.

The MeitY blocked several social gaming apps with Chinese ties after the Ministry of Home Affairs raised security concerns over Indian user data.

PUBG was one of the apps initially blocked in September 2020. However, thereafter, MeitY permitted Krafton to conditionally re-launch a new app in June 2021, Battlegrounds Mobile India (BGMI), subject to quarterly assessments. The ban was later completely revoked in August 2023 after BGMI complied with the conditions set by the government. This may set a precedent for additional blocked apps to be re-launched in India.

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Poker

Arguably, certain variations of poker are games of skill for the purpose of most Gaming Enactments. Accordingly, offering such games should be permitted in most Indian states that have an exemption for games of skill.

Furthermore, the Gaming Enactments/courts in certain Indian states have specifically recognised poker as a game of skill in the following instances:

- West Bengal has specifically excluded poker from the definition of “gambling” under the West Bengal Gambling and Prize Competitions Act 1957;
- the Nagaland Act has specifically categorised poker as a game of skill;
- the Karnataka High Court has also held that a licence is not required under the Karnataka Act when poker is played as a game of skill; and
- in the Tamil Nadu TNOGA Order, the High Court of Madras has read down the TNOGA to the extent it sought to prohibit Poker, by holding that Poker is a game of skill, and hence any prohibition on Poker would be unconstitutional.

The High Court of Gujarat held that poker is a game of chance and a gambling activity. An appeal has been filed against this order and has been pending before the Gujarat High Court since 2018.

2.2 Land-Based Betting

As discussed in 2.1 Online, the Supreme Court held in the Lakshmanan Case that betting on horse racing is a game of skill and therefore exempt from the prohibitions under most Gaming Enactments.

In the case of betting on real (physical) horse races, the conditions prescribed under the Horse Racing Exemption would need to be met. Turf clubs regulate betting on physical horse races within their premises.

Poker/Bingo/Gaming Machines/Lotteries

Please see 2.1 Online, which also applies to physical versions of these games.

Casino Games

Only the States of Goa, Daman and Diu, and Sikkim regulate casino games in land-based form. The casinos in Goa and Daman and Diu are regulated under the Goa, Daman and Diu Public Gambling Act 1976 (the “GDD Act”), which prescribes a licensing regime for:

- “games of electronic amusement/slot machines” in five-star hotels; and
- table games and gaming on board offshore vessels under the terms of a licence in Goa and Daman and Diu.

The casinos in Sikkim are regulated under the Sikkim Casinos (Control and Tax) Act 2002 and the Sikkim Casino Games Commencement (Control and Tax) Rules 2007 (collectively, “Sikkim Casino Laws”), which prescribe a licensing regime for casino games in five-star hotels in Sikkim.

3. Legislative Framework

3.1 Key Legislation

Please see 2.1 Online for an overview of the PGA and Gaming Enactments.

In addition to the laws discussed in 2.1 Online, several other laws regulate the Indian gaming industry.

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Laws on Foreign Direct Investment

Under Indian exchange control law, being the Foreign Exchange Management (“Non-Debt Instruments”) Rules 2019 (the “Non-Debt Rules”), FDI is prohibited in the following sectors:

- lottery business (including state or private lotteries and online lotteries); and
- gambling and betting (including casinos).

For violating the Non-Debt Rules, one may have to pay a penalty of:

- up to three times the sum involved where such amount is quantifiable; or
- up to INR200,000 (approximately USD2,378) where the amount is not quantifiable.

Where the violation is ongoing, a further penalty may extend to INR5,000 (approximately USD59) for every day on which the contravention continues.

In January 2023, the Bombay High Court held that foreign investments in entities offering games with no real-money rewards does not amount to gambling under the Non-Debt Rules.

In an effort to stimulate growth and provide clarity given the existing regulatory ambiguity in the sector, the Indian government is considering a proposal to explicitly clarify 100% FDI in real money games of skill entities through the automatic route; ie, where no permission is required. In pursuance of the same, the DPIIT has sought clarity on the distinction between games of skill and games of chance from various ministries, to draft a policy permitting 100% FDI in online gaming. Discussions are reportedly underway at various levels of the government regarding the DPIIT proposal.

Exchange Control Laws

The FEMA, read with the Foreign Exchange Management (Current Account Transaction) Rules 2000, prohibits remittances from India towards the following transactions:

- remittance of lottery winnings;
- remittance of income from racing, riding or any other hobby; and
- remittance for the purchase of lottery tickets, banned/prescribed magazines, football pools, sweepstakes, etc.

The IT Act

If a game, or the manner in which it is offered, is unlawful, a court or authorised government body (such as the MeitY) may direct an intermediary platform – such as the app store (in the case of a mobile app) or (in case of a browser-based app) the internet service provider (ISP), telecommunications service provider (TSP) – to block the app or a specific game.

As per recent news reports, MeitY has directed certain Indian TSPs to block access to several offshore sports betting and gambling platforms offered remotely in India. News reports suggest that GST violations raised by GST authorities and violations of exchange control regulations raised by the Enforcement Directorate of India (ED) were contributing factors in MeitY’s decision to issue the blocking order.

As such, MeitY may have issued the order holistically in response to issues raised by several different central government ministries.

The Consumer Protection Act

The Consumer Protection Act 2019 (CPA) forms the basis of consumer protection law in India. The CPA imposes stringent measures on all service providers (including gaming operators)

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in order to prohibit unfair and restrictive trade practices, unfair contracts, deficient services and misleading advertisements. In addition, the Consumer Protection (E-Commerce) Rules impose obligations on “e-commerce entities”, which may include real-money online gaming platforms.

The Prize Competition Act

The Prize Competition Act (PCA) may also apply to certain game formats. The PCA was enacted to regulate certain types of competitions. The Supreme Court has held that the PCA would only apply to prize competitions that were of a gambling nature. However, because the types of games covered under the PCA (eg, crossword prize competitions) appear to be games of skill and not gambling, there is an anomaly in the types of games covered by the PCA.

The Digital Personal Data Protection Act

The Digital Personal Data Protection Act, 2023 (DPDPA) was enacted in August 2023 in India. However, its provisions have not been brought into effect as yet. The DPDPA introduces several compliances for collection and processing of personal data in India, as well as outside of India, if it is in connection with offering goods and services in India. The rules under the DPDPA, which will prescribe most implementation measures, are expected to be released for public consultation in the next month.

3.2 Definition of Gambling

“Gambling” or “gaming”, as per most Gaming Enactments, is understood to mean “the act of wagering or betting” for money or money’s worth. Gaming/gambling has been judicially interpreted by Indian courts to mean betting or wagering on games of chance. Typically, under most Gaming Enactments, “gambling” or “gaming” does not include:

- wagering or betting upon a horse race/dog race if such wagering or betting takes place in certain circumstances;
- games of “mere skill”; and
- lotteries.

3.3 Definition of Land-Based Gambling

Please refer to 3.2 Definition of Gambling.

3.4 Definition of Online Gambling

Only the states of Nagaland, Andhra Pradesh, Sikkim, Chhattisgarh, Tamil Nadu and Telangana have specifically extended their state enactments to the online medium (“Online States”).

The TNOGA defines “online gambling” as online wagering or betting and this includes playing any online game of chance for money (or other stakes) in any manner. “Wagering or betting” has been defined widely as including collection or solicitation of bets, receipt or distribution of winnings or prizes, and any act intended to aid or facilitate wagering or betting.

3.5 Key Offences

Under the Gaming Enactments, most offences and prohibitions are in relation to a “gaming house” or a “common gaming house”. These offences include (i) keeping charge of the common gaming house, being found in a common gaming house, having “care or management” of the gaming house, amongst others.

In states such as Assam and Orissa, the activity of gaming – irrespective of the medium or location in which it is offered – may be a punishable offence. Certain states’ laws specifically prohibit online gaming.

The Online States have specific other prohibitions and penalties.

The BNS has prohibited petty organised crime which includes (i) unauthorised sale of tickets, and (ii) unauthorised betting or gambling by a member of a group or gang, either by themselves or jointly with others.

3.6 Penalties for Unlawful Gambling

Although the Gaming Enactments more or less prescribe fines and/or imprisonment, the amount of the fine or period of imprisonment may differ from state to state.

The PGA imposes a penalty of INR200 (approximately USD2.38) or up to three months in prison for owning, keeping or having charge of a gaming house, and an INR100 (approximately USD1.19) fine or one month in prison for being found in a gaming house.

The state-wise gaming laws also impose a punishment and imprisonment for offenders. Such punishment ranges from an imprisonment from three months to three years, and a fine that may be as high as INR2 million (approximately USD23,785) in some states.

The penalty for petty organised crime under the BNS is imprisonment for a term not less than one year which may extend to seven years and a fine.

3.7 Recent or Forthcoming Legislative Changes

Please see 1.1 Current Outlook and Recent Changes.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

There are only a small number of states in India that allow operators to conduct gambling or skill-gaming activities under a licensing regime. The regulatory authorities for issuance of licences in these states are as follows.

- Goa – the Home Department of Goa.
- Daman and Diu – the Director of the Tourism Department (for casinos, games of electronic amusement and slot machines).
- West Bengal – the Commissioner of Police.
- Nagaland – the Finance Commissioner.
- Sikkim – the authorised officer of the Finance, Revenue and Expenditure Department.
- Tamil Nadu – the TN Online Gaming Authority constituted under the TNOGA.

4.2 Regulatory Approach

Most of the Gaming Enactments are prescriptive in as much as most of the states prohibit betting/wagering involving stakes as a gambling activity, but carve out an exception for games of skill. Hence, should a game qualify as a game of skill, the prohibitions under most Gaming Enactments would not apply.

4.3 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

4.4 Types of Licences

Game Registration Requirements

Casinos

Casino games, being games of chance, are prohibited in most Indian States. Licences for offering casino products in five-star hotels in Goa, Daman and Diu, and in Sikkim (through the intranet) are available under the GDD Act and the Sikkim Casino Laws respectively.

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Poker

Operators in India may offer skilled versions of poker without a licence in most Indian States. In Sikkim, Nagaland, and Tamil Nadu, operators may need to obtain a licence.

Sports/horse race betting

For conducting betting on physical horse races in India, a licence would be required. This is covered in 2.1 Online.

As stated in 1.1 Current Outlook and Recent Changes, the question of whether sports betting is a game of skill is pending before the Supreme Court in the Geeta Rani Case. The state of Sikkim offers a licence to offer sports betting through the intranet within Sikkim only.

Fantasy betting

If the fantasy sports game qualifies as a game of skill, no licence is required for offering such products under most Gaming Enactments. However, a licence must be obtained in Nagaland and Tamil Nadu.

Lotteries

Private lotteries are prohibited in most Indian States under the BNS. Under the Lottery Laws, for state-run lotteries, state governments may appoint an individual or a corporate body as a “distributor or selling agent” through an agreement to market and sell lotteries on behalf of the organising state.

Social gaming

If such games amount to prize competitions, a licence under the PCA may be required.

Skill games

Games of skill are exempted from prohibitions under most Gaming Enactments. Licences are

required in certain states like Nagaland and Tamil Nadu.

4.5 Availability of Licences

There is no limit/cap on the number of licences that may be offered, although there are restrictions – for example, Goa restricts the number of slot machines that can operate under a single licence.

4.6 Duration of Licences

The duration of the available licences is as follows.

- Nagaland – five years, and will be deemed renewed every year thereafter as long as the licence fee is paid.
- Sikkim – five years, unless cancelled or surrendered, and may be renewed via application.
- Tamil Nadu – the certificate of registration under the TNOGA is valid for three years, unless suspended or revoked.
- Goa and Daman and Diu – five years.
- West Bengal – permits are issued for specific events.

4.7 Application Requirements

Some of the key application requirements as per State Enactments are set out below.

Nagaland

The licensee:

- must be an entity that is incorporated in India, has a substantial holding stake in India, and has no criminal history;
- must not have any interest in online or offline gambling activities in India or abroad;
- must have controlling stake in India, and the executive decision-making powers of licen-

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sees are required to be performed from within the territorial boundaries of India; and

- must host their technology support (hosting of the website, management of the website, location of servers, etc) within India only.

Sikkim Casino Laws

Only a body corporate registered under the provisions of the Registration of Companies Act (Sikkim) 1961 may apply for a licence.

Sikkim Online Laws

The licensee must be a person/company/partnership firm incorporated in India.

Goa and Daman and Diu

Only land-based operators require licences in Goa and Daman and Diu.

Applicants, including individuals and persons holding key managerial positions (in case of body corporates/firms), must not have been convicted of any criminal offence with two or more years of imprisonment. Licences are cancelled if convictions occur post-approval.

Applicants are also required to submit a declaration of compliance with state Anti-money Laundering and Countering the Finance of Terrorism Regulations (“AML/CFT Regulations”).

The AML/CFT Regulations are discussed in **8. Anti-money Laundering (AML)**.

Tamil Nadu

The local online games provider may apply for a certificate of registration with the TN Gaming Authority; ie, entities whose central management and control of the service is in the State of Tamil Nadu, or whose service is hosted in the state. Out of state entities are not required to apply.

The applicant must ensure that they do not provide any online gambling service.

4.8 Application Timing

The process and timeline for licensing applications is as follows.

Nagaland

Applicants should submit their application to the licensing authority (ie, the Finance Commissioner or the “Nagaland Authority”) identifying the game and accompanied with details about promoter credentials, audited financials, software platform, business plan, and financial projections. If deemed satisfactory, a letter of intent is issued, and the application is reviewed by empanelled firms comprising of experts, who provide recommendations within 30 days. The Finance Commissioner may also consult ad hoc or expert committees for further review, with recommendations due within 14 days. Licences are typically issued within 14 days of final recommendations. Some operators have received their licence within a month or two, but in practice there is no strict timeline that is followed.

Sikkim – Casino

A licence application must be made by an Indian entity to the state government, which will examine the application.

Once it has made any necessary enquiries, the state government can grant a six-month provisional licence to set up necessary infrastructure.

When the applicant has fully complied with the terms and conditions of the licence, the state government can grant a regular licence.

Sikkim – Online Games

The licensee must make an application in the form specified by the Sikkim Online Act, along

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with the application fees. The state government will then conduct an inquiry (if it deems it appropriate) before issuing or rejecting the licence.

Goa, Daman and Diu

An application may be made by an individual/firm/body corporate to the Director of the Tourism Department. The Director appoints an inspection officer to assess the licensed premises. If satisfied, the Director recommends approval to the Administrator of Daman and Diu, who then grants or rejects the licence.

There is no guidance on timelines for grant of licence.

Tamil Nadu

Local online game service providers can apply for a certificate of registration from the TN Gaming Authority. The acceptance/rejection of the application must be decided within 15 days, ensuring the applicant is heard before any rejection.

West Bengal

An application for a permit to host games of skill in a public place must be made to the Commissioner of Police (if the permit is sought in Kolkata) or to the district magistrate or sub-divisional magistrate if the permit is sought elsewhere in the state.

4.9 Application Fees

Nagaland

A non-refundable application fee of INR50,000 (approximately USD594).

Sikkim

The casino fee is INR5,000 (approximately USD59) and the online fee is INR500 (approximately USD6).

For online gaming, a provisional fee of INR100,000 (approximately USD1,189) must be made, and once the application is approved, a licence fee of INR10 million (approximately USD118,939) has to be paid.

Tamil Nadu

The local online games providers must pay INR100,000 (approximately USD1,189) as the registration fee.

Goa, Daman and Diu

The cost of a licence is INR5 million (approximately USD59,468) for onshore and offshore casinos, regardless of the number of tables or machines installed in the licensed premises.

4.10 Ongoing Annual Fees

Nagaland

For the first three years, the annual licence fee per game is INR1 million (approximately USD11893) (or INR2.5 million (approximately USD29,733) for a range of games).

For the next two years, the annual licence fee is INR2 million (approximately USD23,786) (or INR5 million (approximately USD 59467) for a range of games). In addition, licensees are required to pay 0.5% of the gross revenue generated as a royalty.

Sikkim

For casinos, the licensee must pay gaming fees to the state government at a rate of 10% of the gross gaming yield (or INR10 million (approximately USD 11,8937), whichever is higher) for the first year. Thereafter, fees will increase incrementally by 15% per year with regard to the minimum assured revenue for each of the remaining four years.

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For online gaming, an annual fee of INR10,000 (approximately USD118) and an online gaming levy of 1% of the gross gaming yield must be paid to the state government under the Sikkim Online Act.

Goa, Daman and Diu

The fee varies based on the size of the casino, and whether it is an onshore or offshore casino, and the seating capacity of the vessel.

5. Land-Based Gambling

5.1 Premises Licensing

Please refer to **4.7 Application Requirements**. The states of Sikkim, Goa, and Daman and Diu provide for premises licensing.

5.2 Recent or Forthcoming Changes

There are no specific contemplated changes.

6. Online Gambling

6.1 B2C Licences

Nagaland

As per the Nagaland Act, licences are issued for offering a variety of games of skill on online platforms.

Sikkim

The Sikkim Online Act allows for licences to be granted to offer a variety of intranet games (within Sikkim).

Tamil Nadu

Under the TNOGA, local online games providers may apply for registration to offer their online games.

Please refer to **4.7 Application Requirements** for more details.

6.2 B2B Licences (Suppliers, Software, Etc)

There are no B2B licences to be obtained. The RBI requires payment processors to obtain licences under the Payment and Settlement Systems Act 2007; however, payment gateways do not need such licences.

6.3 Affiliates

Apart from contractual restrictions that may be explored, there are no measures in place to regulate the use of affiliates.

6.4 White Labels

There are no licensing/regulatory requirements that apply to the use of white-label providers.

6.5 Technical Measures

Websites that offer games of a gambling nature (ie, real-money products that are games of chance) may be blocked under certain provisions of the IT Act and the IT Rules.

6.6 Recent or Forthcoming Changes

All the proposed policy changes/pending litigation outlined in **1.1 Current Outlook and Recent Changes** would impact the online gaming sector.

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

7.1 RG Requirements

Most Gaming Enactments prohibit gambling activities and permit games of skill; they do not prescribe any social responsibility requirements for skill gaming operators. The Nagaland Rules

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prescribe some requirements for licensed operators in the state, such as:

- ensuring that games are not offered to minors;
- taking payments through recognised payment modes;
- implementing fraud prevention mechanisms; and
- publishing a responsible gaming charter on websites/apps.

Reportedly, the TN Gaming Authority is considering introducing certain controls on online gaming in the state, such as limits on number of hours, and cash limits.

Self-regulatory gaming associations have introduced self-regulatory standards for responsible gaming, including player protection measures, self-exclusion standards, and advertising standards amongst others.

7.2 Gambling Management Tools

There are no gambling management tools or requirements prescribed under Indian law.

Certain self-regulatory bodies have introduced measures for responsible gaming, as discussed in **7.1 RG Requirements**.

7.3 Recent or Forthcoming Changes

Please see **1.1 Current Outlook and Recent Changes**.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The Prevention of Money Laundering Act 2002 (PMLA) prohibits money-laundering activities. Entities carrying out “activities for playing games

for cash or kind (including casinos)” are classified as “reporting entities” and are subject to certain reporting obligations (eg, verifying the identity of clients, maintaining records and reporting suspicious transactions).

In September 2024, certain news reports suggested that online skill gaming operators would be brought within the framework of the anti-money laundering laws, as elaborated upon in **8.2 AML Requirements**.

8.2 AML Requirements

As per news reports in September 2024, the Indian government has commenced internal consultations to include online gaming entities within the ambit of the PMLA, and to introduce Know-Your-Customer (KYC) obligations and mandatory reporting of suspicious activities by such entities. These reports also suggest that India is planning to present these issues at the meeting of the global Financial Action Task Force (FATF) in the wake of several issues of money laundering to foreign jurisdictions through online gambling apps.

The state government of Goa has introduced state AML/CFT Regulations. Entities seeking a casino licence in the state are required to comply with the conditions set out, which include reporting obligations for certain entities.

8.3 Recent or Forthcoming Changes

Please see **8.1 AML Legislation**.

9. Advertising

9.1 Regulatory/Supervisory Agency

The MIB has been vested with the jurisdiction over online advertisements, which may include

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gaming advertisements. Thus far, there have been no regulations introduced by MIB.

The Advertising Standards Council of India (ASCI) is a self-regulatory industry body whose Code has been made applicable for the regulation of advertisements on television/broadcasting media.

The Central Consumer Protection Authority (CCPA) regulates violations of consumer rights, unfair trade practices, and false advertising under the CPA. It can initiate proceedings, investigate offences, refer cases to other regulators, and impose penalties on violators.

State police and judicial authorities enforce the Gaming Enactments and the BNS prohibitions.

The specific regulatory authorities in states where licences are issued have been covered in **4.1 Regulatory Authority**.

9.2 Definition of Advertising

The CPA defines an advertisement as “any audio or visual publicity, representation, endorsement or pronouncement made by means of light, sound, smoke, gas, print, electronic media, internet or website and including any notice, circular, label, wrapper, invoice or such other documents.”

9.3 Key Legal, Regulatory and Licensing Provisions

Please see **9.4 Restrictions on Advertising** for general restrictions and prohibitions on advertising. There are specific restrictions on licensees in Sikkim, Nagaland and Tamil Nadu.

9.4 Restrictions on Advertising

Most State Enactments prohibit the printing, publishing, selling, distributing or circulating in

any manner of any newspaper, news sheet or other document, or any news or information with the intention of aiding or facilitating gambling. These restrictions, however, do not apply to skill games in most states. Some state-level restrictions are covered in **9.3 Key Legal, Regulatory and Licensing Provisions**.

Under the IT Rules, intermediary platforms (including social media platforms) are required to inform users not to publish any content relating to or encouraging money laundering or gambling, which is an online game that causes user harm, is harmful to a child, or which violates any law for the time being in force, which includes the Gaming Enactments.

Advertisements of games of skill are regulated by the CPA and the Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements 2022 (the “Misleading Ads Guidelines”) introduced by the CCPA. The CPA read with Misleading Ads Guidelines prohibits misleading advertisements, surrogate advertisements, and unfair trade practices through certain types of promotional activities.

Recently, direct and surrogate advertising of foreign sports betting platforms in India has come under significant scrutiny by the MIB and the Department of Consumer Affairs. News reports suggest that the CCPA invoked provisions under the CPA to issue show-cause notices to six online betting apps for violating advertising norms by misleading consumers through surrogate advertisements. The CCPA has recently issued an advisory directed towards the entire spectrum of entities involved in advertisements (manufacturers, advertisers, publishers, intermediaries, celebrities, influences and any other relevant stakeholders) advising them against directly or indirectly or through surrogate adver-

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tisements, promoting, endorsing or advertising unlawful betting or gambling activities.

Between June 2022 and March 2024, the MIB issued five advisories, in consultation with the Department of Consumer Affairs, warning media and influencers against promoting or endorsing online sports betting platforms and surrogate ads targeting Indian audiences. The Press Council of India also issued a warning in April 2024 for print media to follow CCPA guidelines on prohibiting unlawful activity promotions. Additionally, sporting bodies like the BCCI have banned associations with betting platforms.

TCCPR Regulations

Advertisements through SMS or voice-based communication is regulated by the Telecom Commercial Communications Customer Preference Regulations 2018 (TCCCPR).

The ASCI Code and ASCI Gaming Guidelines

The ASCI Code restricts advertisements for banned products, including gaming/gambling items, and prohibits surrogate advertisements. However, legitimate brand extensions are exempt. The ASCI released the Gaming Guidelines for Online Games with Real Money Winnings. The guidelines prohibit, amongst others, ads showing minors playing for real-money winnings and require disclaimers about financial risks. ASCI focuses on regulating the content of these ads, not the legality of the games themselves.

Content-Related Restrictions

Advertising content may also be subject to content-related restrictions under the BNS, the IT Act and other legislation, which prohibit obscene content, content that hurts religious sentiments, amongst others.

Advertising of Gambling

Please see 9.4 Restrictions on Advertising for the restrictions on advertising. The TCCCPR prohibits unsolicited commercial communications to persons who have opted out of receiving them. Both telemarketers (to which the sending of commercial communications is outsourced) and senders (the entity promoting the goods/services) are required to register as detailed under the TCCCPR in order to send commercial communications.

9.5 Sanctions/Penalties

Under the ASCI Code, ASCI may direct members to modify their advertisement.

ASCI has partnered with CCPA to forward non-compliant ads that may violate the ASCI Code or the CPA and its guidelines.

For violations under the CPA, fines of up to INR1 million may be imposed. Every subsequent offence may be punished with up to five years in prison and a fine of up to INR5 million. The CCPA may direct misleading or surrogate advertisements to be removed.

9.6 Recent or Forthcoming Changes

There are no legislative changes contemplated with regard to gaming advertisements.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

In the event that the transaction involves a listed company, certain regulatory disclosures (including stock exchange disclosures) will need to be made depending upon the nature of the transaction.

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There are specific disclosure requirements for acquisitions and changes of control of gaming/gambling companies under State Enactments that contain a licensing regime.

Under the Nagaland Act and the licence terms and conditions, the licence will be suspended in case of:

- change in shareholding pattern;
- change in directorship; or
- the licensee being acquired.

The licensee must approach the state licensing authority within 30 days and state the reasons for such change. Thereafter, the authority has the right to decide whether to resume the licence or suspend it.

10.2 Change of Corporate Control Triggers

Please refer to 10.1 Disclosure Requirements.

10.3 Passive Investor Requirements

There are no specific requirements for passive investors in acquisitions or changes of control under Indian law.

10.4 Recent or Forthcoming Changes

There are no recent or further changes that have been reported.

11. Enforcement

11.1 Powers

As covered in 3.6 Penalties for Unlawful Gambling, regulatory bodies (the police/judicial bodies) may impose fines or imprisonment under the Gaming Enactments.

11.2 Sanctions

Some recent cases of enforcement in this industry are as follows.

- According to the latest annual report from the Directorate General of GST Intelligence (DGGI), 658 offshore online money gaming entities have been identified by DGGI to be non-registered or non-compliant, prompting investigations against them. Additionally, the DGGI has also recommended 167 URLs/web-sites for blocking.

The ED has raided multiple states, including Goa, Maharashtra, and Punjab, investigating FEMA violations by offshore betting companies and illegal online casinos. State police have also arrested individuals linked to these online betting platforms.

- The central government as well as state governments have been blocking offshore online betting and casino platforms following investigations conducted by the ED and raids.
- The ED has arrested persons, and seized monies in connection with carrying out unlawful betting/gambling and routing proceeds of unlawful gambling offshore under the PMLA.

Personal Sanctions

With regard to personal liability, only a few states in India contain express provisions imposing vicarious liability upon those in charge of the company for its business (including its directors or officers).

Under Indian law, vicarious liability cannot be imposed on the directors unless:

- the statute expressly provides for it; or
- it is shown that the individual had an “active role with criminal intent”.

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There are certain other offences (eg, criminal conspiracy) for which individuals in the company could be held liable under general criminal laws, such as the BNS.

11.3 Financial Penalties

Please refer to 11.1 Powers.

11.4 Recent or Forthcoming Changes

An inter-departmental committee with representatives from various government ministries may be constituted to develop comprehensive strategies to combat unlawful gambling.

12. Tax

12.1 Tax Rate by Sector

Income Tax

As per Indian income tax laws, winnings from any crossword puzzle, card game horse races or other game are taxable at the rate of 30% (plus applicable cess and surcharge) without allowance for any deductions or expenses. A similar manner of taxation is provided for income by way of winnings from online games.

Withholding tax obligations with respect to online and offline games have been separated with effect from 1 April 2023. While withholding tax for offline games continues to be 30% (plus applicable cess and surcharge) on the winnings amount exceeding INR10,000 (approximately USD118) in the financial year, withholding tax obligations for online games is now 30% (plus applicable cess and surcharge) on “net winnings” without the INR10,000 (approximately USD118) limit. Further, the Central Board of Direct Taxes has provided guidelines and clarifications on the manner of computing such “net winnings”.

If winnings are in kind (or partly in kind), the payer must ensure tax is paid before releasing the full prize, especially if the cash component is insufficient to cover the withholding tax.

Equalisation Levy

Offshore e-commerce operators were earlier subject to an Equalisation Levy (EL) at the rate of 2% on the consideration received or receivable from “e-commerce supply or services” made or provided or facilitated by such operators to a person resident in India. However, the Finance Act 2024 brought in amendments to abolish the applicability of EL with effect from 1 August 2024. Accordingly, the issue of whether offshore online gaming operators should be subject to EL is now redundant.

Goods and Services Tax

There have been several developments in the GST regime for the gaming industry with effect from 1 October 2023.

A new concept of “online money gaming” has been introduced, covering all online games where players pay or deposit an amount with the expectation of winning rewards, regardless of whether the outcome depends on skill or chance, or if the game is legally permissible. Further, valuation rules have been introduced, inter alia, providing that the value of supply of online gaming, including supply of actionable claims involved in online money gaming, shall be the total amount paid or payable to or deposited with the supplier by way of money or money’s worth, including virtual digital assets, by or on behalf of the player. The above amendments are brought in to levy GST at the rate of 28% on the total amount deposited by a player with an online gaming operator by way of money or money’s worth regardless of the nature of such game.

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Online money gaming has been excluded from the ambit of Online Information and Data Access or Retrieval services. However, the amendments require offshore online money gaming operators to obtain mandatory GST registration. In the case of failure to obtain such registration, the GST department may block any information generated, transmitted, received or hosted in any computer resource used for supply of online money gaming by such offshore online money gaming operator.

Offline games involving betting and gambling continue to be taxed at the rate of 28% on the entire bet amount.

On the judicial front, the Karnataka High Court recently quashed a GST demand of INR21,000 crores (around USD25 million) against Gameskraft, ruling that the buy-in amount for a skill-based game like rummy should not be subject to GST. The tax department appealed this decision to the Supreme Court of India, which granted a temporary stay on the High Court's order. As a result, the GST department has started opening assessments for operators for periods before 1 October 2023, which are being challenged in various high courts. Most of these courts have issued notices and granted stays on the proceedings. Due to a transfer petition filed by the tax department, these cases are now being consolidated for hearing alongside the Gameskraft matter in the Supreme Court.

12.2 Recent or Forthcoming Changes

A provision has been inserted in the GST laws empowering the government, upon the GST Council's recommendation, to identify and waive GST on supplies where GST was not levied or short-levied because of a generally prevalent practice. The government may issue notifications to identify such supplies and waive the

entire GST amount, or any excess above the short levy of GST, as the case may be. However, no such notification has been issued to date.

This amendment could potentially relieve online gaming operators of past GST demands. However, no notification has been issued as yet.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Authorisations and Licences Applicable to Individuals

As mentioned in 4.4 **Types of Licences**, licences may be required based on the state in which the product is offered, type of product and the medium through which the product is offered. While in some states, arguably individuals can apply for such licences, in practice, licences are not issued to individuals in their personal capacity.

Casinos (Physical)

In Sikkim, there are no independent/individual licences issued for casinos. In Goa, Daman and Diu, licences may be issued to individuals for offering casino products.

Poker

In Sikkim, the licence can be given to a "person", which may technically include natural persons or corporate entities. However, in practice, individuals may not be contemplated as licensees.

Similarly, in Nagaland, an individual may not be eligible for licences. None of the 12 licences issued have been given to individuals.

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In West Bengal, an “organiser” may apply for a permit for providing a game of skill. It is not clear whether an entity or a natural person may apply.

Sports/Horse Race Betting

In Karnataka and Maharashtra, the licence for operating a horse racing course may be granted to the owner, lessee or occupier of a race course by the state government. The language of the provision is unclear as to whether the licences are issued in the name of the individual (owner, lessee or occupier) or the race course. However, in practice, licences are issued to Turfs Clubs.

Fantasy Betting

As mentioned in 4.4 **Types of Licences**, fantasy sports that qualify as games of skill do not require licences under most Gaming Enactments, apart from in Tamil Nadu and Nagaland (see the discussion on poker above).

Lotteries

As per the Lottery Laws, an individual may be appointed as a “distributor or selling agent” through an agreement for the lotteries conducted by the state.

Social Gaming

If a social game amounts to a prize competition, then a licence under the PCA may be required to promote/conduct it. Individuals may obtain this licence.

Skill Games

Please see the discussion on poker above.

Availability of Licences

There is no explicit limits/cap on the number of licences that may be offered. There is no distinction between licences that may be issued to individuals and to companies/firms under the GDD Act. Please see 4.5 **Availability of Licences**.

Duration of Licences

See 4.6 **Duration of Licences**.

13.2 Application Process

There is no distinction between the licences issued to individuals and to companies/firms in terms of the application requirements, timeline for such applications and the fees associated. Please see 4.7 **Application Requirements**, 4.8 **Application Timing** and 4.9 **Application Fees** above.

13.3 Ongoing Annual Fees

Applicable annual fees to the licences mentioned in 13.1 **Types of Authorisations and Licences** have been discussed in 4.10 **Ongoing Annual Fees**.

13.4 Ongoing Requirements

The general licence conditions discussed in 4.7 **Application Requirements** would apply.

13.5 Personal Sanctions

Please see 11.1 **Powers**.

13.6 Recent or Forthcoming Changes

There have been no major changes.

Trends and Developments

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Nishith Desai Associates is an India-centric global law firm with offices in Mumbai, Bengaluru, Delhi, Silicon Valley, Singapore, Munich and New York. The gaming practice comprises three leaders and 12 qualified lawyers. The team has been a pioneer in the industry, and the gaming practice has existed almost as long as the online gaming industry in India. The team has worked on multiple innovative and out-of-the-

box transactions in the gaming space, particularly cross-jurisdictional investments and entry strategies for foreign clients. The firm's focus on research and academic work in this area enables it to provide cutting-edge solutions for clients. Nishith Desai Associates has also been instrumental in industry-wide efforts and policy advocacy on behalf of the Indian gaming industry.

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LEGAL AND TAX COUNSELING WORLDWIDE

India represents the second-largest online gaming community, with an impressive 442 million user base. As per a study by Grant Thornton Bharat in collaboration with industry body E-Gaming Federation, the Indian gaming industry is projected to experience a whopping growth rate of 20% to reach INR231 billion in 2025, from INR220 billion in 2023. Real money skill gaming accounts for approximately 83–84% of the revenue. Prime Minister Modi heralded the role of the gaming industry in job creation and outlined the government's goal to establish India as a global leader in the gaming industry during his speech on Indian Independence Day in August 2024. This followed his interaction with top gamers earlier in 2024, where he sought to understand the regulatory issues in the industry and recognised the need for a minimal intervention approach to video gaming regulation. He stressed the importance of Indian youth leading the use of Indian culture to create innovative multiplayer games that attract global audiences, positioning India as a top game exporter.

The gaming industry also forms a critical part of India's "Digital India" initiative, which is set to transform India to a digitally empowered nation. In furtherance of this aim, the federal Cabinet

approved the establishment of a National Centre of Excellence (NCoE) for the Animation, Visual Effects, Gaming, Comics and Extended Reality (AVGC-XR) sector in September 2024. The NCoE will act as a nodal institute for skilling, research and development, IP/content creation based on India's heritage, and as an incubation centre for start-ups in the industry. There are also proposals underway to explicitly clarify that 100% foreign direct investment (FDI) is permitted in the skill gaming sector through the automatic route.

Despite the promising growth of India's online gaming industry and repeated recognition of the need to prioritise the role of the gaming industry, regulatory uncertainty continues to loom, for real money gaming in particular. Simultaneously, ongoing uncertainty around Goods and Services Tax (GST) creates further challenges to industry growth.

Scrutiny of offshore advertising and the offering of illegal gaming services continues to increase, from various Indian regulatory authorities such as the Ministry of Electronics and Information Technology (MEITY), Enforcement Directorate (ED), and Indian tax authorities.

We have discussed below some of the key trends and developments in 2024 and their potential impact on the industry in India.

Positioning India as a Global Gaming Hub: TRAI Recommendations and AVGC Policy

In April 2022, the Ministry of Information and Broadcasting (MIB) set up an Animation, Visual Effects, Gaming and Comics (AVGC) Task Force (the “AVGC Task Force”), to boost industry potential through various training initiatives and government incentives. The AVGC Task Force released its report in December 2022, which recognised the potential of the gaming industry and its contribution to the Indian economy. In furtherance of the same, in September 2024, the Union Cabinet approved the establishment of a NCoE in Mumbai to support skilling, education, industry development, research and innovation in the AVGC sector, particularly in gaming. Further, the MIB has announced that the National AVGC-XR Policy will be implemented soon, along with the introduction of a National AVGC-XR Mission. The AVGC-XR Policy is currently awaiting cabinet approval. The policy is designed to be the framework for the sector’s development and provide guidance to states, which will develop their own AVGC policies. The National AVGC-XR Mission will create an integrated plan for promotion and growth of the AVGC sector.

The Telecom Regulatory Authority of India (TRAI) released its recommendations to the National Broadcasting Policy in June 2024. The recommendations include incentives to attract skilled gamers, content creators and industry professionals to establish India as a “Gaming Content Hub”. The recommendations suggest that India consider a gaming visa similar to Dubai’s and align its AVGC Policy accordingly. It also recommended measures to unlock India’s potential as a “Gaming Content Hub” by creating and sup-

porting infrastructures such as plug and play labs, incubators and by encouraging start-ups and new players.

FDI Limits Proposed to be Explicitly Liberalised in Skill Gaming Sector

The Foreign Direct Investment Policy of India (the “FDI Policy”), as codified into law by the Foreign Exchange Management Act, 1999 and the Foreign Exchange Management (Non-Debt Instruments) Rules, 2019 (the “Non-Debt Rules”), prohibits FDI in lottery and gambling and betting (including casinos).

The terms “gambling and betting (including casinos)” are not defined under the FDI Policy/Non-Debt Rules. Due to this, the authorised dealer banks that process investments, and the Department of Industrial Policy and Promotion (DPIIT), (the Central department that provides approvals for FDI), have grappled with distinguishing between “gambling” and “games of skill” for FDI purposes.

Recently, court rulings have provided clarity on certain aspects. For instance, in a significant ruling, the High Court of Bombay has upheld that foreign investment in entities offering games with no real-money rewards does not amount to “betting and gambling” under the FDI Policy. The court interpreted past Supreme Court judgments and reiterated that the predominant element of the activity (skill or chance) would determine the character of the game. In order to constitute gambling, a game (i) must be predominantly a game of chance, and (ii) must be played for a reward. However, notwithstanding these rulings, there is a strong need for regulatory certainty in FDI in increasingly diverse and innovative games of skill.

In an effort to simplify and streamline FDI in the industry, as per news reports, the government is planning on explicitly clarifying 100% FDI in real money games of skill entities through the automatic route – ie, where no permission is required. In pursuance of the same, as per news reports, the DPIIT has sought clarity on the distinction between games of skill and games of chance from various ministries, such as MIB, MEITY and NITI Aayog, to draft a policy permitting 100% FDI in online gaming. Discussions are reportedly underway at various levels of the government regarding the DPIIT proposal. The outcome of this exercise could significantly boost regulatory certainty, and therefore investment in the already burgeoning Indian real money skill gaming industry.

Federal Self-Regulatory Approach Shelved, Establishment of Government Regulator

At the close of 2022, MEITY was appointed the federal regulator for online gaming, and the Ministry of Youth Affairs and Sports was appointed as the federal regulator for e-sports. This was a significant step towards long-sought federal regulations for the online gaming industry, hitherto governed by antiquated and inconsistent state-wide laws.

As discussed in the [India Law and Practice chapter in this guide](#), the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 were amended in April 2023, to create a federal framework to regulate online gaming (“Gaming Amendments”), which were expected to operate in parallel with the state-wide gaming legislation (“Gaming Enactments”). Some of the key features of the Gaming Amendments are set out below.

- The Gaming Amendments proposed a co-regulatory framework between designated self-regulatory bodies (SRB) and the MEITY.
- Only companies incorporated in India were eligible to apply to be an SRB.
- Two types of games were sought to be regulated: (i) permissible online real money games (PORMG) and (ii) other online games. Online gaming intermediaries offering PORMG would be overseen by SRBs.
- These SRBs would be responsible for verifying a game as permissible, PORMG, provided it met specific criteria, such as excluding any form of wagering on outcomes. As a result, games of chance, and games like sports betting were intended to be excluded from the regulatory framework.

However, notably the government has retreated from the co-regulatory framework in the Gaming Amendments, now considering the establishment of a federal government regulator instead. As per news reports dated January–February 2024, MEITY examined the proposals submitted for SRBs and concluded that they were heavily dominated by major industry players, and would not be representative of the various stakeholders. Hence, the central government shelved the proposal and per such reports has taken it upon itself to regulate gaming. It is yet to be seen what direction MEITY proposes to take with respect to the new regulations. The National Law University (NLU) Delhi, in collaboration with the E-Gaming Federation, is engaging with industry stakeholders to chart the course for future gaming regulations. NLUD was expected to submit its report to MEITY after the general elections.

In parallel, a non-governmental organisation has filed a petition before the Delhi High Court challenging the Gaming Amendments, including on the grounds that the Centre has issued the

amendments by usurping the state's exclusive legislative competence to regulate online gaming. The matter is still pending before the court.

States are continuing to regulate the gaming industry at a state level by considering addressing various forms of user harm, including gaming addiction amongst children under the Gaming Enactments. For example, Tamil Nadu is considering introducing daily usage and monetary caps for online gaming and ban on gaming during certain hours (between midnight and 5AM).

Supreme Court to Examine Constitutionality of Bans on Skill Games

Under most Gaming Enactments, offering or playing games of chance for money is prohibited, while games of skill are generally exempt. Offering and playing games of skill has been recognised as a constitutionally protected activity by the Supreme Court and various state High Courts. A few states such as Nagaland, Sikkim and Tamil Nadu, have opted to regulate such games through licensing regimes, while others have attempted to ban even games of skill, when played for monetary stakes. However, High Courts in certain states have ruled these prohibitions unconstitutional.

- Kerala – the Kerala High Court overturned a ban on online rummy for stakes in 2021, and that decision is now under appeal before a larger bench before the High Court.
- Tamil Nadu – in April 2023, Tamil Nadu introduced the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2022, which aimed to ban games like poker and rummy. While physical versions of games like rummy and poker have been recognised as games of skill, the Tamil Nadu government sought to ban the same on the basis that the online versions of these games

were games of chance, due to the manner in which the games were played online. In November 2023, the Madras High Court struck down the restrictions on rummy and poker as unconstitutional. The court also notably held that the same level of brain activity would be required to play poker and rummy online as it would be required to play these games offline. The Court however did uphold the constitutionality of other provisions of the Tamil Nadu Prohibition of Online Gambling and Regulation of Online Games Act, 2023, which sought to regulate, not prohibit, online games of skill. The Tamil Nadu government has since filed a Special Leave Petition (SLP), a petition seeking permission to appeal before the Supreme Court challenging the Madras High Court's ruling.

- Karnataka – petitions were brought before the Karnataka High Court to challenge the provisions of the Karnataka Police (Amendment) Act, 2021, which sought to ban all online games involving stakes, including skill-based games. The Karnataka High Court ruled these provisions unconstitutional. The Karnataka government has also filed an SLP against this decision.

Accordingly, the SLPs seeking permission to appeal the judgements from Tamil Nadu and Karnataka have been combined and are currently pending before the Supreme Court.

In addition, writ petitions were filed in the Telangana High Court challenging the Telangana Gaming (Amendment) Act, 2017, which sought to ban skill-based games played for stakes. Following Tamil Nadu and Karnataka, the Telangana government filed a transfer petition to have the case heard alongside the other appeals in the Supreme Court. The case is yet to be clubbed with the other petitions.

Thus, there are five matters now before the Supreme Court. The outcome of these cases will play a critical role in determining whether states can ban skill-based games, with the Supreme Court's decision being binding on all Indian states.

These High Court rulings suggest increasing recognition of the constitutional right to offer and play skill-based games by the Indian court, but the final outcome of the ongoing special leave petitions before the Supreme Court will lay the question to rest.

GST on Online Gaming

With effect from 1 October 2023, the GST laws were amended to levy 28% GST, on the total deposit amount. These amendments have significantly impacted the sector since their introduction, leading to layoffs and the closure of some start-ups due to the tax burden. The industry had earlier been paying 18% GST on the service fee charged by the platforms. A survey of gaming companies indicate that most companies prefer that the GST be applied to the gross gaming revenue, instead of the deposit amount.

Retrospective GST notices

While the GST amendments are operational from 1 October 2023, Indian real money gaming operators have received a slew of notices from GST authorities in India seeking to implement the 28% GST on the deposit amount retrospectively for previous years (March 2017 – July 2023) as well. Operators have challenged the issuance of the show cause notices before the High Courts. In many instances, the relevant High Courts have granted a stay on the operation of the show cause notices to the gaming operators. These cases have been consolidated and are currently awaiting adjudication before the Supreme Court. In these matters the operators have challenged

the legal provisions on the basis of which the show cause notices were issued. The matter was next listed on 5 November 2024.

Amendments could bring relief for retrospective GST dues

Through a recent amendment introducing Section 11 A to the Central Goods and Services Tax Act, 2017, the government is considering softening its stance on levying GST in certain cases. This provision empowers the government, on the recommendations of the GST Council, to allow regularisation of non-levy or short levy of GST, where tax was being short paid or not paid due to generally prevalent practices. The government is empowered to implement this relief by notifying such practices upon recommendations of the GST Council. However, no notification has been issued to date.

Since the real money gaming industry was paying GST at the rate of 18% on the service fee as a general practice, this provision is expected to provide relief to the industry. However, the benefit cannot be confirmed in the absence of a notification to this effect. Despite the 28% GST implication, investor sentiment remains strong in the gaming industry, with deal activity reflecting confidence in the sustained potential of the industry.

GST registration for offshore operators

The amendments also require compulsory GST registration for offshore gaming operators and blocking of gaming platforms in case of non-compliance. The GST authorities have urged MEITY to block over 170 offshore online gaming platforms for non-compliance with the registration requirement under the GST laws. Tax collection from online gaming has been reported to have increased by 412% owing to the GST amendments.

Increased Scrutiny of Offshore Gambling Operators Targeting India

As mentioned above, games of chance like casino, sports betting, etc, are prohibited under Indian gaming enactments. In addition, Indian foreign exchange control laws prohibit the remittance of money by Indian users abroad for gaming activity, including lottery and sweepstakes, amongst others.

However, offshore operators usually offer gambling products remotely, often in violation of Indian anti-money laundering and exchange control laws by routing funds through cash transfers, hawala transactions or other complex methods.

Indian regulators and enforcement authorities have increased scrutiny and enforcement action against such operators. The local/domestic industry has also been vocal against such operators and sought to distinguish themselves from the offshore “gambling” industry.

Blocking of websites

MEITY had directed certain Indian telecoms service providers to block access to several offshore sports betting and gambling platforms offered remotely in India. Based on news reports, the blocking appears to have been triggered by various violations, including non-compliance with exchange control and money laundering laws and GST violations raised by GST authorities. As of December 2023, MEITY is reported to have blocked around 174 betting and gambling applications.

Attachment orders and arrests by ED in connection with money laundering

The ED under the Prevention of Money Laundering Act, 2002 is continually cracking down on illegal and offshore gambling operators. Recently, the ED issued an attachment order for proper-

ties worth around INR260 million (approximately USD3,093,493), including assets in cryptocurrency wallets. This was in a case of fraud involving an app, “Fiewin” linked to a Chinese national, where the amount in question was around INR4 billion (approximately USD47,592,200). The ED also issued an attachment order. In another investigation linked to money laundering by another unlawful online gaming app “E-Nugget”, the ED seized nearly INR900 million (approximately USD10,708,243) from cryptocurrency wallets of exchanges. In the infamous Mahadev betting app case involving large-scale money laundering from illegal betting activities, the ED has frozen assets over around INR5.8 billion (approximately USD69,008,678).

Advisories against surrogate advertisements

The Guidelines for Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022 (the “Misleading Ads Guidelines”) issued under the Consumer Protection Act, 2019 (CPA) prohibit the advertisement of goods, products or services, whose production, sale or provision, are prohibited under law. Most state gaming enactments have specific prohibitions against the advertisement of gambling or games of chance. The Misleading Ads Guidelines also prohibit the surrogate advertisement or indirect advertisement of goods or services whose advertising is otherwise prohibited or restricted by law.

Offshore operators have been continually engaged in advertising sports betting entities under the guise of news platform (on several occasions, MIB has noted that the logos of such surrogate news websites bear a striking resemblance to those of betting platforms). The Advertising Standards Council of India (ASCI) flagged and reported 700 advertisements from illegal betting and gambling companies to the

MIB between April and August 2024. This was reportedly prompted by the rampant advertising by offshore betting platforms during the Indian Pro Kabaddi League.

The MIB, the federal Ministry responsible for online advertisements, has issued an advisory directing social media platforms and online advertisement intermediaries to refrain from publishing and broadcasting direct and surrogate advertisements of offshore online betting platforms. The Central Consumer Protection Authority (CCPA) has also issued an advisory expressing concerns on the endorsement and promotion of betting activities by celebrities and influencers. The advisories also advise against targeting such content towards Indian audiences and requiring social media intermediaries to conduct sensitisation efforts such that users refrain from posting such content.

The Press Council of India has asked print media as well to adhere to the directives issued by the CCPA.

Domestic skill gaming industry seeks to distinguish itself from offshore gambling operators

As of August 2024, various stakeholders from the real money gaming industry met with senior officials of MIB to discuss, among other things, the possibility of MIB certification/seal for legitimate games, to distinguish them from illegal offshore betting apps. Domestic operators have approached MIB with this concern owing to their struggles with tax burden and profitability, while illegal foreign players continue to expand their user base.

Rules Under the Data Protection Law to be Issued

India introduced its first comprehensive data protection law in the form of the Digital Personal Data Protection Act, 2023 (DPDPA) on 11 August 2023. However, the DPDPA is yet to be brought into effect. It will be made effective once its provisions are operationalised through detailed implementation rules.

As per the statements made by the Cabinet Minister for the MEITY in August 2024, the rules were expected to be released for public consultation in September 2024. The rules are yet awaited. Once brought into force, the DPDPA will be applicable to the collection and processing of personal data by online gaming operators.

The DPDPA borrows several features of the General Data Protection Regulation (GDPR), in terms of key stakeholders (data principal, data fiduciary, and data processor), notice and consent requirements, security measures, key rights of data principals, and certain grounds for processing. However, there are also marked differences in terms of obligations for cross-border data transfers, data breach reporting requirements, aspects of grievance redressal and quantum of penalties, amongst others.

One of the notable features of the DPDPA is the consent requirement for processing children's data. Under the DPDPA, verifiable consent of the parent must be taken before the personal data of a child is processed. The DPDPA also prohibits data fiduciaries from processing the data of child in a manner that is likely to have a "detrimental effect" on their well-being, and from undertaking tracking or behavioural monitoring or targeted advertisements directed at children. There may be certain exceptions from verifiable parental consent and the prohibition on tracking,

behavioural monitoring and targeted advertisement for classes of data fiduciaries or for certain purposes, as may be prescribed the rules to be issued under the DPDPA. Further, the Central government may, by notification, exempt data fiduciaries from any or all such obligations for processing personal data of children above a particular age, if they are satisfied that the data fiduciary has ensured that processing of personal data of children is undertaken in a verifiably safe manner.

This provision will have a large impact on gaming operators targeting minors, including those offering free-to-play games with targeted advertising. Further, it is unclear if “tracking or behavioural monitoring” would include features to check user progress, cheating, cyberbullying, or detect other harmful activity.

ISLE OF MAN

Law and Practice

Contributed by:

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MannBenham Advocates Limited



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MannBenham Advocates Limited has evolved with – and has a real passion for – the global eGaming market, which is strengthened by its expert lawyers and advisers. The firm has been providing legal and advisory services to its clients in the Isle of Man and the international gaming sector for more than 25 years. The advisory team draws on all the resources within the group of companies, which include their expert lawyers, multi-jurisdictional gaming advisers, regulatory and compliance professionals, and administrators. Having evolved

from MannBenham Advocates' heritage and legal pedigree, the team and company as a whole have been extremely well placed to give impartial, factual, and balanced online gaming advice across multiple jurisdictions. The team is responsible for advising on eGaming licence applications, along with compliance and procedural consultation, and works closely with the directors and the business team to solve issues, create value, maximise growth and improve business performance by providing operational and practical advice.

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1. Introduction

1.1 Current Outlook and Recent Changes

An Isle of Man online gambling licence provides an operator with a well-regulated, safe, and reputationally secure jurisdiction from which to conduct its business. While the online industry has moved on from the days when an operator could comfortably conduct its international business with one or two licences, the Isle of Man (“the Island”) continues to be a central cog in any credible international online gambling operation.

Although the Island is similar to other offshore locations in that it has low gaming duty and an attractive tax system, what attracts the experienced operator to the Island’s shores is the lack of corruption, no organised crime, political stability, family safety, and an excellent, healthy lifestyle.

With the international push towards substance and tax transparency, it is expected that the Island will continue to have a key role to play as it has the capacity to provide substance and tax transparency as the norm. The Island’s regulator, the Gambling Supervision Commission (GSC), acts as a watchdog – protecting not only the Island’s reputation by maintaining high regula-

tory standards, but ensuring that those operating on the Island do so in a compliant manner.

By carefully vetting and continuously monitoring both the applicants and licence holders, the Island’s regulator has created a safe business environment. This is now attracting experienced operators who want to operate in a business-friendly but well-regulated jurisdiction.

Social Gaming

The definition of online gambling within the OGRA is arguably wide enough to include social gaming that is conducted for money or money’s worth.

What may be considered relevant to social gaming is the use of virtual currencies in online gambling.

Pursuant to the Online Gambling (Registration and Accounts) Regulations 2008 (as amended by the Online Gambling (Amendments) Regulations 2016), it is now possible to open an account with an Isle of Man gambling operator by using anything that has a value in money’s worth. This includes convertible and non-convertible virtual currencies (CVCs and VCs respectively).

Convertible virtual currencies include cryptocurrency (such as bitcoins) that can be bought and sold through independent exchanges for fiat currency.

Non-convertible virtual currencies include virtual goods such as digital “skins” for avatars and weapons in video games, and other digital objects that have functions in video games, in addition to in-game currencies that can be used to buy such objects.

The following models are currently permitted:

- CVC/VC to fiat conversion prior to play;
- CVC/VC-in, CVC/VC-out – peer-to-peer;
- CVC/VC-in, CVC/VC-out – against the house; or
- VC-in, conversion, VC-out.

Models not currently permitted are:

- CVC/VC-X-in, CVC/VC-Y-out;
- CVC/VC-in, fiat-out; or
- fiat-in CVC/VC.

See the Isle of Man Gambling Supervision Commission’s Guidance for Online Gambling.

E-sports

The Island is a popular location for e-sports operators, with Luckbox being the first cryptocurrency-supported e-sports betting platform to be granted an online gambling licence.

The GSC has also approved the regulation of a form of e-sports whereby customers may bet on their own performance in online gaming competitions.

Fantasy Sports

Fantasy sports operators only need a standard online gambling licence in order to operate from the Island. In practice, fantasy sports would be offered as one of a number of sports games by a sports betting operator under its online gambling licence.

Skill Gaming

Skill games are not currently specifically regulated by statute.

Blockchain or Cryptocurrency

The Isle of Man Blockchain Sandbox has been established to guide blockchain businesses through current (and future) regulatory landscapes. This new strategy is set to position the Isle of Man as an international hub for blockchain businesses. Within this strategy are a number of new policies that set the Isle of Man apart from other jurisdictions as a fast follower of international regulation, thereby enabling the Island to offer a highly attractive and responsive regulatory environment.

2. Jurisdictional Overview

2.1 Online

With the exception of spread betting, all forms of online gambling are potentially licensable under the Online Gambling Regulation Act 2001 (OGRA). The following forms of gaming require an OGRA licence when conducted online:

- fixed-odds betting (eg, sportsbooks, including e-sports);
- bingo games;
- betting exchanges;
- online casino games (eg, roulette, blackjack, and slots);
- live dealing;

- peer-to-peer games (eg, poker, bingo, back-gammon, and mah-jong);
- mobile phone betting;
- fantasy sports;
- financial trading (but not spread betting);
- pari-mutuel and pool betting;
- network gaming;
- virtual currency betting;
- lotteries;
- lottery reselling;
- certain spot-the-ball-style games; and
- network services.

The GSC has introduced a variant of an OGRA licence – ie, a software supplier licence or a token-based software supplier licence. Although the licence is not mandatory to supply software to licensed operators in the Isle of Man, obtaining this type of licence creates a simpler process for operators seeking to deploy games content. Suppliers' software is listed on a central register.

Any software or service listed on the central register is deemed certified to the GSC standard, and any Isle of Man operator wishing to deploy those games or services will be permitted to do so without having to give notice to – or gain permission from – the GSC. Operators are not required to obtain testing certificates for software that is listed on the central register. In order to list software or services on the register, the software company is required to supply its certification directly to the GSC and not via an operator.

A token-based software supplier licence will be necessary for any licensee who wishes to make available software or related services that depend upon a blockchain-based token as the primary means of exchanging value. Token-based software suppliers are entities that have

created blockchain-based tokens for use as currency in a gambling ecosystem.

An OGRA licence is not required for:

- gambling that is covered by a betting office licence;
- gambling that is covered by a casino licence;
- spread betting; and
- “free play” games.

Other excluded activities are listed in the Online Gambling (Exclusions) Regulations 2010 and the Online Gambling (Exclusions) Amendment Regulations 2014 and include:

- advertising and marketing analysis and services;
- IT provision and maintenance;
- customer support;
- web and software design; and
- purely administrative procedures.

2.2 Land-Based Betting

It is an offence to use non-licensed premises for betting or to operate as a bookmaker without a permit (Section 11 and Section 14 of the Gaming, Betting and Lotteries Act 1988, or GBLA).

Racecourse Betting

Operators of racecourse betting must hold a licence, the conditions of which are set out in regulations made under Section 21(2) of the GBLA and/or specified by the GSC.

On-course pool betting can only be carried on at an approved racecourse and under the relevant permit (Section 23, GBLA).

Pursuant to Section 24 of the GBLA, the GSC may, if it thinks fit, grant a licence authorising

any person of good character and over 25 years of age to set up, keep, and operate a totalisator on an approved racecourse.

Casino Games

The Casino Act 1986 relates to casino games – the following games, pursuant to the Casino Regulations 2011, are prescribed and may be played in the gaming rooms of a casino:

- roulette;
- blackjack;
- pontoon;
- punto banco;
- bingo;
- gambling on horse races shown on film or video;
- casino brag;
- poker;
- games of dice;
- baccarat;
- chemin-de-fer;
- backgammon;
- keno;
- playing on automatic machines;
- Wheel of Fortune; and
- Super Pan 9.

Games and activities other than these may not be played, offered, or conducted without the written permission of the GSC.

Controlled Machines

The siting of controlled machines (ie, slot machines, arcade machines, and quiz machines) falls under the control of the Gaming (Amendment) Act 1984 (GAA) and is subject to the certification and registration requirements and procedures set out in Part II and in Schedules 1 and 2 of that Act.

The supply of controlled machines is governed by the procedures established in Schedule 3 of the GAA.

Land-Based Lotteries

The GBLA and the National Lottery Act 1999 regulate lotteries in the Isle of Man. Apart from small society lotteries, the UK National Lottery is the only legal land-based lottery operated on the Isle of Man. A lottery that forms part of the National Lottery under the National Lottery etc. Act 1993 (a UK Act of Parliament) is not an unlawful lottery if it is designated in an order made by the Treasury (eg, National Lottery (Designation) Order 2009).

Restrictions

Sections 2 to 6 of the GBLA outline general areas where restrictions on gaming apply, including:

- playing or staking against a bank, whether the bank is held by one of the players or not;
- the nature of the game is such that the chances in the game are not equally favourable to all the players;
- charging for games;
- stake levies;
- betting in the street; and
- advertising.

3. Legislative Framework

3.1 Key Legislation

The Isle of Man gambling legislation is split between gambling that takes place online, and land-based activities such as casinos, book-making, and lotteries.

Online Gambling

The regulation of online gambling is primarily covered by the OGRA, which also makes provisions for regulations to be made under the Act.

Currently the following regulations are in force under the OGRA:

- the Online Gambling (Advertising) Regulations 2007;
- the Online Gambling (Prescribed Descriptions) Regulations 2007;
- the Online Gambling (Systems Verification) (No 2) Regulations 2007;
- the Online Gambling (Betting and Miscellaneous Provisions) Regulations 2007;
- the Online Gambling (Disaster Recovery) (No 2) Regulations 2007;
- the Online Gambling Duty Regulations 2008;
- the Online Gambling (Registration and Accounts) Regulations 2008;
- the Online Gambling (Registration and Accounts) (Amendment) Regulations 2014;
- the Online Gambling (Licence Fees) Regulations 2009;
- the Online Gambling (Exclusions) Regulations 2010;
- the Online Gambling (Exclusions) (Amendment) Regulations 2014;
- the Online Gambling (Participants' Money) Regulations 2010;
- the Online Gambling (Participants' Money) (Amendment) Regulations 2014;
- the Online Gambling (Network Services) Regulations 2011;
- the Online Gambling (Amendments) Regulations 2016;
- the Online Gambling (Software Supplier Licensing) Regulations 2019; and
- the Online Gambling (Licence Fees) Regulations 2023.

Land-Based Gambling

The principal legislation for land-based gambling is the GBLA and the GAA, which set out legal requirements and restrictions relating to:

- lotteries;
- betting (including at racecourses);
- bookmaking;
- controlled machines; and
- totalisator (ie, a computer that registers bets and divides the total amount of the bet among those who win).

The GBLA also gives power to the GSC to make regulations. Regulations under the GBLA include:

- the Bingo Nights (Prescribed Conditions) Regulations 2010, which prescribe the conditions to be complied with where bingo is played as part of a fundraising event;
- the Racing Nights (Prescribed Conditions) Regulations 2010, which prescribe the conditions to be complied with by a lottery that forms part of a fundraising event;
- the Society Lottery Advertisements Regulations 2011, which provide how a registered charity (as defined) may advertise its fundraising lotteries; and
- the Licensed Betting Office (Opening Hours) Regulations 2017, which amend the days and times when licensed betting offices may be open.

Other relevant legislation includes:

- the Pool Betting (Isle of Man) Act 1961;
- the Pool Betting (Isle of Man) Act 1970;
- the Betting Act 1970;
- the Casino Act 1986;
- the National Lottery Act 1999;

- the Gaming, Betting and Lotteries (Amendment) Act 2001;
- the Gambling (Amendment) Act 2006;
- the Gambling Supervision Act 2010;
- the Casino (Amendment) Act 2018; and
- the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018.

The following regulations are currently in force under the Casino Act 1986:

- the Casino (Licence Application) Regulations 1986, which set out to whom an application for a casino licence should be made and matters that should be included in such a licence application;
- the Casino Regulations 2011, which, in addition to prescribing the games that may be played, also provide for the administration, operation, financial provision, and enforcement and licensing of casinos; and
- the Casino (Temporary Premises) Regulations 2013, which prescribe the procedures and requirements relating to temporary certificated premises.

The GAA, and the regulations made thereunder, set out provisions relating to the sale, supply, and the keeping for use of controlled machines.

The following regulations are currently in force under the GAA:

- the Controlled Machines Regulations 1985;
- the Controlled Machines (Exemption) Order 1992;
- the Certification of Premises (Application Fees) Order 2003;
- the Controlled Machines (Suppliers Licences) (Fees) Order 2003;

- the Controlled Machines (Prescribed Amounts and Percentages) Regulations 2014; and
- the Controlled Machines (Exemption) Order 2016.

The National Lottery Act 1999 extends the UK National Lottery to the Isle of Man.

For further information, visit [Legislation and Regulations](#).

3.2 Definition of Gambling

Section 3 of the Gambling Supervision Act 2010 defines gambling as:

- gaming – within the meaning of the GBLA (see [3.3 Definition of Land-Based Gambling](#));
- making, negotiating, and receiving bets and wagers;
- organising, managing, promoting, or participating in a lottery; and
- supplying or operating controlled machines (within the meaning of the Gaming (Amendment) Act 1984).

See also [3.4 Definition of Online Gambling](#).

3.3 Definition of Land-Based Gambling

Gaming is defined in Section 1(1) of the GBLA as “the playing of a game of chance for winnings in money or money’s worth, whether or not any person playing the game is at risk of losing any money or money’s worth”.

A “game of chance”, as per Section 1(4) of the GBLA, “does not include any athletic game or sport but, with that exception, includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined”.

3.4 Definition of Online Gambling

Section 1(1) of the OGRA defines online gambling as:

- gaming, where a player enters or may enter the game, or takes or may take any step in the game, by means of telecommunication;
- betting that is negotiated or received by means of telecommunication; and
- lotteries in which any participants acquire a chance by means of telecommunication.

For the purposes of the OGRA, Section 1(2) of the OGRA provides that a person “conducts” online gambling if:

- they take part in the organisation, management, or promotion of gaming or a lottery;
- they carry on any business involving the negotiating or receiving of a bet; or
- they maintain, or permit to be maintained, on the Island, any computer or other device on (or by means of) which the game or lottery is operated or the bet is received.

Telecommunication is defined as a communication sent, transmitted, or received by means of a telecommunication system (which has the same meaning as per the Telecommunications Act 1984).

3.5 Key Offences

Online

The key offences with regard to online gambling are:

- conducting online gambling, other than in accordance with an online gambling licence granted; and
- permitting a minor or a person to participate in online gambling if they are in a prescribed country or territory at the material time.

Land-Based

The key offences with regard to land-based gambling are:

- using, or causing or permitting any other person to use, any premises for the purpose of effecting any betting transactions without holding the requisite licences; and
- being involved in the organisation or management of unlawful gaming.

3.6 Penalties for Unlawful Gambling

The legislation provides for a detailed list of penalties for unlawful gaming, which range from fines through to imprisonment.

3.7 Recent or Forthcoming Legislative Changes

There are no recent or forthcoming legislative changes.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Isle of Man regulator of all gambling activity is the GSC, an independent statutory board established in 1962. The GSC comprises the Inspectorate and the Commission.

The Inspectorate is managed by its chief executive.

The Commission comprises five independent members of the public, who are appointed by the Isle of Man Treasury. Typically, the Commission sits once a month to consider regulatory matters and licence applications.

4.2 Regulatory Approach

The GSC adopts a hybrid model of prescriptive regulatory requirements combined with risk-based oversight. The statutory framework of gambling legislation and underlying regulations provides the skeleton upon which the Inspectorate monitors the activities of the operator through regular compliance reporting and active contact and interaction with the operator and its key staff.

4.3 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

4.4 Types of Licences

Online Gambling

Any person who establishes its operations in the Isle of Man and conducts any online gambling (within the meaning of the OGRA) must hold a licence under the OGRA.

There are a number of different licences under the OGRA, including:

- a full OGRA licence – operators with a full licence can offer technology such as games, software, and network access to sub-licences;
- sub-licences under the OGRA – these are obtained where the applicant wishes to operate exclusively with a technology provider that has a full OGRA licence regulated by the GSC;
- a network services licence – this is obtained where the operator wishes to allow one or more foreign registered players onto its Isle of Man server without re-registering the player details;
- a token-based software licence – this is obtained for the supply of software which involves cryptocurrency and/or blockchain products; and

- a software supplier licence –see 2.1 Online for further details.

Land-Based Gambling Betting

Per Section 11 of the GBLA, in order to use premises as a betting office in the Isle of Man, the premises must be licensed as a betting office by the GSC.

A bookmaker must hold a permit as well as a betting office licence if they carry out business at premises other than a racecourse (Section 14(1), GBLA).

Bookmaking or pool betting carried out at a racecourse requires a licence in relation to the specified racecourse, provided that the occupier of the racecourse holds a racecourse licence (Section 22 and Section 23, GBLA).

The Commission may separately grant a licence authorising any person of good character and over the age of 25 to set up, keep, and operate a totalisator on an approved racecourse (Section 24, GBLA).

Casinos

A maximum of two casino licences can currently be issued by the Island's Council of Ministers.

The licence prescribes the types of games that can be played at the casino. The Island's regulators have adopted a fairly flexible approach and new varieties of the traditional casino games have been trialled in the Island's current sole casino.

Controlled machines

Prize machines (ie, slot machines), non-prize machines (ie, arcades), and quiz machines are

subject to a licensing regime for both supply and siting in public premises.

Lottery

The National (UK) Lottery is available on the Island and apart from small society lotteries, this is the only legal lottery operating on the Island. See also **2.2 Land-Based**.

Society lotteries

These are small-scale lotteries conducted for charitable or cultural fundraising. They are not conducted for commercial gain.

4.5 Availability of Licences

Online Gambling

There is no restriction on the number of licences that can be issued under the OGRA.

Land-Based Gambling

There are no restrictions on the number of licences that can be issued under the Gaming, Betting and Lotteries Act 1988 or the Gaming (Amendment) Act 1984 for the supply and siting of controlled machines.

However, in relation to land-based casinos, a maximum of two casino licences can currently be issued by the Island's Council of Ministers. Currently, one casino licence is in issue.

4.6 Duration of Licences

Online Gambling

Subject to Section 8(2) of the OGRA, an OGRA licence remains in force for a period (specified in the licence) of up to five years unless it is cancelled or surrendered. Licensees can apply to the commissioners for renewal of the licence at any time before the expiry date for subsequent five-year periods (Section 7, OGRA).

The licensee who holds an OGRA licence may surrender the licence by giving notice in writing to the commissioners. The surrender or expiry of a licence does not affect liability for anything done or omitted under the licence (Section 7, OGRA).

Section 13 of the OGRA sets out circumstances in which the commissioners may cancel or suspend an OGRA licence.

A licence can be cancelled or suspended by the authorities if a holder:

- is convicted of an offence under the Casino Act 1986, the OGRA, or the GBLA;
- is convicted of any other indictable offence;
- fails to pay fees due; or
- ceases to be eligible for any other reason.

Licences Issued Under the GBLA

Licences issued to persons under the GBLA who are conducting gambling activities will continue in force for the period stated in the licence, unless they are cancelled or surrendered.

Schedule 1 of the GBLA sets out the circumstances in which the Commission may refuse to grant or renew a licence.

Licences Issued Under the GAA

A licence to site controlled machines must be renewed on an annual basis. A licence to supply controlled machines is renewed on a five-year basis.

Land-Based Casino Licence

A casino licence remains in force for a period of one year from the date on which it is granted, unless it is cancelled or surrendered (Section 5 (1), Casino Act 1986).

Subject to Section 5(3) and Section 5(4) of the Casino Act 1986, the board may renew a casino licence for successive periods of one year upon the application of the holder of the licence (Section 5(2), Casino Act 1986).

Section 5(3) of the Casino Act 1986 provides: “A casino licence shall not be renewed so as to be in force after the expiry of ten years after the date on which it was originally granted.”

Section 5(4) of the Casino Act 1986 provides: “The board shall not renew a casino licence if, after consultation with the Council of Ministers, it is satisfied that the holder of the licence would not be eligible to be granted a licence anew on one or more of the grounds specified in Section 3(6).”

Section 3(6) of the Casino Act 1986 provides that the Council of Ministers shall not grant a casino licence to any person unless it is satisfied:

- that they are a person of integrity;
- that they have adequate knowledge and financial means available to operate the casino;
- that they are the occupier of the whole of the casino and any associated premises and have such security of tenure of the casino (and any associated premises) as the Council of Ministers considers adequate;
- that they intend to operate all the facilities and amenities to be provided at the casino and any associated premises; and
- that, where the licence is intended for a body corporate:
 - (a) the body is incorporated on the Island; and
 - (b) the relevant share capital of the body is beneficially owned by a person or persons of integrity.

In addition, Section 5(6) of the Casino Act 1986 provides that, subject to subsections (3) and (4), the board shall not refuse to renew a casino licence unless the holder of the licence:

- is convicted of an offence under Section 39 of the GBLA (cheating);
- is convicted of an indictable offence by any court in the British Isles or the Republic of Ireland;
- is convicted twice within any period of 12 months of an offence under Section 134(1) of the Licensing Act 1961 (drunkenness in licensed premises);
- has failed without reasonable excuse to comply with the conditions of the licence;
- has ceased to:
 - (a) be the occupier of the whole of the casino; or
 - (b) control the operation or management of all the facilities of the casino; or
- has failed without reasonable excuse to comply with any provision of this Act (or regulations thereunder) relating to the management or operation of the casino.

4.7 Application Requirements

Online Gambling

The application process is easily accessed and supported by comprehensive guidance notes.

The applicant for an OGRA licence must be an Isle of Man company and must have at least two local directors. The applicant must also appoint at least one designated official. If the designated official is not resident in the Isle of Man, the applicant must appoint an operations manager in addition.

Details of all directors of the applicant company, together with details of the applicant's designated official (DO) and operations manager

(OM), must be included in the application. Such persons are also required to complete personal declaration forms, provide references and complete a vetting process.

Details of the shareholder and beneficial owners of the applicant must be included in the application and such parties are also required to complete application forms, provide references and complete a vetting process. The requirements for due diligence for shareholders vary slightly for publicly listed companies.

Investors who provide a prescribed level of investment to the applicant are also required to complete application forms, provide references, and complete a vetting process.

The application forms and supporting documentation are submitted to the GSC together with the application fee. After completion of a vetting process, the applicant is invited to a licensing hearing before the Commission. If successful, the applicant must pay the licence fee before going live. It typically takes between 10 and 12 weeks for the GSC to process the application.

Licences Issued Under the GBLA

Per Section 16 of the GBLA: "Schedule 1 shall have effect in relation to the grant, transfer, and renewal of, and other matters relating to, bookmakers' permits and betting office licences."

Applications under the GBLA are made to the GSC, with copies of such applications being provided to the Chief Constable and to the Collector of Customs and Excise in the Isle of Man.

Within a prescribed period, the applicant must also cause notice of such application to be published in a newspaper that is published and circulated in the Isle of Man. Such notice shall

state that any person who desires to object to the grant of the permit or licence should notify the GSC by the date stated in the notice.

See Schedule 1 of the [GBLA](#) for further details.

Society lottery licences are only issued to organisations conducting small lotteries (including raffles, bingo nights, and virtual horse racing) in order to raise money for charitable or cultural (eg, sports clubs) purposes.

The application requires details of the society conducting the lottery and the individual responsible for promoting the event.

The fee is GBP5 and must be renewed upon the start of each new year.

Licences Issued Under the GAA

In order to site a controlled machine on a public premises, an application for a licence to do so must be made to the GSC and renewed annually. Details of the directors and owners of the company in ownership of the business must be provided.

Should the premises be licensed to sell alcohol, the key persons of the company will have been approved by the licensing court. As such, the GSC will automatically deem these individuals to be fit and proper to hold the licence to site machines. If the premises is not licensed to sell alcohol, the GSC will run police background checks on each key person to ensure they are persons of integrity.

A floorplan detailing where the machine(s) will be sited is required upon application. An inspection of the premises will be made by a representative of the GSC to ensure that:

- the location of the machine does not pose a fire or security hazard; and
- the machine can be monitored by staff, either directly or via CCTV.

Notice of the application must be placed in two local newspapers within seven days of the application being lodged with the GSC.

The application fee will depend on the type of venue in which the machines are to be located.

With regard to a licence to supply controlled machines, an application is also made to the GSC that provides details of all shareholders over 10% and directors of the applicant company.

All key persons will be subject to a police background check.

The application fee is GBP1,610, and GBP805 upon the licence's five-year renewal.

Licensed suppliers are generally responsible for keeping the GSC up to date on any controlled machines being introduced to or removed from a licensed premises, unless the machine is independently owned by the premises.

Casino Act 1986

A maximum of two casino licences can currently be issued by the Island's Council of Ministers. Currently, one licence is in issue. The Casino (Licence Applications) Regulations 1986 set out the application procedure for a land-based casino licence; however, specific guidance should be sought from the GSC in relation to applications for licences under the Casino Act 1986.

See also 4.6 Duration of Licences.

4.8 Application Timing

See 4.7 Application Requirements.

4.9 Application Fees

Online Gambling

There is currently a GBP5,250 administration fee payable upon initial application for a network services licence, full or sub-licence, or software supplier licence.

Land-Based

Refer to the [GSC website](#).

4.10 Ongoing Annual Fees

Online Gambling

The current costs are as follows:

- GBP52,500 per annum for a network services licence;
- GBP36,750 per annum for a full licence;
- GBP5,250 per annum for a sub-licence;
- GBP36,750 per annum for a software supplier licence; and
- GBP52,500 per annum for a token-based software supplier licence.

Land-Based

Refer to the [GSC website](#).

5. Land-Based Gambling

5.1 Premises Licensing

Licences may be obtained:

- for a betting office by the holder of a book-maker's permit;
- for a certificate to operate controlled machines (slot machines, arcade machines, and quiz machines) from a public premises; and
- for a casino.

5.2 Recent or Forthcoming Changes

While the land-based sector is mature and there is little new activity or legislative change, operators are subject to the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 and are required to update their systems and procedures to comply with its amendments from time to time.

6. Online Gambling

6.1 B2C Licences

An advantage of the Isle of Man over other jurisdictions is the sheer simplicity of its licensing system and the proactive and helpful way the regulator works with the operators to create a business-friendly environment. Most operators only require one licence for all their business requirements and the complex web of licences, fees, and regulations found in other jurisdictions simply does not exist on the Island.

A standard online gambling licence allows the operator to conduct almost all forms of online gambling on a B2C basis under one licence. Operators can be divided into those that specialise in bookmaking, those that specialise in gaming, and those that provide a full suite of different gambling products on a global basis. An operator can also use the same licence for its B2B operations, as long as those operations do not fall with the requirements of a network licence, as discussed in **6.2 B2B Licences (Suppliers, Software, Etc)**.

There are no restrictions on where the operator may take play from and it is up to the operator to obtain its own legal advice to determine the legal position of its operation. In practice, operators will combine the Isle of Man licence with licences

in jurisdictions where a local operator's licence is required.

6.2 B2B Licences (Suppliers, Software, Etc)

A standard online gambling licence can be used for both B2C and B2B and there is not a separate licensing system just for B2B. If operators wish to operate within a gambling network and take play from the customers of operators based off the Island – without having to register those players as their own – they require a network licence. The network licence combines all the powers of a standard licence but adds the ability to operate within a gambling network. Network licences are used by a variety of operators and, for example, give access to greater liquidity for poker networks and slots tournaments.

A new software supplier licence is now available that enables the suppliers of software to be licensed and to have their games listed on a central register on the Gambling Commission website. The licence is attractive to software suppliers that wish to operate in a safe, regulated, tax-neutral environment.

The majority of B2B activities that would potentially be licensable under the Online Gambling Act 2001 are excluded from licensing by the Online Gambling (Exclusions) Regulations 2010. This enables support services to the online gambling industry to operate on the Island without the need for a special licence or any licensing fees.

6.3 Affiliates

The provision of affiliate services is not a regulated activity on the Isle of Man.

6.4 White Labels

An OGRA licence covers a number of white-label sites. The GSC guidance notes provide that players are required to register with the licensee. The white-label sites are treated as though they were different URLs of the licensee, even though the control of the URL and its marketing may be controlled by a different company and the games may be skinned differently to reflect the brand.

6.5 Technical Measures

The software services licence is the latest addition to online gambling in the Isle of Man. Updated guidance regarding the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 was issued by the GSC in December 2020.

6.6 Recent or Forthcoming Changes

The value of a registered player's account with an Isle of Man-licensed operator is protected at all times by a licence condition in the operator's licence. This means that if an operator goes into liquidation, the player's funds can be repatriated to the player. Agencies that arrange and administer the mechanisms that guarantee the players' monies do not need an OGRA licence to provide this service.

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

7.1 RG Requirements

It is the responsibility of the designated official to ensure that the operator upholds social responsibility in its operations, which includes preventing youth involvement, criminal activity, unfair practices, and problem gambling. The operator's

terms and conditions must include rules on self-exclusion for problem gamblers.

7.2 Gambling Management Tools

There are no recent or forthcoming changes.

7.3 Recent or Forthcoming Changes

Operators are required to pay a percentage of their revenue to support problem gambling initiatives.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Gambling activities have been separated out from the AML/CFT Code 2019 (see **8.2 AML Requirements**) into an industry-specific code, the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 SD 2019/0219 ("the Code").

An operator must not enter into, or carry on, an ongoing customer relationship or carry out an occasional transaction (ie, a transaction – whether carried out singly or as several transactions that appear to be linked – that is conducted outside an ongoing customer relationship) with or for a customer, unless the operator institutes, operates, and complies with the systems, procedures, record-keeping, controls, and training requirements of the Code. The principal elements of such, as outlined in the Code, are:

- a risk-based approach – risk must be assessed at a business, technology, and customer level;
- customer due diligence – for each new ongoing customer relationship or transaction that exceeds the occasional transaction threshold (ie, an occasional transaction that exceeds EUR3,000), an operator must establish,

- record, maintain, and operate appropriate procedures and controls;
- record-keeping and reporting – this includes keeping a register of disclosures (internal, external, and any others made to the Financial Intelligence Unit) and a register of money laundering and financing of terrorism enquiries; and
- staffing, training, and monitoring compliance – this includes the appointment of an AML/CFT compliance officer and money laundering reporting officer (MLRO) of sufficient seniority and experience.

These procedures and controls must:

- take into account the size and risks of the operator;
- apply to foreign branches and majority-owned subsidiaries; and
- be approved by the senior management of the operator.

An operator must register on the designated reporting platform as provided by the Financial Intelligence Unit (a requirement of Sections 142 to 144 of the Proceeds of Crime Act 2008 and Sections 11, 12, and 14 of the Anti-Terrorism Crime Act 2003).

The ultimate responsibility for ensuring that customer due diligence complies with this Code is that of the operator, regardless of any outsourcing.

Any person who contravenes the Code is guilty of an offence that is punishable:

- upon summary conviction, by up to one year in prison or to a fine not exceeding level 5 on the standard scale (ie, GBP10,000, as set out

in Section 55 of the Interpretation Act 2015), or both; or

- upon conviction on information, by up to two years' imprisonment or to a fine, or both.

Full details of the provisions are available in the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code.

8.2 AML Requirements

There are no recent or forthcoming changes.

8.3 Recent or Forthcoming Changes

On 1 June 2019, the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019 came into effect.

Schedule 4 of the Proceeds of Crime Act 2008 lists the businesses to which the Code applies.

The requirements of the Code (see Appendix A) include the following:

- a risk-based approach to customer due diligence, including enhanced customer due diligence for higher-risk customers; there must be a business risk assessment, customer risk assessment, and a technology risk assessment;
- identification and verification of identity of beneficial owners and applicants for business, for example, through satisfactory evidence of name, date of birth, address, and nationality;
- provisions to deal with relationships involving politically exposed persons (PEPs), including determining whether any applicant for business, beneficial owner, or existing customer is a PEP and requiring senior management approval to continue or commence a business relationship with a PEP based on the level of risk that they pose;

- identification of any sanctioned individuals or entities, any detection of which will require reporting to the relevant authorities;
 - identification of customer source of funds and wealth where appropriate;
 - provisions with respect to foreign branches and subsidiaries, ensuring measures taken by foreign branches and subsidiaries are consistent with the Code;
 - ongoing monitoring of existing business relationships, including reviews of customer due diligence information and scrutiny of transactions;
 - reporting of suspicious transactions, when merited, following a robust assessment of the circumstances;
 - maintenance of adequate records in terms of completeness, format, location, and period of retention, including a register of all enquiries made to the institution by the investigating authorities;
 - adoption of adequate internal controls and communication procedures, including written procedures for preventing money laundering and a register of all disclosures made by the relevant person to the investigating authorities;
 - maintenance of procedures and controls to prevent the misuse of technological developments for money laundering or terrorist financing;
 - screening of staff in order to be satisfied as to the integrity of new directors or partners and new appropriate employees;
 - appropriate training for employees to educate them on a regular basis about money-laundering techniques, their obligations under the law, the internal procedures to forestall and prevent money laundering, and the procedures to follow if money laundering is known or suspected;
 - appointment of an MLRO who is sufficiently senior in the organisation and has full access to the board; the MLRO is responsible for the reporting procedures and maintaining all internal and external disclosures in relation to money laundering and terrorist financing (a deputy MLRO should also be considered); and
 - establishment of internal reporting procedures; relevant businesses must establish written internal reporting procedures that cover:
 - (a) to whom staff should report suspicious transactions;
 - (b) the establishment of a reporting chain;
 - (c) the appointment of an MLRO;
 - (d) the MLRO's access to all relevant information, which the MLRO should take into account;
 - (e) the prompt reporting of suspicious transactions by the MLRO as soon as practicable to the Financial Intelligence Unit; and
 - (f) the establishment of a register recording certain minimum information.
- ### Civil Penalties
- Any person who contravenes the Code shall be guilty of an offence and liable:
- upon summary conviction, to custody for a term not exceeding 12 months or to a fine not exceeding GBP5,000; or
 - upon conviction on information, to imprisonment for up to two years or to a fine, or both.
- Where an offence under the Code is committed by a body corporate, an officer of the company can also be found guilty of the offence if it is proved that the offence:
- was committed with the consent or connivance of said officer; or

- was attributable to neglect on the part of an officer of the company.

Offences and penalties under the Proceeds of Crime Act 2008

Offences concerning criminal property under the Proceeds of Crime Act include:

- concealing, disguising, converting, or transferring criminal property or removing criminal property from the Isle of Man;
- entering into, or becoming concerned in, an arrangement that the person knows or suspect facilitates the acquisition, retention, use, or control of criminal property by or on behalf of another person; and
- acquiring, using, or possessing criminal property.

Any person found guilty of such offences will be liable to:

- custody for a term not exceeding 14 years and/or an unlimited fine for a conviction on information; or
- custody for a term not exceeding six months and/or a fine not exceeding GBP5,000 for a summary conviction.

In addition, there are a further two relevant offences under the Proceeds of Crime Act 2008:

- failing to disclose knowledge or suspicion that another person is engaged in money laundering due to information that came to them in the course of “business in the regulated sector” (which includes the business of providing online gambling); and
- tipping off.

Any person found guilty of either offence will be liable to:

- custody for a term not exceeding five years (two years for tipping off) and/or an unlimited fine for a conviction on information; or
- custody for a term not exceeding six months (three months for tipping off) and/or a fine not exceeding GBP5,000 for a summary conviction.

Offences and penalties under the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018

A person who commits an offence under this Act for which no penalty is provided elsewhere in this Act is liable on summary conviction to a fine not exceeding GBP5,000 or custody for a term not exceeding six months, or both.

Proceedings in relation to any contravention of this Act may not be commenced or continued if the Commission has directed a person to pay a civil penalty under Section 22 for such contravention, unless the person has declined to pay the civil penalty.

9. Advertising

9.1 Regulatory/Supervisory Agency

The GSC is the regulatory authority for advertising by operators.

9.2 Definition of Advertising

“Advertisement” includes every form of advertising or promotion, whether via:

- the internet;
- a radio or television programme;
- a message (whether broadcast or not) in a written or printed publication;

- the display of notices, signs, labels, or show-cards;
- circulars or other documents; or
- any other medium.

9.3 Key Legal, Regulatory and Licensing Provisions

Land-Based

Per Section 7 of the GBLA, it is an offence for a person to issue (or cause the issue of) any advertisement that:

- informs the public that gaming takes place, or is to take place, on the premises;
- invites the public to participate in any such gaming;
- invites the public to subscribe money or money's worth to be used in gaming on the Island or elsewhere; or
- invites the public to apply for information about facilities for subscribing any money or money's worth.

This wide-ranging prohibition on the advertising of gaming is subject to an equally wide set of exemptions. The following are key examples of such exemptions.

- Casinos: A land-based casino can advertise itself and its games. The advertising is controlled and subject to specific casino advertising regulations.
- Prize machines: Controlled machines, more commonly known as slot machines, may be advertised.

Online

Operators of online gambling sites must comply with the Online Gambling (Advertising) Regulations 2007. Every advertisement must comply with the following general requirements:

- It shall not be indecent or offensive.
- It shall be based on fact.
- It shall not be false, deceptive, or misleading in any material particular.
- It shall not contain any statement as to the legality (or otherwise) of online gambling or any kind of online gaming, online betting, or the like in any other jurisdiction.
- It shall not be directed at any jurisdictions in which online gambling or any kind of online gaming, online betting, or the like is prohibited.
- It shall not have any sexual content.
- It shall not be directed at persons under 18.
- It shall not contain any material in breach of copyright.
- If it makes any claim as to the potential payout or win in relation to any online gambling, it shall contain sufficient information to enable a person to determine readily and easily the expected percentage return to them over a period of time, disregarding any exercise of skill by them.

9.4 Restrictions on Advertising

See 9.3 Key Legal, Regulatory and Licensing Provisions.

9.5 Sanctions/Penalties

Section 7 of the GBLA sets out restrictions on advertising in relation to gaming. See 9.3 Key Legal, Regulatory and Licensing Provisions for further details regarding Section 7 of the GBLA.

Any person who contravenes Section 7(1) of the GBLA shall be guilty of an offence, which may result in a custodial sentence or fine (or both).

The advertising of a land-based betting office is also restricted and must comply with GSC guidelines and the GBLA. Any person – or, in the case of an advertisement in connection with

the office or offices of a particular licensee, that licensee – who publishes an advertisement or causes or permits it to be published in contravention of such provisions shall be guilty of an offence, which may result in a custodial sentence or a fine (or both).

In case of a breach of the advertising rules for online gambling, the operator and the designated official can be subjected to a fine of up to GBP5,000.

If subsection (6) is contravened, any person who published the advertisement or caused or permitted it to be published – or, in the case of an advertisement in connection with the office or offices of a particular licensee, that licensee – shall be guilty of an offence.

9.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

The GSC must be notified when any of the following occur:

- a designated official ceases to be a director of the licence holder;
- a new director is to be appointed to the company;
- the beneficial ownership or ownership structure of the operator is to be changed;
- an official (DO, OM, or MLRO) dies; or
- the licence holder is targeted for a merger or a takeover bid in which the beneficial owners or officials are likely to be reviewed or changed.

Beneficial owners and new directors may not become involved in an Isle of Man-licensed gambling operation until the GSC has conducted and concluded its diligence checks. All changes in ownership must be notified to the GSC. Any changes to a shareholding interest that is over 5%, where the licence holder is a private limited company, require prior approval from the GSC. A 20% threshold applies where the licence holder is a publicly listed company.

See 10.2 Change of Corporate Control Triggers.

10.2 Change of Corporate Control Triggers

OGRA – Online Gambling

Certain procedures must be completed before certain key personnel can begin their duties. These are detailed below.

Changes in beneficial ownership

Beneficial owners may not become involved in an Isle of Man licensed gambling operation until the GSC has conducted and concluded its diligence checks. All changes in ownership must be notified to the GSC. Any changes to a shareholding interest that is over 5% where the licence holder is a private limited company require prior approval from the GSC. A 20% threshold applies where the licence holder is a publicly listed company.

Changes in designated official or operations manager

New designated officials and operation managers may not commence their duties until they have been approved by the GSC.

Changes in directors

All directors of an operation must be approved by the GSC before they commence their duties

– see [Guidance for Online Gambling](#) for further details.

Casino Act 1986

Section 4(3)(b) of the Casino Act 1986 provides that “the holder of the licence, if a body corporate, shall notify the board of any change in the beneficial ownership of any relevant share capital in the body”.

Section 4(3)(c) of the Casino Act 1986 provides that “where the holder of the licence is a body corporate, that no person shall be appointed to be a director of the body unless the board is satisfied that he is a person of integrity”.

Gaming Betting and Lotteries Act 1988

Section 16 of the GBLA provides: “Schedule 1 shall have effect in relation to the grant, transfer and renewal of, and other matters relating to, bookmakers’ permits and betting office licences.”

Schedule 1 paragraph 15 provides the following.

- “(1) Where the holder of a permit is a body corporate:
 - (a) no person shall be appointed as a director thereof, except with the prior approval of the Commission; and
 - (b) the body corporate shall not permit the acquisition by any person of a majority of its issued share capital, except with the prior approval of the Commission, and, where the person acquiring such share capital is a body corporate, sub-paragraph (a) shall have effect as if that person were the holder of a bookmaker’s permit.
- (2) If the holder of a permit is a body corporate and any person is appointed a director in contravention of sub-paragraph (1)(a), or the

holder of the permit fails to comply with sub-paragraph (1)(b), that person or the holder of the permit, as the case may be, shall be guilty of an offence.”

10.3 Passive Investor Requirements

See 10.2 Change of Corporate Control Triggers.

10.4 Recent or Forthcoming Changes

No response was provided in this jurisdiction.

11. Enforcement

11.1 Powers

The GSC’s powers of enforcement include:

- suspending, varying or cancelling the online gambling licence;
- removing approval of key officials of the operator;
- obtaining an order from the High Court for disclosure of the beneficial owner of an operator;
- the power to enter any premises that it has reasonable cause to believe are, or have been, used for any purpose connected with online gambling;
- requiring any person to produce any documents or other records relating to – or connected with – the conduct of online gambling, and to take copies of such documents or records;
- requiring any person to provide the GSC with access to any computer programme used – or to be used – in connection with online gambling; and
- obtaining a warrant from a justice of the peace to enter and search premises.

11.2 Sanctions

Proceedings for offences under the OGRA or the gambling regulations can only be instituted by, or with the consent of, the Attorney General. The proceedings would then be instituted through the Island's criminal courts.

11.3 Financial Penalties

Financial penalties are calculated and enforced by the Isle of Man courts as court fines.

11.4 Recent or Forthcoming Changes

See 11.3 Financial Penalties.

12. Tax

12.1 Tax Rate by Sector

Corporate Tax

Isle of Man companies are subject to tax on their worldwide income. The standard rate of corporate income tax in the Isle of Man is 0%.

VAT

Online gambling is exempt from VAT. The current VAT rate is 20%. Specialist VAT advice should be sought because, as a result of Brexit, the VAT landscape has changed for the better for online gambling companies that are operating from the Island.

Gambling Duty

Gambling duty is charged as a percentage of gross gaming yield or retained profit on online gambling, pool betting and betting. It is not charged on:

- gambling on gaming machines, which are subject to machine games duty;
- gaming in a casino;
- bingo, unless conducted online; or
- on-course betting or National Lottery games.

Gross gaming yield means the total amount of all bets or stakes made and the price of all chances sold in the course of gambling – minus the value of all winnings and prizes due.

Gambling duty is generally charged on a gross gaming yield basis. The exceptions to this general rule are the following forms of gambling, which are charged on a retained profit basis:

- prize draws, prize competitions, or lotteries;
- poker or other games where individual players play against one another using systems or facilities provided by the operator;
- sponsored pool betting and pari-mutuel betting that employs the use of a totalisator, or any form of pool betting;
- a betting exchange;
- where the operator acts as a bet-broker; and
- spread betting.

The rates of gambling duty are as follows:

- for gross gaming yield or retained profit not exceeding GBP20 million per annum – 1.5%;
- for gross gaming yield or retained profit of more than GBP20 million per annum, but not exceeding GBP40 million per annum – 0.5%;
- for gross gaming yield or retained profit exceeding GBP40 million per annum – 0.1%; and
- the prescribed proportion of gross gaming yield for pool betting is 15%.

Machine Games Duty

This is payable by any person or organisation that operates machine games. In general, machine games are fixed-odds betting terminals, slot machines and quiz machines, where the prize can be bigger than the stake.

The operator of the machine is required to register with Customs and Excise and account for the duty. Machine games duty is 15% of the net takings (profit) on an inclusive basis.

12.2 Recent or Forthcoming Changes

No response was provided in this jurisdiction.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There are no personal licences on the Isle of Man; however, a part of the licence process involves directors having to satisfy fitness and propriety criteria.

13.2 Application Process

Personal Background and Integrity Checks

- Disclosure of personal information: Applicants must provide detailed personal information, including identity verification (such as passport or ID) and proof of address.
- Background checks: A comprehensive background check is a requirement, which includes a criminal record check. The Gambling Supervision Commission (GSC) examines any past allegations, charges or convictions, as well as associations with criminal elements.
- Financial integrity: Applicants must disclose any history of financial misconduct, bankruptcy or disqualification under company officer rules. Information about past regulatory or disciplinary actions, either in the Isle of Man or abroad, is also required.

Professional Experience and Qualifications

- Relevant experience: Applicants must demonstrate experience and competence in the gaming or relevant regulatory sectors. This

may include roles in compliance, financial crime prevention, or risk management.

- Qualifications: Proof of qualifications, such as certifications in compliance, finance or management, is often necessary, depending on the role.
- Professional references: Applicants typically need to provide references from previous employers or professional contacts to verify their expertise and reputation.

Financial Disclosures and Source of Funds

- Source of funds verification: Applicants must detail the source of funds for their investment in the gaming operation. This requirement is in place to prevent money laundering and ensure that funding sources are legitimate.
- Financial stability: The GSC evaluates the applicant's financial stability and ability to sustain the business. This involves providing financial statements, credit reports and in some cases, guarantees of financial support.

Business Plan and Compliance Framework

- Business plan submissions: Applicants must submit a business plan that outlines the proposed gaming operation, including target markets, marketing strategies and projected financials.
- Compliance and AML policies: Applicants must demonstrate that robust anti-money laundering and compliance policies are in place. This includes detailing processes for customer verification, transaction monitoring and reporting of suspicious activity.
- Risk management: An outline of the operator's risk management strategies is required, including methods for identifying, assessing and mitigating potential risks to the business and customers.

Ongoing Obligations and Co-operation

- Proactive disclosure: The GSC expects applicants to proactively disclose any issues or concerns during and after the application process. Non-disclosure can lead to delayed, rejection or even revocation of a licence.
- Commitment to regular reporting: Once licensed, directors, owners and senior management are responsible for ongoing reporting and compliance. This includes submitting regular reports updating any changes in ownership or management, and co-operating with the GSC's periodic reviews.

13.3 Ongoing Annual Fees

See the fees set out in 4.10 Ongoing Annual Fees regarding licences.

13.4 Ongoing Requirements

There are no ongoing requirements for licences.

13.5 Personal Sanctions

Regulatory bodies, such as the GSC, wield a variety of enforcement powers to ensure compliance and uphold regulatory standards. Here is a summary of their key enforcement powers:

Investigation and Information Gathering

- Request information: Regulatory bodies can request information from individuals or firms believed to hold relevant data. This often includes financial records, operational data and compliance documentation.
- On-site inspections: Authorities can conduct inspections at premises to evaluate compliance and gather physical or digital records.
- Interview and document production: Officials may compel individuals to answer questions and produce specified documents. In some cases refusing to cooperate or providing false information can constitute an offence.

- Search warrants: Regulators may obtain warrants to search premises and seize evidence if necessary.

Enforcement Actions

- Civil penalties: Regulatory bodies can impose fines for violations, particularly in cases involving breaches of anti-money laundering (AML) and counter-terrorism financing (CTF) laws. Penalty levels can vary based on the severity of the non-compliance.
- Settlement agreements: In some cases, regulators may negotiate settlements with violators, which can involve finds, corrective actions, and conditions to avoid further enforcement
- Licence conditions and suspensions: Authorities may add conditions to licenses, suspend licenses temporarily, or revoke them entirely if a firm or individual fails to meet regulatory standards.
- Prohibitions: Regulators can prohibit individuals from holding certain positions or conducting specific business activities, particularly if they are found to be unfit or pose significant risks.

Remedial Actions and Supervisions

- Remedial actions plans: Regulators can require firms to implement corrective plans to address non-compliance issues, including operational improvements and enhanced monitoring measures.
- Use of external experts: Regulatory bodies may mandate that firms hire external experts to address specific compliance deficiencies, particularly IN AML/CTF areas. The firm typically bears the cost.
- Enhanced supervision: For firms at higher risk of non-compliance, regulators may implement more intensive monitoring, requiring additional reporting and oversight.

Public Disclosure and Reputation Management

- **Publication of enforcement outcomes:** Regulatory bodies often publish enforcement actions and sanctions to promote transparency and deter other potential violators. This can include fines, settlements, and licence revocations.
- **Referral to law enforcement:** If regulatory bodies identify criminal behaviour, they may refer cases to law enforcement for prosecution, particularly when dealing with serious financial crimes like money laundering or fraud.
- **Intelligence sharing:** Regulators often work with other national and international authorities, sharing intelligence and co-ordinating enforcement actions when needed to uphold the integrity of the industry and jurisdiction.

Legal Proceedings and Administrative Actions

- **Civil and administrative proceedings:** Regulators can pursue civil actions to impose sanctions or recover funds in non-criminal cases.
- **Interim measures:** During investigations, regulators may take interim steps, such as freezing assets, to prevent further harm or non-compliance while proceedings are ongoing.

Overall, these powers enable regulatory bodies to effectively manage risks, uphold high standards of compliance, and ensure the integrity of the industry they oversee.

13.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes due.

Trends and Developments

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MannBenham Advocates Limited

MannBenham Advocates Limited has evolved with – and has a real passion for – the global eGaming market, which is strengthened by its expert lawyers and advisers. The firm has been providing legal and advisory services to its clients in the Isle of Man and the international gaming sector for more than 25 years. The advisory team draws on all the resources within the group of companies, which include their expert lawyers, multi-jurisdictional gaming advisers, regulatory and compliance professionals, and administrators. Having evolved

from MannBenham Advocates' heritage and legal pedigree, the team and company as a whole have been extremely well placed to give impartial, factual, and balanced online gaming advice across multiple jurisdictions. The team is responsible for advising on eGaming licence applications, along with compliance and procedural consultation, and works closely with the directors and the business team to solve issues, create value, maximise growth and improve business performance by providing operational and practical advice.

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Introduction

In the ever-evolving landscape of the gaming industry, the Isle of Man (also, “the Island”) stands out as a beacon of regulatory precision, operational integrity, and market opportunity. As 2024 unfolds, the Isle of Man, known for its long-established Tier 1 gaming jurisdiction, continues to serve as a pivotal hub for gaming operators seeking a well-regulated environment that safeguards players and opens doors to robust banking and service networks. The impetus for this growth can be significantly attributed to the changing regulatory dynamics in jurisdictions such as Curacao, prompting operators to gravitate towards the stable shores of the Isle of Man. This article delves into the trends and developments within the Isle of Man’s gaming sector, offering insights into the factors that make it an attractive proposition for businesses in the gaming space.

Stability

The Isle of Man’s unique political stability remains a significant asset in 2024. As a self-governing Crown Dependency, the Isle of Man enjoys independent legislative and fiscal autonomy, alongside the benefits of association with the United Kingdom. This stability, combined with an economically resilient and diverse economy, has

allowed the island to attract a range of sectors, including finance, eGaming, aerospace, and bio-medical, leading to over three decades of unbroken economic growth. The government’s proactive approach to business development, coupled with a favourable tax regime and robust financial oversight, has made the Isle of Man an attractive destination for international investment, fostering an environment of economic stability and sustained prosperity.

The Isle of Man’s eGaming sector, particularly, has continued to thrive in this stable environment. The government has remained committed to supporting the growth of the sector by maintaining a favourable business climate, which includes a low corporate tax rate and strategic support for technology and innovation. This stable economic and regulatory environment has become increasingly attractive to operators as they look to expand their global footprint in a secure jurisdiction.

Market Confidence and Regulatory Attraction

As of 2024, the Isle of Man’s allure as a top-tier jurisdiction for licensed online gambling is as strong as ever, reflected in the steady increase in gaming license applications. This trend signals a growing confidence within the industry,

underscoring the Isle of Man's reputation as a regulatory powerhouse. The rise in applications, as reported by Digital Isle of Man, reflects both quantitative and qualitative growth, indicating the market's recognition of the Island's exemplary regulatory framework.

Operators from various regions have been gravitating towards the Isle of Man, drawn by the high standards of player protection, transparent operations, and the rigorous regulatory oversight provided by the Isle's Gambling Supervision Commission (GSC). Notably, law firms such as MannBenham Advocates Limited and licensed trust and corporate service providers have continued to play pivotal roles in facilitating the transition for operators. These firms assist some of the most prominent names in the industry in establishing their operations on the Isle, leveraging their expertise to navigate the licensing and regulatory landscape. Established operators are drawn to the Isle's shores not only by its favourable business conditions but also by the high standards of regulatory oversight that support sustainable, compliant growth.

Strategic Responses to Regulatory Shifts

The migration of operators from jurisdictions such as Curacao has underscored a strategic pivot within the gaming industry. In response to this shift, the Isle of Man's GSC has continued to bolster its regulatory processes to maintain its reputation as a jurisdiction of choice. By staying at the forefront of global best practices, the GSC has reinforced its commitment to providing a well-regulated, stable environment for operators.

The GSC's proactive approach has included ongoing improvements to its regulatory framework, aimed at ensuring that licensees operate in a way that is transparent, fair, and compliant with international standards. This has made the

Isle of Man an attractive destination for operators who prioritise regulatory certainty, as well as player protection and responsible gaming. In 2024, these changes have further solidified the Isle's position as a key player in the global gaming landscape, with an emphasis on regulatory excellence.

The Pillars of Regulatory Excellence

The Isle of Man's legal framework remains a model of regulatory excellence, with a strong emphasis on governance, operational integrity, and player protection. The GSC's guidance document, General Compliance and AML/CFT Supervision Visit Procedures (the "Supervision Procedures"), continues to be a cornerstone of its regulatory approach. This document outlines the regulatory framework and supervisory practices for gaming licensees, emphasising a risk-based approach to regulation.

Licensees are expected to adhere to core principles that include robust management and control systems, effective risk identification and management, and regular internal audits. This ensures that operators maintain oversight and control over their operations, safeguarding customer funds, promoting fair gaming practices, and providing tools for responsible gaming. The GSC also requires transparent and timely communication from licensees, particularly when reporting significant events that may impact operations or the wider public interest.

The Supervision Procedures emphasise a comprehensive approach to compliance, covering areas such as anti-money laundering (AML) and combating the financing of terrorism (CFT). This aligns the Isle's gaming sector with global standards, ensuring that the jurisdiction remains a trusted environment for players and operators alike. Furthermore, the GSC continues to update

these procedures in line with international trends and emerging risks, demonstrating its commitment to maintaining a cutting-edge regulatory framework.

The GSC's regulatory oversight also includes assessments of corporate governance structures, evaluations of business continuity plans, and scrutiny of financial stability. These measures not only protect the integrity of the Isle's gaming sector but also provide operators with the assurance that they are operating in a jurisdiction that prioritises ethical standards and the well-being of all stakeholders. The GSC also has a variety of enforcement powers to ensure compliance and uphold regulatory standards. This includes the use of civil penalties, prohibitions and licence conditions or suspensions.

Integrity and Competence Controls

In late 2022, the GSC issued its Guidance Notes on Integrity and Competence Controls for Isle of Man licensees. This comprehensive document remains a vital component of the Island's regulatory framework in 2024. It ensures that gambling activities are conducted fairly and are free from criminal influence, while also providing guidelines for operators to maintain public confidence in the industry.

The Guidance Notes outline expectations for corporate governance, requiring licensees to implement effective systems and controls to uphold integrity standards. This includes maintaining accurate records, ensuring that staff are adequately trained, and establishing clear policies for reporting irregularities. The document underscores the importance of transparency in financial transactions and game fairness, which fosters trust among players and other stakeholders.

A significant aspect of the Guidance Notes is the focus on preventing gambling-related crime. Operators are expected to have robust measures in place to prevent money laundering and the financing of terrorism. This includes conducting due diligence on customers, monitoring transactions for suspicious activity, and co-operating with law enforcement agencies as needed. By setting these high standards, the GSC ensures that operators contribute to a safe and compliant gaming environment.

Additionally, the Guidance Notes emphasise the importance of responsible gambling practices. Licensees are required to provide tools and support for customers to manage their gambling activities responsibly. This includes self-exclusion mechanisms, clear information on responsible gambling, and staff training to identify and address potential gambling-related harm.

The GSC's guidelines on marketing and advertising also remain relevant in 2024, focusing on honesty and responsibility. Licensees are expected to comply with advertising standards that promote responsible gambling messages and prevent the targeting of vulnerable individuals, such as minors or those with gambling problems. This approach aligns with the GSC's commitment to maintaining a fair and ethical gaming environment, enhancing the Isle of Man's reputation as a reputable jurisdiction for gaming activities.

Economic Impacts and Industry Growth

The steady increase in license applications is anticipated to drive economic growth within the Isle of Man in 2024, sparking innovation and creating new opportunities in the technology and service sectors tied to the gaming industry. However, the GSC's selective licensing strategy ensures that this growth does not compromise

the jurisdiction's commitment to high regulatory standards. This is particularly important as potential applicants continue to arrive from jurisdictions with more relaxed attitudes towards compliance.

The Isle of Man's approach to licensing emphasises quality over quantity, focusing on attracting operators that are committed to ethical standards and regulatory compliance. This philosophy has helped the Isle maintain its reputation as a trusted gaming jurisdiction, and it remains a key factor in the Island's economic strategy for 2024.

As the gaming sector continues to expand, the Isle of Man is also witnessing growth in related industries, such as technology, cybersecurity, and professional services. These sectors provide vital support for gaming operators, enabling them to operate in a secure, efficient, and compliant manner. This interconnected ecosystem contributes to the Isle's economic resilience and reinforces its position as a leader in the global gaming industry.

The Isle of Man's Strategic Positioning in the Gaming Sector

In 2024, the Isle of Man continues to distinguish itself in the gaming industry with a unique blend of international regulatory insight and local strengths. Its global perspective enables the Isle to foster regulations that resonate with the worldwide gaming community while maintaining a supportive and stable environment for operators. This global stance is bolstered by the Isle's political stability, which provides a predictable legislative environment crucial for international gaming operations.

The Isle of Man's economic resilience, supported by a diverse financial services sector and on-island banking options, creates a solid founda-

tion for gaming companies. This resilience is not accidental; it is the result of deliberate economic strategies that have cultivated growth across various sectors, reducing dependencies and insulating the economy from sector-specific downturns. The Island's strategic geographic location and network of professional services further enhance its appeal as a premier destination for gaming enterprises.

In response to the sector's growth, firms like MannBenham Advocates Limited, and Manavia Limited as specialist gaming TCSP, have continued to offer comprehensive legal and corporate services tailored to the needs of gaming operators. These firms provide end-to-end solutions, guiding operators from business inception through to daily operations. Their services include the formation of optimised corporate structures, assistance with licensing, and ongoing administrative and compliance support. This seamless service package positions MannBenham and Manavia as full-service providers for gaming entities entering the Isle of Man's dynamic market.

Conclusion

As the Isle of Man's gaming sector moves through 2024, it continues to embody a commitment to regulatory excellence and market growth. The sustained increase in gaming license applications highlights the Isle's ability to offer a regulatory haven that is both secure and conducive to business success. With its rigorous legal frameworks, the Isle of Man not only attracts global operators but also sets a benchmark for regulatory best practices.

For operators looking to thrive in a safe, regulated, and future-proof environment, the Isle of Man stands out as a jurisdiction of premier choice. Its unwavering dedication to excellence,

ISLE OF MAN TRENDS AND DEVELOPMENTS

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integrity, and innovation makes it a reliable and reputable destination for businesses in the gaming industry. As the global gaming landscape continues to evolve, the Isle of Man remains at the forefront, offering operators a unique blend of stability, regulatory strength, and economic opportunity.

ISRAEL



Law and Practice

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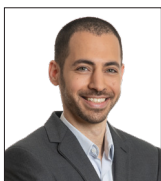
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Herzog Fox & Neeman is one of Israel's premier law firms, with a market-leader reputation due to its unrivalled experience in cross-border and domestic matters. The firm's headquarters are located in Tel Aviv; however, Herzog has a wide presence, and takes part in international deals and assists international clients. Herzog's gaming department has a long-standing presence in the industry and assists leading companies in this sector. It is comprised of six associates and nine partners, and headed by Gil White. The de-

partment provides a full range of services to its clients, including licensing, regulatory compliance, tax, commercial, IP and e-payments, as well as co-ordinating and assisting in the implementation of public offerings and other exit strategies. The department's clients operate at all levels of the gaming products and services supply chain, and include operators and suppliers, banks/payment intermediaries, national governments and regulators.

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1. Introduction

1.1 Current Outlook and Recent Changes

The approach towards gambling in Israel currently is, and always has been, a highly conservative one. This is the result of an intersection of both religious and socialist values, which have led to Israel placing a blanket ban on gambling services in Israel, both land-based and online.

Legislation pertaining to gambling in Israel has remained largely unchanged in recent years. The Israeli Penal Law 5737-1977 (the “Penal Law”) sets a fairly broad prohibition in this regard – criminalising the organisation of most gambling activities, as well as participation in certain forms of gambling.

The only gambling services allowed in Israel are those offered by the National Lottery (Mifal HaPa-is), as well as sports-betting services offered by a state-owned body – the Israel Sports Betting Board (ISBB) (Toto Winner). An additional, very narrow exemption from the general ban on gambling provides for gambling activities that are purely social in nature.

The Israeli courts have also had a role in shaping the gambling-related regulatory regime in Israel. One prime example is the way the courts have broadened the scope of the prohibitions set out in the Penal Law by ruling that online gambling and betting being made available to Israeli consumers would violate Israeli law (notwithstanding the fact that the Penal Law pre-dates the internet).

The Bank of Israel has placed a prohibition on Israeli financial institutions transmitting funds related to gambling activities.

Israel’s State Comptroller has made calls in the past on Israeli authorities to take action to restrict the availability of internet gambling in Israel.

The Israeli police have also taken enforcement action against online gaming (focusing primarily, but not exclusively, on operations with an Israeli nexus), including by way of website blocking.

To summarise, the authorities in Israel are proactively working to uphold the overall gambling ban, both in the offline and online realms.

Expected Developments in the Gaming Sector in Israel

When it comes to expected sector developments, Israel’s notably conservative approach towards gambling makes it unlikely that a liberalisation of the market will be witnessed soon. Further restriction of the market remains a more plausible scenario; for example, by way of the introduction of new bills aimed to further curtail the availability of online gambling. Another likely development would be increasing enforcement action taken against illegal gambling by the police and the Attorney General’s office, by use of ISP blocking orders or otherwise.

Further restrictions on the activities of the National Lottery and ISBB by Israeli authorities can also probably be expected, as well as restrictions being placed on promotional draws in general.

Positive Steps Being Taken

There have been positive developments for the gambling sector in Israel, albeit few in number and limited in scope. One such development was the introduction of a private member’s bill to the Israeli parliament (the Knesset) in November 2021, aimed at regulating real-money poker tournaments.

Another, more significant, development, also related to the legal classification of the game of poker, came from the side of the courts. In late 2018, the Supreme Court of Israel handed down a decision in a case regarding tax liability over winnings generated in poker tournaments outside Israel – see Civil Appeal (Supreme Court) 476/17 Amit Amishvili Rafi v Assessing Officer Tel Aviv 4. In an unprecedented decision, the majority of the court took the position that poker may not be a game of chance. However, as this view formed part of the obiter dictum, it is not legally binding on other courts. Nevertheless, it may pave the way for other courts to review the legal classification of poker, and to potentially declare it as being outside the definition of a “prohibited game” under the Penal Law.

Recent Changes

In line with Israel’s conservative approach towards gambling as described above, recent changes relating to gambling in Israel have only served to further restrict the proliferation and availability of gambling in the country.

In recent years, the Israeli Ministry of Finance has taken action against both the National Lottery and the ISBB. First, it revoked the National Lottery’s permit to operate video lottery terminals in 2017 (which was judicially challenged by National Lottery concessionaires before the High Court of Justice, with the challenge later being abandoned – see HCJ 239/17 Haim Tal et al v Minister of Finance); then, in 2018, the Ministry revoked the ISBB’s permission to conduct horse-race wagering.

ISP blocking of gambling websites operating from outside Israel was successfully implemented in late 2018 for the first time. This was the result of a new law being passed in 2017, enabling district court judges to issue warrants

ordering ISPs to block access to illegal gambling websites at the request of the State Attorney’s office or the police.

In addition, starting in 2019, the threshold of tax exemption on winnings generated from gambling was almost cut in half from ILS50,000 to only ILS30,500 (currently standing at ILS33,840, inflation-adjusted).

2. Jurisdictional Overview

2.1 Online

Israeli law places a blanket ban over all forms of lotteries, betting and games of chance, with only three exceptions: the National Lottery, certain betting activities organised by the ISBB and a limited scope of “social gaming”. With the exception of purely social gaming and the ISBB’s online betting services currently on offer, online gambling is illegal under Israeli law.

2.2 Land-Based

As with online gambling, only three exceptions apply to the blanket ban over all forms of lotteries, betting and games of chance: the National Lottery, certain betting activities organised by the ISBB and a limited scope of “social gaming”. Consequently, land-based gambling activities (other than those offered by the National Lottery and the ISBB, as well as a narrow scope of purely social gaming) are illegal in Israel.

3. Legislative Framework

3.1 Key Legislation

The key legislation that applies to the gambling sector in Israel is Chapter 12 of the Penal Law, which includes:

- definitions of the types of activities that constitute gambling and betting;
- the respective prohibitions associated with those activities; and
- the few exemptions available.

Section 231(A) of Chapter 12 establishes the authority of the Ministry of Finance to issue a permit for the operation of the National Lottery.

The operations of the ISBB are regulated by the Law for the Regulation of Sports Betting 5727-1967. The various betting programmes operated by the ISBB are governed by specific regulations issued by the ISBB itself, in accordance with its statutory powers.

3.2 Definition of Gambling

Definitions in the Israeli Penal Law

The various definitions pertaining to gambling in Israel can be found in the Israeli Penal Law, which places a general ban on gambling activity, including all forms of lotteries, betting and games of chance. Additional restrictions under the Penal Law prohibit services ancillary to gambling, such as the operation of venues where such gambling activity takes place. Chapter 12 of the Penal Law defines the different types of activities that constitute gambling and betting in Israel, divided into three categories:

- prohibited game – a game at which a person may win money, money's worth or a benefit according to the results of the game, with those results depending more on chance than on understanding or ability;
- lottery – any arrangement under which it is possible, by drawing lots or otherwise, to win money, money's worth or a benefit, with winning depending more on chance than on understanding or ability; and

- betting – any arrangement under which it is possible to win money, money's worth or a benefit, with winning depending on the guessing of something (this includes a lottery connected with the results of sports matches and contests).

The three definitions were made intentionally broad and, as a result, overlap somewhat in their implementation. When looking at the Israeli legislature's underlying rationale in choosing the current wording, the main purpose was to differentiate between two types of activities: those that are defined by their underlying game's predetermined rules (eg, prohibited games) and those that are based on arrangements agreed upon between parties (eg, lotteries and betting).

While the Penal Law does not use the terms "games of chance" and "games of skill", the legal definitions underlying the law's three categories of gambling are based on the "predominance test" (as illustrated by the wording "depending more on chance than on understanding or ability"). This means that activities in which skill or knowledge outweigh the elements of chance or randomness in determining the final outcome will be excluded from the definition of "prohibited game" and "lottery" under Israeli law. The same predominance test is also consistently used by the courts when assessing the application of the prohibitions set out in the Penal Law.

Adaptation of the Predominance Test

The Israeli courts have also contributed to the adaptation of the predominance test. In 2011, the district court of Tel Aviv determined that, where a particular betting game consisted of both skill and chance, the court must also take into account the "social interest and utility" of the game in determining the game's legal standing – see Class Action (Tel Aviv) 30284-01-10 Simon

Davush v Connective Group Ltd. In this specific case, the court rejected an expert opinion supporting the predominance of skill in determining the outcome, and nonetheless concluded that the activity was a form of prohibited gaming.

A further adaptation to the predominance test by a court took place in a 2017 ruling by the Tel Aviv magistrate's court – see Criminal Case (Tel Aviv) 34939-07-15 *The State of Israel v Nir Lashowitz et al.* In its ruling, the court expressed its view that in assessing whether the outcome of a game is predominated by chance or skill, the assessment has to be made in relation to an amateur playing only a single hand. While this ruling did not constitute a binding legal precedent, it served to demonstrate the restrictive view of Israeli courts towards gambling.

Nonetheless, as mentioned in 1.1 Current Outlook and Recent Changes, the Supreme Court of Israel expressed its dissenting view on the issue in 2018, in obiter dictum.

Prohibitions and Exemptions for Specific Gambling-Related Activities

Given the above, and while the matter has not yet been addressed by the Israeli courts, it appears likely that fantasy sports will be viewed as a form of prohibited gambling in Israel. Even though regulation allows true competitions of skill to be played for prizes, an activity that involves monetary prizes that is predicated on the outcome of an external sporting event (or events) is likely to be considered as betting by the courts, thus falling under the remit of the ISBB monopoly.

Promotional draws and sweepstakes are under a blanket permit issued by the Ministry of Finance, conditional on these being free to enter. Promotional draws by commercial businesses are restricted to two draws per calendar year, and

must be at least 120 days apart. Several other conditions (eg, oversight by an accountant or a lawyer) also apply – see Announcement Regarding General Permit for the Conduct of Lotteries for Commercial Promotion under the Penal Law 5737-1977 (in effect as of 1 January 2010).

As previously mentioned, the Penal Law exempts a limited scope of “social gambling” from the general prohibition placed on gambling and betting. For this exemption to apply, the underlying activity:

- must be intended for “a particular circle of persons”;
- “may not exceed the scope of amusement or entertainment”; and
- may not be held in “a place of prohibited games or a place for the conduct of lotteries or betting”. (See Section 230 of the Penal Law.)

Israeli courts have set out that this exemption must be narrowly construed. Specifically, when it comes to online gambling, the courts emphasised the first of the three conditions; ie, restriction of a game's target audience to a particular circle of persons – see Criminal Appeal (Supreme Court) 9140/99 *Amos Romano v The State of Israel*.

Spread betting, contracts for difference, binary options and other types of speculative activities related to financial instruments, securities, currencies, etc, are not considered a form of gambling under Israeli law. These activities are regulated under Securities Law 5728-1968.

In 2016, the Tel Aviv district court ruled that binary options are not a form of prohibited gambling – see Class Action 25717-10-13 *Bar-Or et al v ETrader Ltd et al*. Nonetheless, that same year,

the Israeli Securities Authority banned licensed Israeli trading platforms from offering binary options to Israeli retail customers.

A 2017 amendment to the Securities Law introduced severely restricted Israeli residents' involvement in the trading of binary options (and ancillary activities), regardless of where end users resided. In the explanatory notes that accompanied the amendment, the Israeli Securities Authority reasoned the restriction by stating that it believes that binary-options trading has "gambling-like" characteristics.

The general ban on betting in Israel also encompasses betting placed on the results of lotteries (as opposed to entering the lottery draw directly).

3.3 Definition of Land-Based Gambling

Land-based gambling services are prohibited under Israeli law, except for gambling services offered by the National Lottery and the ISBB.

3.4 Definition of Online Gambling

Israeli law does not regulate online and land-based gambling separately. In fact, due to the Penal Law pre-dating the internet, it does not specifically contain a reference to online gambling. The application of the prohibitions set out in the Penal Law on remote gambling was the result of judicial activism on the part of the courts, which applied a broad interpretation to the law – see, for example:

- Special Requests (Jerusalem) 1153/02 The State of Israel v Aberg'il; and
- Special Requests (Tel Aviv) 908617/07 Carlton v The National Unit for the Investigation of Fraud.

In addition, official opinions issued by various government agencies have also clarified that

both the definitions and prohibitions as set out in the Penal Law with respect to land-based gambling apply to online gambling, *mutatis mutandis*. This was the case with, among others, the Israel police, the Ministry of Justice and the State Comptroller – see, for example, Annual Report 61B for the Year 2010 and the Accounting Year 2009, Jerusalem May 2011, published by the State Comptroller and Ombudsman of Israel.

Online gambling services are prohibited under Israeli law, except for online betting services offered by the ISBB.

3.5 Key Offences

Offences relating to gambling in Israel are contained in Chapter 12 of the Penal Law. The key offences are:

- organising or conducting "a prohibited game or any lottery or betting" (Section 225 of the Penal Law);
- playing a prohibited game (Section 226 of the Penal Law – strangely, this section does not contain a comparable prohibition on participation in lotteries or betting); and
- offering, selling or distributing lottery and betting tickets to minors (Section 231A of the Penal Law).

As gambling-related offences are considered "source offences" under the Prevention of Money Laundering Law 5760-2000, any unlawful gambling activity may also establish a money-laundering offence and be prosecuted as such.

3.6 Penalties for Unlawful Gambling

The following penalties are set out in the Penal Law for unlawful gambling:

- a person organising or conducting “a prohibited game” or any lottery or betting is liable to imprisonment for up to three years or to a fine of up to ILS452,000;
- a person who plays a prohibited game is liable to imprisonment for up to one year or to a fine of up to ILS29,200; and
- a person offering, selling or distributing lottery or betting tickets to minors is liable to imprisonment for up to six months.

3.7 Recent or Forthcoming Legislative Changes

In November 2021, a private member’s bill was introduced to the Israeli parliament. Under the proposed bill, certain types of games, under certain circumstances and subject to a permit issued by the Ministry of Finance, would be excluded from the definition of a “prohibited game”. The bill was aimed at regulating real-money poker tournaments. The bill is currently awaiting parliament’s determination on whether to have it removed from the legislative agenda or have it sent to the relevant House Committee for preparation for a first reading.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The only forms of regulated gambling in Israel are:

- the services offered by the National Lottery, as regulated by the Ministry of Finance; and
- the services offered by the ISBB, which is self-regulated as a statutory body.

4.2 Regulatory Approach

Israel’s approach towards gambling regulation is a restrictive, state-owned, licensed monopoly regime.

4.3 Recent or Forthcoming Changes

There have not been significant changes to the regulatory framework, and such changes are unlikely to be forthcoming.

4.4 Types of Licences

The only gambling licences available are those granted to the ISBB and the National Lottery as state-licensed monopolies.

4.5 Availability of Licences

As commercial gambling is prohibited in Israel, there are no relevant licences available.

4.6 Duration of Licences

The only licences available are those granted to the ISBB and the National Lottery.

The ISBB’s authorisation to organise sports betting under the Penal Law is permanent.

The permit granted to the National Lottery is for a renewable duration of five years.

4.7 Application Requirements

Due to the fact that the only gambling licences available in Israel are those granted to the state-licensed monopolies, there is no open licensing process for these activities. Concessions for the distribution of the products and services of both the National Lottery and the ISBB can be applied for, and awarded by either. Concessions can be applied for both by individuals and by businesses.

4.8 Application Timing

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

4.9 Application Fees

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

4.10 Ongoing Annual Fees

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

5. Land-Based Gambling

5.1 Premises Licensing

The National Lottery's permit prescribes the number and location of lottery points of sale and concessionaires. These are determined based on various demographical considerations (including the socio-economic profile of various geographical areas). Under the current permit, new points of sale may not be established in a proximity of 500 metres or less from middle schools or high schools.

The ISBB has less stringent criteria for the location of its distribution points. In accordance with an internal ISBB policy, several key principles are taken into consideration when examining an application to set up a new point of sale.

5.2 Recent or Forthcoming Changes

The land-based gambling sector in Israel has not undergone significant developments in recent years. In 2017 and 2018, the Ministry of Finance took action aimed at further restricting the gambling operations of both the National Lottery and the ISBB. First, it revoked the National Lottery's permit to operate a limited number of land-based video lottery terminals in 2017. Then, in

2018, the Ministry revoked the ISBB's permission to conduct horse-race wagering.

Since September 2017, notifications to the Ministry of Finance about the intention to run promotional draws must be submitted, along with supporting information, via a designated online system, using a smart identification card.

Several Israeli governments have considered a limited liberalisation of the complete ban on land-based gambling. The initiatives mainly focused on allowing for a small number of casino resorts to be constructed in Eilat, which is a southern Israeli resort destination on the Red Sea. However, none of these initiatives gained enough political support to materialise.

The Status of Poker

One possible development on the horizon could be related to the legal classification of the game of poker. In recent years, case law in Israel has classified poker as a "prohibited game", as defined in Section 224 of the Penal Law. Late in 2018, the Supreme Court of Israel handed down a ruling in a tax case in which it had to assess the tax liability of a professional poker player who generated significant winnings in poker tournaments held outside Israel.

In its ruling, the court's majority opinion was that poker is not in fact a game of chance, in particular when dealing with an experienced player who successfully generates consistent revenues in poker tournaments over the years. The court had also passed criticism on the legal validity of prior, lower-court rulings that held that in assessing the game of poker, the "predominance test" should be applied to the game in relation to an amateur player playing a single hand. Nonetheless, due to this opinion being made only

in obiter dictum, it did not form a binding legal precedent.

6. Online Gambling

6.1 B2C Licences

The only B2C online gambling licence is the licence awarded to the ISBB, allowing it to offer certain sports-betting services online.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B online gambling licences are not available in Israel.

6.3 Affiliates

Both the National Lottery and the ISBB have policies about the use of concessionaires, mainly with respect to the number of distribution points available, their location and any qualification criteria for applicants. Among other things, applicants must:

- be above the age of 18;
- participate in responsible gambling training; and
- provide financial surety or a bank guarantee to ensure compliance with the concession terms.

The ISBB has an internal policy on the matter, and the National Lottery acts in accordance with the terms set out in its renewable permit.

6.4 White Labels

The ISBB is not allowed to use white-label partners in its operation on online betting services.

6.5 Technical Measures

ISP blocking of gambling websites operating from outside Israel was first successfully

implemented in late 2018. Under the Powers to Prevent the Commission of Offences by Means of an Internet Website Act, 5767–2017, district court judges may issue warrants ordering ISPs to block access to illegal gambling websites, at the request of the Israeli police or the State Attorney's office.

The Bank of Israel has issued a formal procedure in order to thwart financial transactions relating to unlicensed gambling (Conduct of Banking Business Procedure No 411). The procedure imposes stringent restrictions on Israeli financial and credit institutions regarding transactions related, among others, to online gambling.

Finally, while there are no specific laws in place for the facilitation of payment blocking in relation to online gambling in Israel, there is secondary legislation in place that allows local authorities to instruct financial institutions to block the processing of such transactions.

6.6 Recent or Forthcoming Changes

As online gambling is not regulated separately from land-based gambling, the restrictive action taken by the Ministry of Finance against the ISBB in 2018, as mentioned in **5.2 Recent or Forthcoming Changes**, also affected the ISBB's online gambling offering. Consequently, the ISBB is no longer allowed to offer sports betting on horse-racing events online.

Similarly, the possible upcoming developments pertaining to the game of poker discussed in **5.2 Recent or Forthcoming Changes** concerning land-based gambling would potentially also apply to the online provision of poker.

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

7.1 RG Requirements

The permit granted to the National Lottery stipulates that it must maintain a responsible gambling policy. The responsible gambling policy lays down several requirements of the National Lottery, the most notable of which are:

- that it invest ILS1 million annually into the financing and promotion of academic, professional and independent research on gambling issues and their social impact;
- that it provide information at its disposal about gambling and gamblers to research institutes recognised by the Israeli Council for Higher Education;
- that it allocate 3.5% of its annual marketing budget to campaigns related to responsible gaming and the detection, prevention and treatment of problem gaming;
- that it invest an annual sum of ILS2.5 million in providing treatment for gamblers with gambling problems;
- that it post information on its website and at sale points about the risks associated with gambling activity and the available treatment for problem gamblers; and
- that it conduct its sales and marketing in accordance with the ethical and responsible gaming principles as adopted by the World Lottery Association and the European Lottery.

7.2 Gambling Management Tools

The ISBB's website provides customers with gambling management tools under their accounts, allowing them to set self-imposed spending-level restrictions on a daily, weekly and monthly basis.

7.3 Recent or Forthcoming Changes

There have not been any significant recent changes to responsible gaming requirements, and no significant reform is currently planned in this field.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Both the National Lottery and the ISBB are subject to the Israeli general Prohibition on Money Laundering Law 5760-2000.

In addition, the National Lottery is subject to specific AML regulation as set out in its renewable permit, while the ISBB's operations are subject to specific AML requirements set out in the Law for the Regulation of Sports Betting 5727-1967.

8.2 AML Requirements

The National Lottery

The National Lottery's specific AML-related requirements include:

- maintaining a register of players purchasing tickets with potential prizes running over a certain amount (currently ILS20,000);
- identifying recipients of prizes and placing restrictions on cash payments over a certain amount (currently ILS10,000); and
- appointing a person to be responsible for AML practices.

The ISBB

The ISBB's specific AML-related requirements include:

- maintaining a register of players purchasing tickets with potential prizes running over a certain amount (currently ILS20,000);
- identifying recipients of prizes; and

- appointing a person to be responsible for AML practices.

8.3 Recent or Forthcoming Changes

There have not been any significant recent changes to AML regulations in relation to gambling, and no significant reform is currently planned in this field.

9. Advertising

9.1 Regulatory/Supervisory Agency The National Lottery

Oversight of the advertising practices of the National Lottery is the responsibility of the Ministry of Finance. The National Lottery is responsible for the activities of its concessionaires and their ongoing compliance with the terms of the National Lottery's operation permit.

The ISBB

Oversight of the ISBB's operations is carried out internally, in accordance with its statutory powers.

9.2 Definition of Advertising

Under the National Lottery's permit, the definition of advertising covers advertisements:

- carried out orally, in written or in printed form, or carried out via electronic communication, including public service broadcasts;
- that are intended for, or are available in practice to, the public; and
- that are sponsored by the National Lottery, or for which the advertiser has received, in advance or in retrospect, any payment or other benefit or a commitment to receive such advertisements from the National Lottery.

In addition, all contact made by the National Lottery – be it directly, indirectly, overtly or covertly, including by post, telephone, radio, television, fax machine, electronic communications of any kind, or the running of advertisements – aimed at entering into a transaction or promoting the sale of lottery products by the National Lottery would also be considered as advertising.

Finally, the definition of advertising would also apply to the use of corporate videos as well as the use of the National Lottery's logo, with the exception of by way of sponsorship.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising of gambling services is restricted solely to the products and services offered by the National Lottery and the ISBB.

9.4 Restrictions on Advertising

The following key restrictions apply to the advertising of gambling products and services, based on the National Lottery's permit.

- Advertisements may not be broadcast on television or radio between 3pm and 9pm.
- Advertisements may not glorify gambling or be of such a nature as to invite or encourage persons to gamble.
- Advertising may not:
 - (a) be carried out in educational institutions, on television channels targeting minors or adjacent to television shows intended for minors;
 - (b) be carried out in newspapers or publications intended for minors;
 - (c) be shown on websites intended for minors;
 - (d) be distributed on media intended for minors;
 - (e) use characters or symbols identified with

youth culture; or

- (f) portray minors, youth role models or celebrities whose activities are focused on youth culture.
- Gambling products must be accompanied by standardised risk warnings.
- Advertisements may not:
 - (a) directly link gambling activity with the social works undertaken using lottery funds;
 - (b) encourage players to gamble beyond their means;
 - (c) present a false guarantee of winnings;
 - (d) present gambling as a means of easing financial, social or personal hardship;
 - (e) present gambling as an alternative to work, a financial investment or a way to achieve financial security;
 - (f) portray gambling as an essential service or as being more important than family, friends or professional activity;
 - (g) portray gambling as a means for recovering previous gambling losses;
 - (h) suggest that the likelihood of winning may be increased through skill or experience;
 - (i) link gambling to significant life changes;
 - (j) encourage unlawful or immoral behaviour; or
 - (k) encourage the consumption of alcohol, etc.

9.5 Sanctions/Penalties

In terms of enforcement measures relating to infringement of advertising regulations, the main enforcement tool at the hands of the Ministry of Finance is its ability to suspend marketing campaigns that are found to be in breach of the terms set out in the National Lottery's permit.

9.6 Recent or Forthcoming Changes

There have not been any significant recent changes to advertising requirements, and no significant reform is currently planned in this field.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

The only forms of legal gambling in Israel are the activities organised and offered by the National Lottery and the ISBB under their respective permit and authorisation. Both the permit awarded to the National Lottery and the statutory authorisation granted to the ISBB are non-transferable.

10.2 Change of Corporate Control Triggers

As licences are non-transferable, this topic does not apply for this jurisdiction.

10.3 Passive Investor Requirements

As licences are issued only to state-owned monopolies, this topic does not apply for this jurisdiction.

10.4 Recent or Forthcoming Changes

There have been no recent applicable changes, nor are any such forthcoming changes expected.

11. Enforcement

11.1 Powers

Powers of enforcement held by the Ministry of Finance include the suspension or revocation of the National Lottery's permit and suspension or discontinuation of specific types of permitted gambling activities by the National Lottery or the ISBB.

11.2 Sanctions

Sanctions are enforced by way of a formal decision by the Ministry of Finance. Since 2017, the Ministry of Finance has exercised sanctions against the National Lottery and the ISBB, in the form of revoking the National Lottery's permit for the operation of land-based video lottery terminals, as well as revoking the ISBB's permission to conduct horse-race wagering.

11.3 Financial Penalties

The Ministry of Finance does not issue financial penalties to the state-licensed monopolies, but rather utilises other forms of enforcement (see 9.5 Sanctions/Penalties and 11.2 Sanctions).

11.4 Recent or Forthcoming Changes

There have been no recent applicable changes, nor are any such forthcoming changes expected.

12. Tax

12.1 Tax Rate by Sector

As commercial gambling is prohibited in Israel and the only lawful forms of gambling are those offered by the state-licensed monopolies, the main relevant tax is the tax levied on gambling winnings under certain conditions.

A reform that came into force in 2019 significantly reduced the tax exemption for gambling prizes. The current tax exemption applies to prizes with a monetary value of up to ILS30,500 only (currently standing at ILS33,840, inflation-adjusted), while previously the exemption was as high as ILS50,000.

Awarded prizes in excess of the exempted amount are subject to withholding tax at source by the gambling activity organiser. Prizes in the range of ILS33,840 to ILS67,680 are subject to

incremental tax rates, with the highest tax level (35%) being levied on prizes worth ILS67,680 or more (the sums are inflation-adjusted as of 2024).

Relevant Court Cases

During 2018, a couple of Israeli court rulings were rendered that contained interesting developments relating to the taxation of gambling-related winnings.

The first was the Israeli Supreme Court ruling referenced in 1.1 Current Outlook and Recent Changes – Civil Appeal (Supreme Court) 476/17 Amit Amishvili Rafi v Assessing Officer Tel Aviv 4 – where the court presided over a tax appeal filed by a poker player whom the court believed to be a professional. In its ruling, the court held that due to the player practising poker as a profession, his winnings generated from tournaments outside Israel would be taxed as regular income, and not as gambling winnings (effectively resulting in higher taxation).

Another court case in 2018 that dealt with the appropriate tax to be levied on poker tournament winnings abroad was Tax Appeal (Tel Aviv) 45369-02-17 Miller Ori v Assessing Officer Tel Aviv 3. In its ruling, the Tel Aviv district court had followed the precedent set by the Supreme Court and found that the winnings would be subject to regular income tax and not gambling winning tax. The district court then went even further and also allowed the poker player to deduct certain expenses incurred by him in the course of generating his winnings from the tournaments, including registration fees, flights and accommodation costs.

12.2 Recent or Forthcoming Changes

There have been no recent applicable changes, nor are any such forthcoming changes expected.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

13.2 Application Process

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

13.3 Ongoing Annual Fees

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

13.4 Ongoing Requirements

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

13.5 Personal Sanctions

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.

13.6 Recent or Forthcoming Changes

As commercial gambling is prohibited in Israel, this is not applicable in this jurisdiction.



Law and Practice

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Sbordonì & Partners is a law firm founded by lawyer Stefano Sbordonì, headquartered in Rome. Sbordonì & Partners' lawyers have all been granted legal advocacy before the Italian Supreme Court. The firm offers legal, judicial and extrajudicial assistance in all areas of civil, administrative, insurance, commercial, corporate and IT law for individual clients and for national and international companies. It has specific expertise in public gaming law and bet-

ting, and offers assistance to Italian and foreign operators/clients for the adaptation of business strategies to the regulatory framework of the current legislation in Italy, providing clients with the necessary operational guidelines for compliance with current legislation, and actively collaborating with the institutional bodies for the development of the regulation of public gaming. Sbordonì & Partners is a legal partner of, among others, the Italian Esports Observatory (OIES).

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1. Introduction

1.1 Current Outlook and Recent Changes

In 2023, the gaming market in Italy generated total revenue of EUR147.7 billion. EUR127 billion of this amount represented winnings, and gross gaming revenue (GGR) came to EUR20.7 billion, more or less equal to 2022, when spending was EUR20.4 billion.

The online sector represented 21% of total spending in 2023, showing constant growth versus 9% in 2019, with a total volume of EUR4.3 billion, more than doubling compared to 2019. Although the retail sector is recovering compared to the pandemic period, it is nevertheless in a stagnating trend, declining 7.7% compared to 2019. Casino games are among the sectors driving online growth, accounting in 2023 for 55% of online spending (around EUR2.4 billion) and sports betting (around EUR1.5 billion), which quadrupled and doubled, respectively, in the period.

Contributions to the Treasury are rising. Thanks to legal gaming, in fact, a total of EUR11.6 billion ended up in the state coffers in 2023, an increase of 3.6% compared to the previous year. The Amusement With Prizes (AWP) and Video Lottery Terminals (VLT) market is still the largest contributor to the Treasury, with 60% of tax revenues (around EUR5.5 billion). Lotto, SuperEnalotto, Scratch Cards and Lotteries contributed 27% (around EUR3.4 billion). Betting accounted for 5.6% of payments to the Treasury, and 7.3% was attributed to other games.

Overall expenditure in the betting segment in 2023 in Italy was EUR3.1 billion, while the contribution to the Treasury was EUR684 million. From other games, EUR827 million went to the Treasury, while spending was EUR2.5 billion.

Spending on agency sports betting was EUR929.8 million at the end of 2023, up just 0.8% on 2022 (EUR922.5 million). The increase in collections was more pronounced, up 3.9% from EUR4.9 billion in 2022 to EUR5.1 billion at the end of 2023.

Lottomatica leads the spending ranking, with a market share of 33.1%. Snaitech and Eurobet fared well, with 19.3% and 16.2% of market share, respectively. The two companies also grew in terms of spending. Snaitech recorded an increase of 10.3%, and Eurobet 15.1%. Sisal (+6.8%), Planetwin365 (+4.5%), Betaland (+7.1%), Admiral Sport (+9.2%) also grew.

Recent Changes

On 25 March 2024 Legislative Decree No 41/2024 containing “provisions regarding the reorganization of the gaming sector starting from remote gaming” was approved by the Government in implementation of the Delegation Law No 111/2023 for the general tax reform.

This decree aims to reorganise and update the legislation regarding public games, ie, those online and land-based gaming that offer cash winnings, to improve control and ensure greater safety in the gaming sector, introducing new rules and principles that all operators in the sector will have to follow and providing rules and deadlines for the tender proceedings for the renewal of online gaming concessions expiring on 31 December 2024.

2. Jurisdictional Overview

2.1 Online

After a so-called deregulation phase, Directorial Decree No 128 was issued on 31 May 2002 by the Autonomous Administration of State

Monopolies (AAMS, now ADM) applying Article 3 paragraph 230 of Law No 549/1995. The subsequent Decree of the Ministry of Finance No 174/1998 laid down rules for the organisation and operation of totaliser betting and fixed-odds on sports competitions organised by CONI, with new methods of accepting bets by telephone or electronically – thus officially regulating online betting in Italy.

With Law No 266/2005 (the “Budget Law 2006”), the Customs and Monopolies Agency (ADM) was entrusted with the task of regulating the online gaming sector. As a result, all sites that did not have the necessary permissions were banned. The so-called Bersani Decree (Legislative Decree No 223/2006, converted by Law No 248/2006) allowed foreign operators to open sites compliant with Italian legislation, eliminating the need for a concession for online operation, while maintaining the system of previously established qualifications.

Subsequently, in 2009, with Law No 88/2009, the ban on gaming by minors was made mandatory for websites in the gaming sector, and a series of obligations and limits was put in place regarding the presentation of identity documents when registering. The ADM [website](#) contains a list of authorised remote gaming concessionaires.

Therefore, the following bets are legal in Italy:

- number games with fixed odds;
- lotto;
- numerical totaliser games (Superenalotto, Eurojackpot, Win for Life);
- sports-based betting;
- fixed-odds betting;
- horse-race betting;

- non-sporting events betting (eg, music festivals such as Sanremo and Eurovision Song Contest, reality shows, etc);
- traditional and instant lotteries; and
- betting exchange.

The online bingo concessions are granted by the ADM to bingo halls that meet all the safety and protective requirements of player privacy. The online bingo protocol was adopted and can only be exercised both by the owners of the bingo halls and by the concessionaires for online gaming. Autonomous bingo rooms must guarantee:

- secure connections;
- secure banking transactions;
- protection of sensitive members’ data; and
- quality in the services offered.

The rules also provide for penalties in the event of any violation of the laws on gambling in Italy. Bingo hall concessions last six years and can be renewed only once. With Law 197/2022 (Budget Law 2023), they were further extended to 31 December 2024. There are many online bingo sites operating in Italy. The most popular ones, according to a comparative analysis provided by specialised analysts, are:

- Eurobet;
- SNAI;
- AdmiralYES;
- Gioco Digitale; and
- William Hill.

Article 2 paragraph 3 of Law Decree No 138/2011 (the “Ferragosto Decree”, converted by Law No 148/2011), attributes to the MEF/AAMS (now ADM) power to issue with its own decrees “all the provisions on public games useful in order to ensure higher tax revenues” and to “also introduce new games” – in fact, it also legalised

online casinos, acknowledging the now ADM as the authority to close unauthorised sites.

Law No 266/2005 and Law No 88/2009 introduced the obligation to communicate the prohibition on gambling to minors under 18 years of age. Therefore, all online casinos are required to obtain an ID and a validated tax number in order for players to start playing on the online platform. The opening of an online casino is subject to the release of the licence by the ADM, for which it is necessary to pay EUR350,000 to this body as well as the annual taxes on the profit gross, which can vary from 3% to 20%.

Furthermore, the company that owns the casino will have to pay an income tax amounting to 27.5%. Non-AAMS/ADM online casinos do not have an Italian licence, but are not considered illegal if they have a known and secure licence issued by a foreign government (among the most important are Curacao, Malta, Cyprus and Gibraltar). The aforementioned licence in fact gives reliability and security to the game.

In Italy, there are three types of lotteries, which are distinguished according to the frequency of the awarding of prizes:

- instant lotteries – ie, “Scratch and Win” – the prizes of which are paid immediately;
- the Lotto game, which has a bi-weekly draw (Wednesday and Saturday mornings) and derivatives (SuperEnalotto, etc); and
- the national lotteries (including the “New Year’s Lottery”), whose draws take place on an annual basis.

These are entrusted to single dealers authorised by the ADM or managed directly by the State.

The game of Lotto is not entrusted to any licensee, but the network and all operations have been entrusted to Lottomatica through a public tender, together with the possibility of developing – subject to authorisation – other games with fixed-odds numbers (of which the most widespread, as of today, is “10 and Lotto”).

The other most popular lottery is EnaLotto/SuperEnalotto, a numerical game based on the totaliser whose concessions are assigned to Sisal. The national lotteries with instant draw (eg, Gratta e Vinci) have been foreseen by Ministerial Decree (DM) No 183/1991 and are regulated by the ADM, which publishes the regulation of each lottery on its [website](#). They are managed by the concessionaire Lotterie Nazionali S.r.l, holder of a concession agreement signed with the ADM. They involve the sale of tickets marketed at authorised resellers, who display the distinctive logo on which a combination of numbers or symbols is printed, hidden by a patina that can be removed with abrasion.

Finally, there are other minor lotteries with postponed draws, such as the Lotteria Italia or the lotteries linked to certain events, which take place in particular cities (carnival, Monza lottery, etc). The “receipt lottery” is a free prize competition connected to the “Italia Cashless” programme, established by Law No 232/2016 and which entered into force on 1 February 2021 to encourage the use of credit cards, debit cards and prepaid cards. It consists of a virtual ticket given for each Euro spent in all commercial establishments which, instead of an invoice, issue a commercial document up to a maximum amount of 1,000 tickets for each receipt of an amount equal to or greater than EUR1,000; and the lottery code can be obtained by entering the tax code on the lottery [portal](#). The first drawing was launched on 11 March 2021.

Regarding eSports, platforms with an Italian or international licence (eg, BetWay) allow each player to bet on the various online events (eg, Dota 2, Call of Duty, etc) without any kind of danger, as for sport bets.

Poker is gambling and, therefore, is illegal pursuant to Articles 718–723 of the Criminal Code when each bet is made directly with money and not with chips (so-called cash game). However, it is legal when it does not constitute a game of chance – ie, whenever, in the variant practised and pursuant to the Bersani Decree, skill prevails or is equivalent to the luck component, or when in tournaments there is a quota-equal fixed registration for all players, who are given the same amount of chips with no cash value and the jackpot is established at the outset (eg, Texas Hold'em freezeout without rebuy).

Online poker must be exercised according to the rules established by Law No 266/2005 (the “Financial Law 2006”), which gave the ADM the right to regulate the online gaming sector, with the consequent prohibition on carrying out this activity for all sites that do not have the necessary authorisations.

2.2 Land-Based

In Italy the legal gambling market is structured into two segments.

- The first is that of “public gaming” and is managed by the State through the ADM (into which the Azienda Autonoma dei Monopoli di Stato (AAMS) was incorporated), and through a network of concession holders/licences ensures the regulated distribution of the most widespread types of legal gaming.
- The second sector concerns the activity of authorised gaming houses, casinos and joint-stock companies whose capital is held by the

granting administrations (regions, provinces or municipalities). There are four casinos in Italy: Sanremo, Campione d'Italia, Venice and Saint Vincent.

Betting

The “Bersani Decree” (Law Decree No 223/2006 converted into Law No 248/2006) opened the horse-racing and sports-betting market to all national and foreign operators meeting certain reliability requirements. Decree No 145/2022 of the Ministry of Economy and Finance (MEF), in force since 28 October 2022, contains important changes regarding fixed-odds bets on sporting events other than horse racing, and on non-sporting events.

Poker

Poker is considered legal only if it does not constitute gambling – ie, for all those times when skill prevails over luck. In essence, poker and other popular casino games are considered legal when managed by the ADM for private individuals authorised by the State, such as casinos.

Bingo

The game of bingo was introduced in Italy with Law No 133/1999, providing for the establishment of bingo halls, and is also regulated by Ministerial Decrees No 29/2000, No 12/09/2000 and No 21/11/2000, which defined the centralised control of the game and its assignment under concessions.

Bingo concessions are granted by the ADM to bingo halls that meet all the safety and protective requirements of player privacy. They last six years and can be renewed only once. With Law 197/2022 (the “Budget Law 2023”) they were further extended to 31 December 2024.

Casinos

In Italy, there are four authorised land-based casinos regulated by the Italian Penal Code (IPC), the TULPS and related laws and regulations: Campione D'Italia, La Vallée, Sanremo (the oldest casino, built in 1905) and Venice.

Gaming Machines

For gaming machines with cash winnings (AWP and VLTs), Article 110 of the Consolidated Law on Public Security (TULPS approved by Royal Decree No 773/1931) considers lawful those machines equipped with a certificate of conformity regarding the provisions in force issued by the MEF/AAMS, such that “together with the element of chance they also contain elements of skill”.

For new-slot/AWP machines, Article 110, paragraph 6a of the TULPS (together with Directorial Decree of 4 December 2003, subsequently modified by Inter-Directorial Decree of 19 September 2006) define such machines' characteristics as follows:

- together with the random element, in the new-slots machines there are also elements of skill, which allow the player to choose, at the start of or during the game, their own strategy for the game, specifically selecting the race options deemed most favourable among those proposed by the game;
- each device can only function if connected to the AAMS/ADM telematic network, activated by introducing coins with a value, for each batch, not exceeding EUR1;
- the duration of the match cannot be less than four seconds;
- the distribution of the winnings in cash, each of a value not exceeding EUR100, takes place immediately after the conclusion of the game exclusively in coins;

- the winnings, calculated by the machine, in a non-predeterminable way, over a total cycle of no more than 140,000 games, must not be less than 75% of the sums played;
- the use of such devices is prohibited for minors under 18 years of age; and
- the devices cannot reproduce the game of poker or, in any case, even in part, its fundamental rules.

3. Legislative Framework

3.1 Key Legislation

Gambling is defined by Article 721 of the IPC as “those games in which the purpose of profit occurs and the win or loss is entirely or almost entirely random”. It is prohibited in Italy unless authorised by the State, or unless held in authorised gaming houses (casinos) and on cruise ships sailing outside the Mediterranean Sea.

Article 718 IPC punishes with imprisonment of no less than three months and with a fine of no less than EUR260 “whoever, in a public place or place open to the public, or in private circles of any kind, holds gambling or facilitates it”. A doubled penalty applies pursuant to Article 719 if:

- the offender has set up or kept a gambling house;
- the offence is committed in a public establishment;
- large sums are wagered; and
- there are minors among the participants.

Article 720 punishes with imprisonment of up to six months or with a fine of up to EUR516 “anyone who, in a public place or place open to the public, or in private circles, is caught red-handed while taking part in gambling”.

Article 723 punishes with a fine from EUR5 to EUR103 “anyone authorised to keep gaming halls who allows non-gambling games which are in any case prohibited by the authority (see Article 110 TULPS)”.

The Italian Civil Code distinguishes between:

- lawful betting (ie, poker, roulette, etc), for which there is no legal action for the payment of a gambling or betting debt, even if the gambling or betting is not prohibited, unless the debtor proves that they have suffered fraud or are incapable (Article 1933);
- protected betting, such as horse racing and sports betting (Article 1934) and authorised lotteries (Article 1935), for which there is legal action.

The Consolidated Law on Public Safety (TULPS, Royal Decree No 773/1931 and subsequent amendments) comprises rules regarding the licences for gaming and betting (Articles 86 and 88), and for entertainment machines (AWP, VLT Article 110).

Legislative Decree No 496/1948 and Presidential Decree (DPR) No 581/1951 allow the use of concessionaires other than the State for the organisation and exercise of gaming activities.

With Legislative Decree No 300/1999, all responsibilities in the gaming and betting sector have been assigned to the AAMS/ADM.

Law No 133/1999 (Article 16), Law No 311/2004 and the subsequent DM No 111/2006 govern the collection of totaliser and fixed-odds betting on sporting events other than horse racing, and on non-sporting events.

DM No 156/2001 attributed to the MEF the competence to authorise the licensee to collect betting by telephone or telematics (online).

Law No 266/2005 (the “Financial Law 2006”) gave the ADM the power to also regulate the online gaming sector, with the consequent prohibitions for unauthorised sites.

The Bersani Decree opened the horse-racing and sports-betting market to all national and foreign operators meeting certain reliability requirements, and introduced “skill games” (Article 38 paragraph 1b), defined as “remote games with cash winnings, in which the result depends, to a greater extent than the random element, on the skill of the players” (ie, draughts, chess, bridge, poker, Texas Hold’em, etc) These can only be played on online sites managed by concessionaires authorised by the ADM.

Anti-money laundering (AML) legislation was introduced by Legislative Decree No 231/2007 (as amended) and concerns all land-based and online gaming and betting operators.

Law No 88/2009 contains provisions on online gaming and betting, namely:

- fixed-odds and totaliser betting on sports events, including simulated ones, and on horse racing and other events;
- competitions with sports and horse-racing predictions;
- national horse-racing games;
- skill games;
- fixed-odds betting with direct interaction between players;
- online bingo;
- national totaliser number games; and
- instant and deferred lotteries.

Law No 158/2012 (the “Balduzzi Decree”) contains rules on gambling addiction.

Ministerial Decree No 47/2013 regulates remote betting at fixed odds with direct interaction between players (so-called betting exchange).

Law Decree No 87/2018 (the “Dignity Decree”) increased the tax on withdrawals from slot machines (AWP) and VLTs, and banned the advertising of gambling activities, except in certain cases.

Decree No 145/2022 issued on 1 August 2022 by the Ministry of Economy and Finance (MEF), and which entered into force on 28 October 2022, contains regulation of fixed-odds betting on sporting events other than horse racing, and on non-horse racing sportsmen.

3.2 Definition of Gambling

Gambling is defined by Article 721 of the IPC as “those games in which the purpose of profit occurs and the win or loss is entirely or almost entirely random”.

The Bersani Decree defines skill games as “remote games with cash winnings, in which the result depends, to a greater extent than the random element, on the skill of the players” (ie, draughts, chess, bridge, poker, Texas Hold’em, etc). These can only be played on online sites managed by concessionaires authorised by the ADM.

3.3 Definition of Land-Based Gambling

“Land-based gambling” or “offline gaming” includes all gaming activities carried out on physical sites (casinos, betting shops, etc) considered legal by the Italian legislation described in previous sections.

The main types of legal gambling games in Italy are:

- machines with cash winnings (AWP and VLT, Article 110 TULPS);
- lotteries (Lotto, SuperEnalotto, etc);
- scratch cards;
- horse-race betting;
- sports betting;
- bingo; and
- casino games.

3.4 Definition of Online Gambling

According to Italian legislation and EU Directive 98/34, online gaming is “a service involving a monetary stake in games dependent on luck, including lotteries and betting, provided remotely, by electronic means at the request of the individual recipient of the services”.

The main types of online legal gambling games in Italy are:

- lotteries;
- scratch cards;
- horse-race betting;
- sports betting;
- bingo;
- online casino games; and
- online poker.

3.5 Key Offences

According to current Italian legislation (IPC, TULPS, Law No 401/1989 on crimes relating to gaming and betting, and subsequent amendments, etc) some illicit cases involve “crimes”, and are therefore assumed to be committed maliciously – ie:

- the abusive exercise of the organisation of lottery games, or of betting or prediction

competitions, that the law reserves to the State or other concessionary body;

- the organisation of bets or prediction competitions on sporting activities managed by the Italian National Olympic Committee (CONI), the organisations dependent on it or the Italian Union for the Advancement of Equine Breeds (UNIRE); and
- the organisation, operation and remote collection, without the prescribed concession, of any game established or regulated by the ADM.

Other illicit cases, however, are “contraventions”, and therefore can be committed either intentionally or negligently, ie:

- the illegal exercise of the organisation of public bets on other competitions involving people or animals and games of skill;
- the sale on national territory, without authorisation from the ADM, of lottery tickets or similar events of foreign states, as well as participation in such operations through the collection of bet reservations and accreditation of the related winnings, and the promotion and advertising carried out by any means of dissemination;
- (even for holders of the required concession) the organisation, operation and remote collection of any game established or regulated by the ADM with methods and techniques other than those provided for by law;
- competitions, games or bets managed in the manner referred to in the previous cases, and outside cases of complicity in one of the crimes envisaged therein, publicising their exercise;
- advertising games, bets and lotteries in Italy, accepted by anyone abroad; and
- participation in competitions, games and bets managed in the manner referred to in the

previous cases, except in cases of complicity in one of the crimes envisaged therein.

Furthermore, Italian law prohibits the “abusive” exercise of the following activities in the absence of an administrative authorisation or concession:

- games of chance carried out using devices prohibited by Article 110 TULPS (Royal Decree No 773/1931 and subsequent amendments and additions), the so-called new slots and VLTs;
- carrying out in Italy, without concession, authorisation or licence pursuant to Article 88 TULPS, any activity organised for the purpose of accepting or collecting (or in any case encouraging the acceptance, or in any way the collection, including by telephone or electronic means) of bets of any kind; and
- the collection or booking of lottery games, prediction competitions or bets by telephone or electronic means, in the absence of specific authorisation from the MEF or ADM for use of such means for the aforementioned collection or reservation.

Furthermore, Article 110 TULPS, modified by Legislative Decree No 269/2003 (as amended) establishes that in all gaming halls and other establishments, including private clubs, authorised to play the game or install gaming machines, a visible table should be displayed, prepared and approved by the commissioner and endorsed by the competent authorities upon issuing the licence. Games in addition to gambling that the commissioner deems it necessary to “prohibit”, as well as specific requirements and prohibitions, should also be indicated.

3.6 Penalties for Unlawful Gambling

See 3.1 Key Legislation regarding various penalties.

Article 110 paragraph 9 TULPS punishes with sanctions of up to EUR50,000 and the seizure and confiscation of property (and, sometimes, with the suspension and/or revocation of the licence) anyone who uses gaming machines for which the authorisations required by the provisions in force have not been issued, or which do not comply with the characteristics and requirements indicated in paragraphs 6 or 7 of Article 110.

Pursuant to Article 4 Law No 401/1989 and subsequent amendments, “whoever illegally carries out the organisation of lottery games, or of betting or prediction competitions, which the law reserves to the State or to another concessionary body, is punishable with imprisonment from three to six years and with a fine from EUR20,000 to EUR50,000”.

The same penalty applies to “those who organise bets or prediction competitions on sports activities managed by the Italian National Olympic Committee (CONI), organisations dependent on it or the Italian Union for the Increase of Equine Breeds (UNIRE)”.

Anyone who “illegally carries out the organisation of public betting on other competitions of people or animals and games of skill is punishable with imprisonment from three months to one year and with a fine of no less than ITL1 million”.

The same sanctions apply “to anyone who sells on the national territory, without authorisation from the ADM, lottery tickets or similar events of foreign states, as well as to anyone who participates in such operations through the collection of reservations of played and accreditation of related winnings, and through the promotion and advertising carried out by any means of dissemination”.

Anyone who organises, operates and collects remotely, without the prescribed concession, any game established or regulated by the ADM is also punishable with imprisonment from three to six years and with a fine of EUR20,000 to EUR50,000.

Anyone, even if the holder of the prescribed concession, who “organises, exercises and collects remotely any game established or regulated by the ADM with methods and techniques other than those provided for by law is punishable with imprisonment of three months to a year or with a fine of between EUR500 and EUR5,000”.

3.7 Recent or Forthcoming Legislative Changes

Delegating Law No 111/2023 entered into force on 29 August 2023 (the government must exercise the delegation within 24 months of the law coming into force), and contains important information as regards the gaming and betting sector. Article 15 establishes that the reorganisation of the sector referred to in paragraph 1 must be carried out in compliance with certain principles and criteria.

Firstly, the introduction of technical and regulatory measures aimed at guaranteeing the full protection of the most vulnerable subjects, as well as preventing gambling disorders and underage gambling, is envisaged.

Furthermore, the following are expected:

- regulation of adequate forms of consultation between the State, the regions and local authorities;
- reorganisation of the gaming collection networks, both remotely and in physical locations;

- strengthening the fight against illegal gaming and the infiltration of criminal organisations into gaming offerings;
- strengthening the discipline on transparency and the subjective and honourable requirements of the subjects who, directly or indirectly, hold, control or participate in the capital of the concessionaire companies of public games;
- extension of the regulations on transparency, and on the aforementioned subjective and honourable requirements for all subjects, established in any organisational form (including corporate) who participate in the supply chains activated by public gaming concessionaire companies, integrating (where necessary) the sectoral regulations in force;
- provision of a general regulation for the management of cases of irreversible crises regarding the concession relationship in the field of public gaming, especially if resulting from revocation or forfeiture provisions;
- in the matter of taxation on gaming, reserves to ordinary law or acts having the force of ordinary law, in compliance with Article 23 of the Constitution, and matters relating to taxable cases, taxable subjects and the maximum amount of tax;
- adaptation of the provisions regarding tax levies on individual games;
- definition of transparent and uniform rules for the entire national territory regarding qualifications for the exercise of gaming offerings, authorisations and controls;
- review and simplification of the regulations concerning qualifications for the exercise of gaming offerings, and prohibition on the issuance of such qualifications;
- review of the regulation of controls and assessment of taxes imposed on gaming; n) reorganisation, according to criteria of greater rigour, specificity and transparency, (taking into account the sector legislation adopted by the EU) of the regulations regarding the qualification of certification bodies for entertainment and amusement machines, and of the regulations concerning the responsibilities of such bodies and those of dealers for cases of untruthful certifications or use of devices that do not comply with the certified models;
- reorganisation of the regulation of obligations, responsibilities and guarantees (in particular, financial ones) of producers or distributors of computer programs for the management of gaming activities and related collection;
- definition, by decree of the MEF and on the proposal of the ADM, and in agreement with the General Command of the Financial Police, of annual control plans aimed at combating the practice of gaming, in any form, carried out in ways that do not comply with the State regulatory framework for the practice of lawful gaming;
- provision of access, by public and private entities that carry out activities for the prevention and treatment of gambling pathologies, to data concerning the territorial diffusion, collection, expenditure and taxation of authorised games of any type and classification; and
- provision of a report to the chambers on the public gaming sector, presented by the MEF by December 31st of each year, containing (among other things) data on the status of concessions, collection volumes, economic management results and progress regarding the protection of gaming consumers and legality.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

See 3.1 Key Legislation regarding the powers and responsibilities attributed to the ADM and other bodies.

4.2 Regulatory Approach

In Italy, anyone intending to carry out an activity in the “gaming and betting” sector must obtain the relative “concession” from the ADM, and a “licence” from the qualified authorities.

Concessions are divided into:

- mono-concessions – ie, Lotto, Superenalotto and lotteries; and
- multi-concessions – ie, horse racing and sports betting, sports prediction competitions, bingo, devices (slots, VLTs) and online games.

To acquire a concession, it is necessary to apply for a public tender called for by the ADM. The requirements for obtaining a concession are indicated on the ADM website. Once the concession has been obtained, the concessionaire must pay the ADM a concession fee in the percentage with respect to the amounts played, established by the ADM. The duration of a concession varies according to its type, and is sometimes extended with specific regulatory measures.

A licence, according to Article 86 TULPS (the Consolidated Law on Public Safety/Royal Decree No 773/1931 and subsequent amendments), is required for “anyone who has a public hall for lawful games”. See Article 86 paragraph 1 TULPS regarding the production, importation, distribution and management of such devices, and for installation in commercial or public oper-

ators not already licensed pursuant to Article 88 TULPS, or in other areas open to the public or in private circles of automatic, semi-automatic and electronic devices as per Article 110 TULPS paragraphs 6 and 7.

Article 88 TULPS (as amended) states that the licence is granted only “to concessionaires authorised by ministries or other entities to which the law reserves the right to organise and manage betting, as well as to subjects appointed by the concessionaire or the owner of authorisation under the same concession or authorisation”.

4.3 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes and 2.1 Online.

4.4 Types of Licences

The main types of licences/concessions are:

- land-based licences (AWP, VLT and betting);
- online licences (poker, casino games and betting); and
- single concessions (Lotto, Superenalotto and lotteries).

There is a limitation on the number of licences that can be granted, and this total depends on governmental decisions as made from time to time.

For machines with cash prizes pursuant to Article 110 paragraph 6a (AWP) and b (VLT), and their installation, the following rules apply:

- administration exercises, public entertainment venues, clubs with administration, bathing establishments and accommodation facilities (already authorised for the purposes of Article 86 TULPS), as well as gaming, betting and bingo halls (already authorised for the pur-

poses of Article 88 TULPS) must not ask for further authorisation in the case of installation of such appliances; and

- businesses other than the types listed above and any other business without authorisation pursuant to Articles 86 and 88 of the TULPS (such as tobacconists, newsagents, private clubs without administration to members, and areas open to the public) must request the appropriate authorisation pursuant to Article 86 TULPS for the installation of the aforementioned devices.

For entertainment machines with no cash winnings (Article 110 paragraph 7 TULPS), only the authorisation referred to in Article 86 TULPS and the AAMS/ADM “authorisation for commissioning” are required.

With the Decree of 5 July 2022, the ADM eliminated the obligations of self-certification and technical verification of conformity (homologation) for most of the entities referred to in Article 110 paragraph 7C bis and 7C ter of TULPS.

4.5 Availability of Licences

The following concessions are currently envisaged.

- The concessions for fixed-cost numerical games (Lotto and complementary games) reserved for the ordinary or extraordinary resale of monopoly goods and linked to the duration of the relevant concession for the sale of tobacco (Article 12 paragraph 1 Law No 528/1982; Article 20 Law 123/1987), whose deadline is November 2025.
- The automatic service of fixed-cost numerical games (Lotto and complementary games) concessions have a non-renewable duration of nine years from the date of subscription (30 November 2016 following the tender foreseen

by Article 1, paragraphs 653 and 654 of Law No 190/2014), and their expiry is scheduled for 30 November 2025.

- The concessions for totaliser numerical games (Superenalotto and complementary games) have a non-renewable duration of nine years (Article 1, paragraph 576, of Law No 232/2016), but their expiry has been extended to 30 December 2030 by Article 101 of Legislative Decree No 104/2020 due to the COVID-19 emergency.
- The concessions for instant lotteries (“scratch off and win”) expire on 30 September 2028 pursuant to Article 20 of Legislative Decree No 148/2017, converted into Law No 172/2017.
- The concessions for entertainment machines with cash winnings (AWP, new-slot and VLT – Article 110 paragraph 6 TULPS), signed on 20 March 2013, have a duration of nine years according to the procedure established by Article 24, paragraph 35 of Legislative Decree No 98/2011, converted by Law No 111/2011. With Law No 197/2022 (the “Budget Law 2023”), the deadline was extended to 31 December 2024.
- The concessions for sports and horse-race betting, and also for virtual events, which expired in June 2016 were progressively extended, most recently by the Budget Law 2023, to 31 December 2024.
- Bingo hall concessions last six years and can be renewed only once. With the Budget Law 2023, they were further extended to 31 December 2024.
- The concessions for distance (online) gaming under the Budget Law 2023 have been further extended to 31 December 2024.

4.6 Duration of Licences

The duration of a gaming/betting concession varies according to its type and is sometimes extended with specific regulatory measures.

With Law No 88/2009, 21 concessions were initially assigned (with a duration of nine years, and for a cost of EUR414,000 with a further cost of EUR46,000 for each annual extension). Subsequently, a further 13 concessions were assigned (for a cost of EUR483,000, a duration of nine years, and with the cost for annual extension being EUR53,667).

With Law No 208/2015, another 59 concessions were assigned at a cost of EUR230,000, a duration of seven years, and with the cost for annual extension being EUR32,857.

Law No 197/2022 (the “Budget Law 2023”), relating to the three-year period 2023–2025, also approved (among many measures) the extension until 31 December 2024 of concessions for:

- remote collection of public games;
- bingo game collections;
- creation and management of telematic gaming management networks using amusement and entertainment devices pursuant to Article 110 TULPS (VLT and AWP); and
- collection of bets on sporting events (including horse racing) and on non-sporting events (including virtual events).

4.7 Application Requirements

The documentation relating to the procedure for awarding the public gaming concession (Article 10, paragraph 9-octies of Law Decree No 16/2012, converted by Law No 44/2012) is published on the ADM website.

The requirements necessary for obtaining the licence are:

- exercise of the management and collection of games in one of the countries of the European Economic Area, with a turnover of at least EUR1.5 million in the last two years;
- possession of technical-infrastructure capabilities and bank guarantees equal to the sum of EUR1.5 million;
- constitution in the form of a joint-stock company;
- possession by the administrators of the reliability requirements; and
- residency of the technological infrastructures in one of the member states.

For the assignment of concessions for online gaming (Law No 88/2009), the concessionaire must, in addition to what is expressly indicated in the agreement, ensure and guarantee to the ADM:

- the creation and/or adaptation of the processing system, according to the characteristics defined in such document;
- the creation and/or adaptation of the methods of dialogue with the system centralised according to the specifications indicated by the AAMS/ADM in the protocol communication;
- the transporting of information to and from the centralised system, through a connectivity service provider recognised by the AAMS/ADM;
- the debit of the game or stake and the assignment and crediting of winnings, subject to validation by the centralised system, with relative communication to the player; and
- the preservation of the analytical details of the movements and plays made, according to the provisions of current legislation.

For the activation of all legal gaming equipment and legal gaming practices pursuant to Article 110 co 6 (AWP/new slots and VLTs) and co 7 (devices with non-cash winnings) TULPS, installed in establishments that do not already have the authorisation pursuant to Article 86 TULPS or Article 88 TULPS (such as commercial establishments, artisan shops, tobacconists, etc), it is necessary to submit an application to obtain the authorisation/licence pursuant to Article 86 TULPS, with indication of the devices intended to be installed.

If the legal gaming machines are installed in establishments that already have the authorisation pursuant to Article 86 TULPS or Article 88 TULPS (ie, establishments such as bars, restaurants or those providing food and drinks to the public, accommodation establishments, private clubs with administration, etc), no further authorisation is required pursuant to Article 86; in the presence of specific municipal regulations on the matter, the presentation of an SCIA may be required with indication of the devices intended to be installed.

The requirements for obtaining the aforementioned licences are as follows:

- moral requirements provided for by the TULPS and by anti-mafia legislation;
- professional requirements;
- availability of the premises;
- compliance of the premises with the building regulations and municipal urban planning instruments, as well as with the consolidated law on construction (usability, fire prevention, urban planning regulations, architectural barriers, hygiene and health standards, etc);
- compliance with environmental regulations (waste management, impact on traffic, prevention of noise pollution, etc);

- compliance with the rules that prohibit the installation of devices for legal gaming referred to in Article 110 paragraph 6 TULPS near “sensitive places” (secondary schools, universities, hospitals, credit institutions, ATMs, etc); and
- registration of the company in the Company Register of the Chamber of Commerce.

The application must be submitted (in the case of a company) by the legal representative, by the individual/natural person who owns the sole proprietorship or by a specially designated delegate via proxy to the SUAP competent for the territory in which the activity takes place or the business is located, and must contain the following documents:

- authorisation application;
- special power of attorney;
- declaration of possession of the required requisites;
- declaration of the representative of lawful games;
- certification of stamp duty payment;
- certification of payment of charges and fees;
- identity document of the interested parties;
- plan of the premises; and
- SCIA fire prevention.

4.8 Application Timing

Authorisation takes place within 60 days of the presentation of the application, with the possible suspension of the terms for a maximum of 30 days, to implement any supplementary documentation requested by the SUAP.

4.9 Application Fees

The cost for obtaining a licence varies, based on the type of game to be offered, from EUR50,000 to EUR350,000.

Furthermore, the concessionaires must provide the ADM with a bank or insurance guarantee on initial request and with a duration of two years, for an amount equal to EUR1.5 million, to guarantee the correct fulfilment of the contract and for the punctual payment of the PREU. The guarantee from the concessionaire covers “the obligations relating to the operation of public games and the management of the remote gaming network”.

For online gaming concessions, the amount of the guarantee must be adjusted according to the pre-existing agreement, but in any case must be equal to at least EUR200,000.

Gaming sureties are also indispensable for the operators of slot halls, bingo, sports betting and online betting, and for companies/firms that stipulate agreements with the managers for VLT and AWP systems, to guarantee the contracts stipulated with the licensees.

For gaming machines with cash prizes pursuant to Article 110 paragraph 6 TULPS (AWP and VLT), the concessionaires require adequate guarantees from the managers in charge of collection, and the deposit is set at EUR1,500 for each VLT device installed inside the premises.

4.10 Ongoing Annual Fees

The concession fees are quantified as a percentage of amounts played. The amounts have been recalculated with an increase of 15% of the one-off fee paid by the concessionaires concerned, determined in proportion to the duration of the extension.

5. Land-Based Gambling

5.1 Premises Licensing

The requirements for issuing a land-based authorisation include the licence issued by the ADM (following the awarding of a tender) and the authorisation pursuant to Article 86 or Article 88 of the TULPS.

Regarding authorisation pursuant to Article 86 TULPS, public places cannot be used for legal games without the authorisation of the commissioner.

For AWP machines and VLTs (pursuant to Article 110, paragraph 6a and b, and paragraph 7, TULPS), a licence is also required for:

- production or importation activities;
- distribution and management activities;
- indirect activities and installation in commercial or public establishments, other than those already in possession of other aforementioned authorisations, or referred to in Article 88; or
- installation in other premises open to the public, or in private clubs.

5.2 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes and 2.1 Online.

6. Online Gambling

6.1 B2C Licences

See 4. Licensing and Regulatory Framework.

6.2 B2B Licences (Suppliers, Software, Etc)

There is no specific ADM licensing regime for software suppliers and B2B operators.

The obligations to report suspicious betting sports also apply to B2B operators (software providers) that offer betting services. All activities are legal, as long as the gambling operator holds an Italian gambling licence or has a business arrangement with an Italian licence holder.

Only operators (licensees) need to hold a licence. Other operators (service providers, rating services) do not need to hold a licence.

Additionally, other operators/key suppliers do not need any gaming licence/authorisation to provide services.

However, all the provided software and gaming machines must be certified and be compliant with certain standards fixed by the ADM.

Recently, Soft2Bet (a popular provider of B2B casino and sports-betting platforms, known for innovative and cutting-edge solutions in the gaming and gambling sector) obtained authorisation from the ADM to certify its own platform and to ensure continuous compliance with local laws and regulations, therefore making its B2B services operational (source: jamma.it).

6.3 Affiliates

In Italy, affiliate programmes are aimed only at promoting online gaming sites with an ADM licence. They offer two types of compensation:

- CPA (*cost per adquisición*) – this is a fixed rate for each new player acquired; and
- revenue share – this consists of sharing earnings between the affiliate and the company.

6.4 White Labels

There is no white label legislation specifically applicable to the gaming industry.

6.5 Technical Measures

See 1.1 Current Outlook and Recent Changes and 2.1 Online.

6.6 Recent or Forthcoming Changes

No information is available on this topic.

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

7.1 RG Requirements

In Italy, responsible gaming represents one of the legality requirements set out by the ADM, through the guidelines to which every dealer and operator is subject by law in order to obtain 2.0 certification. All gaming platforms also adopt the “Service Charter for remote gaming” issued by the ADM with the aim of “ensuring a responsible gaming environment for players”.

There are seven types of responsible gaming areas directly linked to the iGaming sector:

- protecting vulnerable players;
- preventing underage gambling;
- security measures against criminal activities;
- privacy policy;
- online payment protection;
- a safe online environment; and
- ethical and responsible marketing.

7.2 Gambling Management Tools

See 1.1 Current Outlook and Recent Changes and 2.1 Online.

7.3 Recent or Forthcoming Changes

One of the most often-recommended websites, which also provides a useful toll-free number, is siipac.it. The Italian Society for Intervention on Compulsive Disorders (SIIPaC) is a specialised

centre that deals with the care and rehabilitation of people with pathological gambling problems. Another useful website for Italy in these cases is gioca-responsabile.it, which, through its anonymous chat or toll-free number, offers professional help to those who request it.

There is also the anonymous toll-free number 800 558 822 promoted by the Istituto Superiore di Sanità.

8. Anti-money Laundering (AML)

8.1 AML Legislation

As discussed in 3.1 Key Legislation, AML legislation was introduced by Legislative Decree No 231/2007 – the so-called AML Decree, as amended by:

- Legislative Decree 151/2009;
- Legislative Decree No 90/2017 implementing EU Directive 2015/849; and
- Legislative Decree 125/2019 implementing the Fifth EU Anti-Money Laundering Directive 2018/843.

It concerns all land-based and online gaming and betting operators (concessionaires, managers, etc), namely:

- land-based gaming;
- gaming halls;
- bingo and casinos;
- online gaming, bingo and casinos;
- land-based and online sports, and horse-race betting;
- remote gaming; and
- VLTs (Article 110 paragraph 6b TULPS).

Both for land-based gaming/betting operators and for the online sector, the above AML leg-

islation requires all operators to identify each customer who:

- make bets for an amount exceeding EUR2,000; and
- collects prizes exceeding EUR2,000.

For all gaming and betting operators who do not fulfil the obligations established by the aforementioned AML legislation, administrative fines range from EUR1,000 to EUR10,000.

The Finance Guard, pursuant to Legislative Decree No 68/2001, exercises control over compliance with the aforementioned AML provisions.

8.2 AML Requirements

See 1.1 Current Outlook and Recent Changes and 2.1 Online.

8.3 Recent or Forthcoming Changes AML Legislation

The current legislation makes a distinction between:

- gambling concessionaires – ie, legal entities that offer gaming services on behalf of the State;
- merchants – ie, the owners of the commercial activities where the gaming activities take place; and
- distributors – ie, the companies that manage gaming activities on behalf of the concessionaires.

This distinction is due to the fact that each of the aforementioned operators has specific AML obligations.

Operators authorised by the ADM fall into the following three categories:

- online gaming operators, who offer games, with cash winnings, via the internet and other computer or telecommunications networks;
- gaming operators on physical networks, who offer games, with cash winnings, through distributors and merchants under contract in any capacity; and
- the subjects, who manage gaming houses (casinos).

Online gaming

For online gaming, the “gaming account” is defined as “the account, in the customer’s name, opened through a concessionaire, on which gaming operations carried out on a remote channel as well as top-up activities and withdrawals are recorded”.

The “gaming account contract” is defined as “the contract stipulated between the customer and the concessionaire for the opening of the gaming account and to the stipulation of which participation in remote gaming is subject”.

Land-based gaming

For land-based gaming, since the concessionaire makes use of third-party distributors, the latter are subject to certain obligations established by Title IV of the AML Decree (see **8.1 AML Legislation**). These must guarantee compliance with storage and identification requirements. The reason why distributors must fulfil the aforementioned obligations is very simple: they are in direct contact with customers and have all the information necessary to carry out the operations required by the AML regulation. However, the responsibility for fulfilling the obligations of adequate verification and conservation remains with the dealers.

In this regard, Legislative Decree No 231/2007 provides (among others) for:

- the power of dealers to adopt measures aimed at mitigating the risks to which the distribution channels used by them are exposed;
- specific supplementary provisions regarding adequate verification and conservation within the distribution network, without prejudice to the responsibility of the concessionaire; and
- greater regulatory and control tasks on the part of the ADM, regarding compliance with the AML obligations placed on merchants and the consequent sanctioning powers.

Operators authorised by the ADM as indicated above must fulfil the obligations of:

- the reporting of suspicious transactions;
- due diligence; and
- conservation.

Articles 52 and 53 AML Decree

Furthermore, these operators must also comply with the provisions dictated by Articles 52 and 53 of the AML Decree, as follows.

- Article 52: the burden is on dealers to implement adequate measures for limiting the risks of money laundering and terrorist financing that affect the network of third-party distributors used by the dealers themselves.
- Article 53 specifies how the operators in question must keep information relating to:
 - (a) identification data provided by the customer when opening gaming accounts;
 - (b) the date of each operation of opening and topping-up of gaming accounts;
 - (c) collection on such accounts;
 - (d) the value of such operations, and the means of payment used;
 - (e) IP addresses; and

- (f) the date, time and duration of the electronic connections during which the customer, accessing the online gaming operator's systems, carries out the aforementioned operations.
- Moreover, Article 53 of the AML Decree makes a clear separation between land-based gaming and online (remote) gaming.

Land-based gaming

For land-based gaming, the regulation provides that it is the merchants and distributors who must fulfil the obligations of identifying the clientele and of conservation.

The above-mentioned identification obligation exists if a player places a bet of an amount equal to or greater than EUR2,000 – regardless of the number of bets made to reach this amount – and if there is suspicion of money laundering or terrorist financing (this obligation must also be respected by casino managers for the same amount of bets indicated above). For VLTs, however, the requirements must be respected for each ticket issued above EUR500. The data recorded relating to the operation and to the customer are sent to the dealer within ten days.

Online gaming

In online gaming, the operators carry out identification and verification activities every time a new player opens or modifies a gaming account – as per the definition set out previously.

Furthermore, it is only possible for players to top up the aforementioned accounts through payment methods that guarantee traceability.

In implementation of the aforementioned legislation, the Bank of Italy has issued a series of secondary provisions, addressed to the intermediaries supervised by it, on the following aspects:

- organisation, procedures and internal controls;
- adequate customer verification;
- conservation of documents, data and information, and making these available; and
- sanctions and administrative sanctioning procedures.

AML Supervision

The AML supervision carried out by the Bank of Italy is directed at all of the following operating in Italy:

- banks;
- SIMs;
- managed savings intermediaries;
- financial intermediaries;
- certain trust companies;
- payment institutions; and
- electronic money institutions.

This is aimed at verifying compliance by these intermediaries with the obligations established by law, and the adequacy of the organisational and procedural safeguards required to combat money laundering and terrorist financing.

Supervision is carried out through analyses and interventions aimed at promptly identifying signs of weakness in the technical-organisational AML structures, and by urging their removal through the adoption of appropriate corrective measures.

Action is divided into documentary checks – based on the analysis of the information collected, including from intermediaries – and inspection checks, aimed mainly at verifying the adequacy of the intermediaries' organisational structures and AML procedures.

9. Advertising

9.1 Regulatory/Supervisory Agency

Gambling advertising and sponsorship are prohibited in Italy.

This matter is regulated by the Balduzzi Decree (converted into Law No 189/2012), which, in particular, introduces the prohibition of advertising messages for gaming on television and radio broadcasts as well as during theatre or cinema performances not prohibited to minors.

Law No 208/2015 (the “2016 Stability Law”) further limits advertising (Article 1, paragraphs 937–940). Notably, the advertising of games with cash prizes in “generalist” radio and television broadcasts and in those aimed mainly at an audience of minors is prohibited, while the specialised media identified by DM of 8 August 2016 are excluded from the ban.

Finally, Decree Law No 87/2018 (the “Dignity Decree”, converted into Law No 96/2018) introduced an absolute ban on the advertising of games and bets, including sponsorships and forms of indirect advertising. In particular, Article 9 concerns the prohibition of any form of advertising, even indirect, relating to games or bets with cash prizes, regardless of the medium used (radio, TV, press, internet, etc): the text speaks of “digital and telematic IT channels, including social media”, including sporting, cultural or artistic events.

9.2 Definition of Advertising

According to current Italian legislation, “advertising” must always be “honest, truthful and correct” and must “avoid anything that could discredit it”. Furthermore, according to Italian law, advertising must not be “misleading” – ie, “it must avoid any declaration or representation such as to lead to

consumers making a mistake, including through omissions, ambiguities or exaggerations that are clearly hyperbolic, and especially regarding the characteristics and effects of the product, price, being free of charge, conditions of sale, distribution, identity of represented people, the prizes or recognitions”.

9.3 Key Legal, Regulatory and Licensing Provisions

In Italy, “advertising” is regulated by a series of articles contained in the Civil Code and IPC, and by laws connected to specific matters, such as the Consumer Code, the Corporate Governance Code, etc.

With law No 74/1992, Italy adopted a general rule on “misleading advertising”, implementing EEC Directive 450/1984 and protecting, above all, the general interests of consumers.

The Authority for the Protection of Competition and the Market (AGCOM), established by Law No 74/1992, has specific control as regards misleading advertising.

9.4 Restrictions on Advertising

Advertising is generally prohibited for the gaming and betting sector. The Balduzzi Decree (see 9.1 Regulatory/Supervisory Agency) prohibits the following.

- Advertising messages concerning gambling with cash winnings, during television or radio broadcasts and during theatrical or cinematographic performances aimed at minors, and in the 30 minutes before and after their broadcast.
- Advertising, in any form, in the daily and periodical press intended for minors, and in cinemas during the screening of films intended for viewing by minors.

- Advertising messages concerning gambling with cash winnings in newspapers, magazines, publications, and during television and radio broadcasts, cinematographic and theatrical performances, as well as via the internet in which even just one of the following elements is highlighted:
 - (a) incitement to play, or glorification of its practice;
 - (b) presence of minors; and
 - (c) absence of warning formulas on the risk of addiction to gambling, as well as indication of the possibility of consulting information notes on the chances of winning published on the institutional sites of the now ADM, as well as of the individual dealers or as available at game collection points.

The same decree also establishes that advertising for games with cash winnings must clearly display the percentage probability of winning, and that the warning on the risk of addiction to playing games with cash winnings, as well as the related probabilities of winnings, must also appear on the slips or coupons of these games.

Article 9 of Decree Law No 87/2018 (the “Dignity Decree”) prohibits “any form of advertising, even indirect, relating to games or bets with money winnings, as well as gambling, however carried out and on any medium, including sporting or cultural events or artistic, television or radio broadcasts, daily and periodical press, publications in general, posters and IT, and digital and telematic channels, including social media”. This prohibition is placed “at the expense of the client, the owner of the means or of the dissemination or destination site, and the organiser of the event or activity” (Article 9, paragraph 2).

The following are excluded from the ban as per the Dignity Decree and the AGCOM Guidelines:

- national lotteries with deferred draws;
- the lotteries and bingos organised locally for charity, and the ADM logos on safe and responsible gaming;
- the so-called lottery of fees;
- communications having “an exclusive descriptive, informative and identifying purpose of the legal game offer, functional to allow an informed choice of game”;
- the information services for comparing the odds or commercial offers of the various competitors (the so-called odds spaces);
- the “mere display of winnings” made at a point of sale, only if carried out in such a way as not to induce paid gambling;
- the telesale of goods and paid gaming services authorised with a concession of the ADM, aimed exclusively at the conclusion of the gaming contract;
- the promotion of events other than the paid gaming offer that take place within casinos or gaming halls;
- the distinctive signs of legal gaming (shop signs or online site domains);
- the logo or reference to gaming services present on the windows of establishments that offer paid gaming;
- information limited only to the characteristics of the various gaming products and services offered (odds, jackpots, odds of winning, minimum bets, any bonuses offered);
- campaigns and communications relating to corporate social responsibility (CSR);
- the “mere mention” of the concessionaire as the financier of a given project or charitable initiative, and the “B2B” communications;
- free algorithm-indexing services, provided directly by search engines or marketplaces (Apple Store, Google Play);

- use of the brand that identifies, in addition to gaming services with cash or gambling prizes, other activities of an independent nature; and
- services of comparing odds between book-makers.

9.5 Sanctions/Penalties

Penalties amount to 20% of the value of the sponsorship or advertising, but to no less than EUR50,000.

For violators (both the recipient of the advertising message and the owner of the means of communication concerned), an administrative fine of EUR100,000 to EUR500,000 is foreseen.

In general, warnings on the risk of addiction to gambling with cash winnings and on the related probability of winning must be reported (under penalty of an administrative fine of EUR50,000):

- on the slips (*schedine*);
- on AWP gaming machines – ie, those machines which are activated by introducing coins or electronic payment instruments;
- in rooms equipped with VLTs;
- at sales points for betting on sporting and non-sporting events; and
- on websites intended to offer games with cash prizes.

9.6 Recent or Forthcoming Changes

See 1.1 **Current Outlook and Recent Changes** and 2.1 **Online**.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

The main initiatives on the subject of prevention and the fight against pathological gambling conditions foreseen by Italian legislation are:

- a supply reduction plan, and discipline of distances for land-based gaming networks;
- a total ban (without time limits and without differentiating between the media) on game advertising;
- guidelines regarding the certification of gaming platforms (version 2.0) for the remote/online gaming system; and
- establishment of a fund for combating pathological gambling.

10.2 Change of Corporate Control Triggers

No information is available on this topic.

10.3 Passive Investor Requirements

No information is available on this topic.

10.4 Recent or Forthcoming Changes

Legislative Decree No 41/2024 containing “provisions regarding the reorganisation of the gaming sector starting from remote gaming” aims to reorganise and update the legislation on public games – ie, remote and non-remote games that offer cash winnings – to improve control and ensure greater safety in the sector, and introduces new rules and principles that all operators in the sector will be obliged to follow.

The Decree, among other things, also introduces important innovations to promote “responsible gaming” and protect the most vulnerable players. These include:

- the ability for players to set limits on spending, time spent playing and money loss, as well as self-exclusion systems for those who feel they have a gambling problem;
- investments in information campaigns, with licensees required to invest a portion of their revenues in information campaigns and to be responsible for communication initiatives, raising public awareness of the risks associated with gambling and promoting responsible gaming behaviour;
- limitations based on gaming behaviour, with restrictions on the amounts deposited on individual gaming accounts based on a player's age and gaming behaviour in order to customise protection measures based on the specific needs of each player;
- automatic warning messages during gaming sessions to inform players about the duration of the session and spending levels, particularly if certain pre-set limits are exceeded;
- information on problem gambling and support, with gaming sites obliged to include informative content on problem gambling, prevention methods and support resources available for those who need them;
- self-exclusion tools, with players being able to exclude themselves from a game, both temporarily and for certain product categories, using simple online procedures; and
- monitoring and control, with the concessionaire equipped with advanced tools to monitor the levels of risk associated with individual games and to control the degree of participation in the game of the players most exposed to the risk of pathological gambling.

11. Enforcement

11.1 Powers

The ADM (into which the AAMS was merged in 2012, under Law No 135/2012) is a competent regulatory, supervisory and control body, with sanctioning powers in:

- customs;
- energy matters (mineral oils, electricity, natural gas, LNG, coal);
- alcohol, tobacco and related matters; and
- public games.

In these areas, it oversees the assessment and collection of taxes, and carries out tax and judicial police functions.

DM No 156/2001 attributed to the MEF (through the AAMS, now ADM) the competence to authorise a licensee to collect betting by telephone or telematics (online).

Law No 266/2005 (the “Financial Law 2006”) also gave the ADM the power to regulate the online gaming sector, with the consequent prohibitions for unauthorised sites.

The ADM exercises State oversight in the gaming sector:

- guaranteeing the interests of the Treasury through the collection of taxes and the possible management of disputes;
- protecting citizens by combating crimes; and
- managing the market regarding concessions and regulatory documents.

The activity of the ADM is subject to the control of the MEF and of the Court of Auditors.

The ADM [website](#) contains:

- the list of concessionaires, including of those authorised for remote gaming; and
- the periodically updated list of gaming and betting sites blocked for violations of current regulations.

Enforcement regarding illegal gambling against operators who do not hold an Italian licence occurs almost constantly. State police forces are active in this regard, together with ADM regional offices.

Online operators offering gaming to Italian citizens, without a specific ADM licence, are banned by ISP blocking. The list of banned websites is regularly compiled and published by the ADM. Payment blocking is not specifically provided for or imposed, but is a consequence of investigations on illegal or crime-related operations.

In enforcement, there are no distinctions by product for online gaming, considering that an Italian online licence allows the offering of all products.

Betting is subject to enforcement for those offline operators (betting shops) who do not respect licence conditions and tax payment deadlines, and for others that pretend to run offline operations based on an online licence released by a country other than Italy (so-called CTD).

Online-betting enforcement occurs regularly, both through banning and through police operations.

Match-fixing prosecution is very active in the country, under the control of dedicated offices at the ADM.

11.2 Sanctions

For regulatory violations by the various Italian and foreign operators in the sector, sanctions are established by current legislation. Sanctioning power is attributed to the police bodies and to the Financial Police, as well as to ADM with regards to administrative aspects (financial sanctions, suspension of concessions, seizure of equipment, etc).

11.3 Financial Penalties

See 3.1 Key Legislation.

11.4 Recent or Forthcoming Changes

To ensure compliance with the new rules, Article 7 of Legislative Decree No 41/2024 provides for a system of control and sanctions for those who do not comply, and also promotes the traceability of financial flows to prevent money laundering or illicit financing.

12. Tax

12.1 Tax Rate by Sector

Regulation of the tax levy in the gaming sector provides for different methods and rates according to the various types of gaming.

Tax revenues from the sector are both non-tax-related and tax-related. In the first case, the tax levy coincides with the residual tax margin, which is obtained by subtracting the winnings paid to the players and the premium due to the gaming point manager from the total amount of the bets (collections). This levy only applies to Lotto and to instant and deferred lotteries. The revenue generated by all other types of gaming is instead classified under tax revenue.

Main Tax Levies

PREU (Single Withdrawal Tax)

This is established by Article 39, paragraph 13 of Decree Law No 269/2003. It applies to amusement and entertainment machines suitable for lawful gaming identified by Article 110, paragraph 6 TULPS (AWP/new-slot and VLT). The amount of the levy, initially 13.5%, has been increased several times over the years, and from 2023 is 19.6% (for AWP) and 6.6% (for VLTs). For VLTs, an additional tax of 12% is added on winnings over EUR500 ("luck tax").

Single tax

This is established by Legislative Decree No 504/1998, and applies to any kind of betting relating to any event, even if played abroad.

The rates vary between the various types of game. The tax base for prediction competitions is the amount of the sum paid by the competitor for the game net of fixed rights and compensation to the receivers; while for bets it is the amount of the sum wagered for each bet. The taxable persons, pursuant to Article 1, paragraph 66b, Law No 220/2010, are anyone who, even in the absence of a concession, by any means, including electronic means, on their own behalf or on behalf of third parties, even if located abroad, manages predictions or bets of any kind.

The 2019 budget law provides that, starting from 1 January 2019, the single tax will be applied at a variable rate depending on the gaming or betting activity carried out.

In particular, it is expected to be:

- (a) for remote skill games with cash winnings and for remote bingo games, in the amount of 25% of the sums which,

according to the game regulations, are not returned to the player;

- (b) for fixed odds bets, excluding horse racing bets, the tax will be applied in the amounts of 20%, if the collection takes place on a physical network, and 24%, if the collection takes place remotely, applied to the difference between the sums wagered and the winnings paid;
- (c) for fixed odds bets on simulated events referred to in article 1 paragraph 88 of Law No 296/2006, in the amount of 22% of the collection net of the sums which, according to the gaming regulations, are returned to the player in winnings.

"Luck tax"

From 1 January 2012 there will be a levy ranging from 6% to 20% for winnings over EUR500 in almost all public games controlled by ADM (Lotto 8%; SuperEnalotto 20%; 10&Lotto 11%; Online Casinos 15%-25%, etc).

Tax on entertainment (ISI) and VAT rate

The tax on entertainment (ISI, established by Presidential Decree No 640/1972) and the VAT rate (pursuant to Article 74 of the Presidential Decree No 633/1972) are applied for Machines for legal gaming without winnings in money (Article 110 co. 7 TULPS, billiards, table football, etc); the taxable base is equivalent to the average annual flat-rate taxable amount by category, and the rate is 8%.

Salvasport tax

This was introduced by Legislative Decree No 34/2020 (the Relaunch Decree, later converted into law), with bookmakers asked to pay 0.5% of the bets collected in that year and the following year. This withdrawal would have served to finance the Salva Sport fund. The decree also established that EUR40 million would go to the

fund in the first year and 50 in 2021. The Administrative Court (TAR) of Lazio on 28 June 2023 rejected all appeals presented by betting dealers for the cancellation of the payment of this tax, which was not considered unconstitutional because “the criterion of taxation on collection is, traditionally, the ordinary criterion of taxation of tax revenues from betting, pursuant to ‘art.2 of Legislative Decree no.504/98, according to which the taxable base for bets is constituted by the amount of the sum played for each bet” and “Art. 1, paragraph 945, of Law no. 208/15 introduced, progressively from 2016 for fixed odds bets, the different criterion of taxation on the margin; this is a choice that reflects tax policy choices of the legislator, whose general discretion affects not only the power to establish new taxes, but also to conform them, establishing the relative taxable base”.

12.2 Recent or Forthcoming Changes

Article 13 of Legislative Decree No 41/2024 provides that registration with the ADM, using only electronic means, of “owners of ordinary or special resales of monopoly products authorised to collect public games, as well as subjects who carry out the activities of top-up sales points and owners of authorisation pursuant to articles 86-88 TULPS”, is subject to the prior payment to the Agency of an annual amount of EUR100.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Currently, the operation and collection of online games is entrusted to 89 companies, of which 63 are holders of concessions issued following the previous tender procedure, carried out pursuant to Article 1 paragraph 935 of Law No

208/2015; the remaining 26 are holders of concessions issued following the tender procedure carried out pursuant to Article 24, paragraphs 13 et seq. of Law No 88/2009.

Pursuant to Article 1 paragraph 123 of Law No 197/2022 (2023 Budget Law), the following concessions were extended until 31 December 2024:

- (a) concessions for the collection of Bingo games expiring on 31 March 2023;
- (b) concessions for the creation and management of telematic gaming management networks using amusement and entertainment devices referred to in Article 110, Paragraph 6 of Royal Decree No 773/1931 (TULPS) (slots/new slots and videolotteries), expiring on 29 June 2023; and
- (c) concessions for the collection of bets on sporting events, including horse racing, and non-sporting events, including virtual events, expiring on 30 June 2024. Article 6 of Legislative Decree No 41/2024 established the requirements and the deadline for participation in the tender proceedings for the renewal of the above online gaming concessions expiring on 31 December 2024.

However, in October 2024, the EU Commission stopped the “Technical rules” of the aforementioned tender proceedings filed by Italy/the ADM on 17 July pursuant to Article 6 paragraph 3 of Legislative Decree No 41/2024 due to a detailed opinion presented by Malta as a member state. The request for further information primarily concerns the section relating to “B2B” service providers in the tender procedure, which is not sufficiently clear, being different from the previous ADM regulation and different from the rules

adopted by other countries of the Union and other regulators. The standstill period, therefore, has been extended until 18 November 2024. Consequently, this extension of the standstill makes it almost impossible to issue the tender by 31 December 2024 (although it would still have been unlikely without this drawback anyway), thus making a new extension of the current concessions necessary.

13.2 Application Process

In Italy, if someone intends to carry out an activity in the gaming and betting sector, they must obtain the relevant concession from the ADM and/or the licence from the relevant authorities.

To obtain the license the person needs:

- to possess the moral requirements provided for by Articles 11 and 92 of the TULPS;
- to have premises that are accessible and compliant from a building perspective, with intended use as a betting agency;
- to possess the concession issued by the ADM.

The gaming operator should have a gaming licence issued in any European country (for at least one of the games authorised in Italy) or technical capacity, and sufficient infrastructure to offer one authorised game approved by ADM.

As mentioned above, sole proprietorship, partnerships, joint stock companies, consortia and companies to be established can participate in the concession assignment procedure. A partnership must undertake to transform itself into a capital company with a registered office in one of the states of the European Economic Area before signing the agreement, under penalty of refusal to sign. Sole proprietorships, companies to be incorporated, consortia and partnerships

must expressly undertake to form a capital company with a registered office in one of the states of the European Economic Area before signing the agreement, under penalty of refusal to sign.

Capital companies must have a registered office in one of the states of the European Economic Area prior to release of the concession and the signing of the relative agreement, under penalty of refusal to sign.

There is no specific requirement for servers to be located in Italy, although they must be located within the territory of a member state of the European Economic Agreement (EEA).

Once the concession has been obtained, within sixty days the concessionaire must fulfil all the other requirements (technical approvals for the service categories, bureaucratic procedures, payments to the ADM) and pay EUR200,000 into the ADM and a concession fee.

13.3 Ongoing Annual Fees

To date, the cost of an online gaming concession is EUR250,000 per year in addition to an annual fee of 3% of the net operating margin.

For new online concessions, Legislative Decree No 41/2024 establishes the payment of a one-off fee of EUR7 million for each concession requested.

13.4 Ongoing Requirements

The requirements for obtaining a concession are indicated on the ADM website.

These include, among others:

- establishment in legal form of a joint-stock company with a registered office in one of the

- states of the EEA prior to the issuing of the concession and the signing of the agreement;
- possession of adequate previous experience and moral standards;
- minimum environmental, social, technological innovation and cybersecurity requirements;
- adequate capital solidity requirements;
- possession of quality system certifications compliant with European standards and current national legislation;
- adoption of measures to combat pathological gambling;
- activation by the concessionaire of a website with a national top-level domain directly managed by ADM; and
- payment of a one-off fee of EUR7 million for each concession requested (Article 6 of Legislative decree No 41/2024).

13.5 Personal Sanctions

All powers in the gaming and betting sector were attributed to the ADM, a public body.

Law No 266/2005 (Financial Law 2006) gave the ADM the power to also regulate the online gaming sector with consequent prohibition of unauthorised sites.

The activity of ADM is subject to the control of the Ministry of Finance and the Court of Auditors.

If a licensee breaches a licence term, penalties will be applied. It can lose the licence and a licence can be revoked. In each case of an intentional breach, the financial guarantee provided to ADM to guarantee the commitments of the licensee can be cashed, also partially.

There are no distinctions in enforcement by product in online gaming, considering that an Italian online licence allows the offering of all products.

Enforcement against illegal gambling and operators who do not hold an Italian licence takes place more or less constantly. State police forces are active in this, together with ADM regional offices.

Online operators offering gaming to Italian citizens without a specific ADM licence are banned by ISP blocking.

The list of banned websites is regularly published and kept by the ADM.

Payment blocking is not specifically provided for or imposed, but is a consequence of investigations on illegal or crime-related operations.

13.6 Recent or Forthcoming Changes

There are no forthcoming changes in this area.

JAPAN

Law and Practice

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The logo consists of the firm's name in white, serif, all-caps font, stacked vertically within a dark blue square. The text reads: NAGASHIMA, OHNO &, TSUNEMATSU.

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1. Introduction

1.1 Current Outlook and Recent Changes

The Integrated Resort (IR) Promotion Law (the “IR Promotion Law”) and the IR Implementation Law (the “IR Implementation Law”, collectively with the IR Promotion Law, the “IR Laws”) were enacted in 2016 and 2018, respectively. Until then, the operation of gambling activities by the private sector, either in digital or land-based form, had been prohibited as criminal offences under the Penal Code. Pachinko (a vertical pin-ball-like gaming machine) and pachislot (a slot-machine-like gaming machine) have had certain popularity in Japan since the Second World War but the legality of these gaming machines has long been discussed. Under the IR Laws, gambling activities conducted by licensed casino business operators within approved land-based IRs are legalised, but initially only one IR area (Osaka) has been approved by the Minister of Land, Infrastructure, Transport, and Tourism.

Meanwhile, even after the enactment of the IR Laws, online gaming activities are still prohibited under the Penal Code and it will be illegal to conduct such activities within Japan.

2. Jurisdictional Overview

2.1 Online

Betting/Bingo/Casino/Lotteries

As mentioned in **1.1 Current Outlook and Recent Changes**, online gaming activities are prohibited under the Penal Code and will not be legalised even after the enactment of the IR Laws since the IR Laws legalise only gambling activities conducted in land-based casino facilities located within an IR area.

According to a statement regarding online gambling published by the national government on 1 November 2013 (as a response to an enquiry from a member of the Diet), if all or part of the activities in “running a gambling place for the purpose of gaining profit” are undertaken within Japan, they may constitute a crime of “running a gambling place for the purpose of gaining profit” under the Penal Code. Exceptionally, betting on land-based horse races, bicycle races, motorcycle races, motorboat races, and lotteries that are operated by the national government, municipal bodies, and/or other public sectors (including the sports promotion lottery toto/BIG issued by the Japan Sports Council under the supervision of the Ministry of Education, Culture, Sports Science, and Technology) may be performed on an “online” basis.

Fantasy Sports

If a user pays a participation fee to the operator and prize money is paid from such participation fee, it may constitute a form of betting that amounts to a crime of gambling (ie, betting values in respect of an uncertain event to compete for winning or losing such values) under the Penal Code. Using skill in composing fantasy teams may not totally negate fantasy sports’ nature of betting. Meanwhile, if prize money is provided only by a third-party sponsor, it will be legal.

Social Gaming

There are no laws specifically regulating the social gaming industry. However, the Computer Entertainment Supplier’s Association (CESA), a self-regulating organisation that merged with the Japan Social Game Association (JASGA), issues guidelines regarding real money trade (RMT) and gacha (ie, an online random item provision machine similar to a “loot box”).

In addition, excessive prizes might be banned by the Consumer Affairs Agency or the Japan Fair Trade Commission under the Act against Unfair Premiums and Misleading Representations (the “Unfair Premium Act”). More specifically, under the Unfair Premium Act, the amount of a prize may not exceed the lower value of:

- 20 times the value of the transaction; or
- JPY100,000.

E-sports

Similar to fantasy sports, if a participant pays a registration fee to the event organiser and prize money is paid from such registration fee, it may constitute a form of betting that amounts to the crime of gambling. In such case, the e-sports event organiser collecting registration fees may be charged for committing a crime of “running a gambling place for the purpose of gaining profit” under the Penal Code. Therefore, in Japanese e-sports events, no registration fees should be collected, or, if collected, prize money should not be paid from such registration fees and shall be paid (directly, if possible) from a sponsor or another third party.

2.2 Land-Based

Only betting on horse races, bicycle races, motorcycle races, motorboat races, and lotteries is operated by the national government, the municipal bodies, and other public sectors (including toto/BIG) in land-based form. All other betting, bingo, and casino activities used to be prohibited under the Penal Code.

However, as mentioned in **1.1 Current Outlook and Recent Changes**, gambling activities to be conducted by licensed casino business operators within approved land-based IRs are legalised under the IR Laws. Under the Japan Casino Regulatory Commission’s (the “Commission”) rules, baccarat, blackjack (21), poker, roulette, sic bo, craps, Casino War, money wheel, pai gow (table game), and electronic table-games are permitted.

3. Legislative Framework

3.1 Key Legislation

The Penal Code prohibits gambling activities as criminal offences. However, as an exception, the Penal Code will not be applicable to a licensed casino business operator’s authorised gambling activities operated as a business under the IR Implementation Law.

3.2 Definition of Gambling

While there is no formal definition, a commonly perceived concept of “gambling” is “betting values in respect of an uncertain event to compete for winning or losing such values”.

3.3 Definition of Land-Based Gambling

There is no statutory definition of “land-based gambling” or “online gambling” since online gambling is still illegal under the Penal Code and only land-based gambling (more specifically, licensed casino businesses operated within an authorised IR area) is legalised under the IR Implementation Law.

3.4 Definition of Online Gambling

As mentioned in **3.3 Definition of Land-Based Gambling**, there is no statutory definition of “online gambling” since it is not legalised, even under the enactment of the IR Implementation Law.

3.5 Key Offences

A person who gambles shall be accused of committing a crime of “simple gambling”, though this

will not be applicable to a person who bets on an item provided for temporary recreation.

A person who habitually gambles shall be accused of committing a crime of “habitual gambling”.

A person who provides gambling services (“runs a place for gambling or organises a group of habitual gamblers for the purpose of gaining profit”) shall be accused of committing a crime of “running a gambling place for the purpose of gaining profit”.

3.6 Penalties for Unlawful Gambling

A person who committed a “simple gambling” crime shall be punished by a fine of not more than JPY500,000 or a petty fine.

A person who committed a “habitual gambling” crime shall be punished by imprisonment for not more than three years.

A person who “runs a place for gambling or organises a group of habitual gamblers for the purpose of gaining profit” shall be punished by imprisonment for not less than three months but not more than five years.

3.7 Recent or Forthcoming Legislative Changes

There is no notable recent or forthcoming legislation.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Japan Casino Regulatory Commission is the key regulatory authority.

4.2 Regulatory Approach

An IR Area Implementation Plan shall be approved by the Minister of Land, Infrastructure, Transport, and Tourism, and a casino business operation needs to obtain a licence from the Commission. The IR business operator shall file financial statements on a yearly basis and reports on a quarterly basis with the Minister of Land, Infrastructure, Transport, and Tourism. Thus, basically, Japan’s regulatory system is structured based upon a traditional “prescriptive” approach.

On the other hand, the Minister shall evaluate, notify, and publish the status of the implementation of the IR Area Implementation Plan, and the approved municipal body and the IR business operator shall appropriately reflect the result of such evaluation upon the improvement of their business operation to be made in accordance with the IR Area Implementation Plan. In that sense, the regulations of the IR Implementation Law are partially structured on a “risk-based” approach.

4.3 Recent or Forthcoming Changes

On 22 July 2022, the Japan Casino Regulatory Commission issued the Criteria of Examination for Granting Casino Business Licences, etc, under the IR Implementation Law and the subordinate Operational Guideline for Examination of Casino Business Licences, etc. The examination will be made by the Commission from various perspectives such as the applicant’s capability of appropriate operation of a casino business and having sufficient social credibility (including no relationship with a mob/gangsters), social credibility of the officers and directors and shareholders of the applicant, financial soundness (sufficient net worth will be required) and good prospect of the result of income and expenditure of the casino business (with reason-

able grounds underlying such prospect), sufficient measures for preventing problem gambling (specific measures for restricting problem gamblers' use of the casino will be required), anti-money laundering (specific KYC procedures will be required), and other viewpoints. The above criteria also stipulate the method of calculation of gross gaming revenue (GGR), the criteria for approval of execution of casino business-related contracts (for delegation purposes or otherwise), and certain other matters.

4.4 Types of Licences

Under the IR Implementation Law, casino business licences may be granted only to IR operators that operate a complex mixture of facilities, such as convention centres, recreational facilities, tourist facilities and accommodation facilities, as well as casinos that are authorised by the Minister of Land, Infrastructure, Transport, and Tourism. In other words, a standalone casino business operator (non-IR operator) will not qualify as a licensed casino business operator. As a result, casino services may be provided only within IR areas implemented under the IR area implementation plan authorised by the Minister of Land, Infrastructure, Transport, and Tourism.

Besides, certain types of IR/casino-related business operators other than casino business operators will need their respective authorisations to conduct such businesses under the IR Implementation Law. For example:

- a casino facility provider must obtain a licence from the Commission if it intends to manage and lease casino facilities to a casino business operator; and
- the owner of any land that is used for IR/casino facilities shall obtain permission from the Commission if it transfers or leases the land to an IR/casino business operator.

The rent or lease of such casino facility or land shall be determined in a fixed amount since it is prohibited for a casino business operator to execute a contract for which the amount of consideration is determined in proportion to the GGR.

Furthermore, to ensure the sound operation of casino businesses, casino-related equipment providers must obtain the approval of the Commission if they wish to manufacture, import, or sell casino-related equipment. Since the quality and functionality of casino-related equipment affects the sound operation of casino businesses, casino-related equipment providers shall comply with technical standards for casino equipment as determined by the Commission. Casino-related equipment providers also have to pass an inspection of electromagnetic casino-related equipment that is conducted by the Commission, and examine non-electromagnetic casino-related equipment on their own and report the result of such examination to the Commission.

4.5 Availability of Licences

Under the IR Implementation Law, the maximum number of approved IR areas is initially three (the appropriateness of such number will be reviewed seven years after the issue date of the initial approvals and may or may not be increased up to ten). Since each IR area may have only one casino operated by one casino business operator, the maximum number of casino business licences is also initially three. So far only one casino business operator (Osaka IR) has been granted a casino business licence.

4.6 Duration of Licences

The duration of the Minister's authorisation on the IR implementation plan is initially ten years and, thereafter, it shall be renewed every five years. The local municipal council's approval will

be necessary for the initial and every renewed authorisation. The risk of suspension of the IR/casino project due to disapproval by the municipal council or otherwise upon such renewal is a big open issue (the so-called Article 10 issue). The duration of a casino business licence is three years and a renewal will be required to extend it for another three years. In the renewal process, the Commission will check whether the licensee has maintained its integrity during the previous licence period.

The casino business licence may be revoked by the Commission:

- if the licence was obtained by making a false statement or by using any other unjust means;
- if the licensed casino business operator has not commenced its casino operation business within six months after passing the inspection of the constructed casino facility;
- if the casino operation business has been suspended for six months or more without any justifiable reason; or
- in certain other cases.

If the approval of the relevant IR Area Implementation Plan is revoked, or if the licence of the relevant casino facility provider is revoked or invalid, then the licence of the casino business will also be automatically revoked.

4.7 Application Requirements

The key application requirements for casino business operators are:

- the capability of operating a casino business in terms of human resources, social credibility, financial stability, and anticipated profitability;
- the floor area for casino activities;

- the technological quality of the casino facility's structure and equipment;
- the technological quality of the casino-related equipment; and
- certain other factors.

The offices of the applicant casino business operators must also have sufficient social credibility.

Strict background checks on the casino business operator's officers, directors, employees, subsidiaries, affiliated companies, and other relevant persons and entities (including external persons who have controlling powers over the relevant casino operation) will be carried out during the above licensing process. Detailed information will be required to be submitted to the Commission to check the integrity and soundness of the IR operator's business.

A licensed casino business operator shall be a company incorporated under the Companies Act (typically, a *kabushiki kaisha* (KK) or a *godo kaisha* (GK)). There are no residency or nationality requirements to become an owner of an IR/casino business operator.

Licensed casino business operators and licensed casino facility operators must periodically file with the Commission lists of all holders of voting rights, shares, or interests, pursuant to the rules of the Commission.

4.8 Application Timing

The approved IR operator applicant will file with the Commission an application for a licence for casino business operation, and the Commission will examine whether such applicant satisfies certain eligibility criteria. The standard licence examination period is not published by the Commission.

4.9 Application Fees

An applicant for a licence for a casino business operation shall pay the necessary costs for its examination to the national government. More specifically, such applicant shall pay an estimated amount of such examination costs (background check, etc) calculated and notified by the Commission by a date designated by the Commission. If the amount paid as an estimated amount is short of the amount of actual examination costs, the applicant shall pay the shortfall of costs calculated and notified by the Commission by a date designated by the Commission. If the above estimated amount or additional amount has not been paid, the Commission may dismiss the application for a casino business licence.

4.10 Ongoing Annual Fees

While there is no annual fee, if a casino business operator intends to renew the casino business licence after its valid period, it shall pay the costs necessary for the examination necessary for such renewal of the licence as in the similar amount-determination and payment process mentioned in **4.9 Application Fees**.

5. Land-Based Gambling

5.1 Premises Licensing

As mentioned in **2.1 Online**, under the IR Implementation Law, a casino business may be operated only within land-based IR areas authorised by the national government (where IRs or specified complex tourist facilities including convention centres, exhibition facilities, recreational/entertainment facilities, tourism promotion facilities, accommodation facilities, and a casino are established). Only one casino facility may be operated in a single IR area and the maximum floor area of a casino facility is 3% of the total floor area of such IR.

Currently only one IR area (Osaka IR) has been approved by the Minister of Land, Infrastructure, Transport, and Tourism.

5.2 Recent or Forthcoming Changes

The application of approval for Osaka IR was made on 27 April 2022, and the approval was granted on 14 April 2023.

6. Online Gambling

6.1 B2C Licences

No such licences are available.

6.2 B2B Licences (Suppliers, Software, Etc)

No such licences are available.

6.3 Affiliates

There is no applicable information in this jurisdiction.

6.4 White Labels

There is no applicable information in this jurisdiction.

6.5 Technical Measures

There is no applicable information in this jurisdiction.

6.6 Recent or Forthcoming Changes

See **1.1 Current Outlook and Recent Changes**.

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

7.1 RG Requirements

Since a casino business licence is a privilege, the licensed casino business operator shall have

high standards of ethics and integrity and shall take measures necessary to ensure responsible gambling.

The Basic Law on Measures Against Gambling Addiction was enacted in July 2018 and became effective in October 2018. Under such law, the national government made the Master Plan for Facilitating Gambling Addiction Measures on 19 April 2019. Thereafter, Osaka Prefecture made the 1st term plan for facilitating gambling addiction measures in March 2020 and the 2nd term plan for facilitating gambling addiction measures in March 2023.

In order to prevent addiction to casino gaming, a casino business operator must take the following measures:

- a measure for restricting the use of casino facilities by a visitor upon request from the visitor themselves, their family, or other persons concerned;
- a measure for restricting the use of casino facilities by a person who is found to be inappropriate to use casino facilities in order to prevent the harmful effects of addiction to casino gaming;
- a measure for establishing the necessary systems to appropriately respond to consultation on the use of casino facilities by visitors and other measures for helping visitors to make an appropriate decision on the use of casino facilities; and
- other measures necessary for preventing addiction to casino gaming as specified by the rules of the Commission.

To ensure these measures are taken appropriately, the casino business operator must take the following measures.

- Education and training of its employees.
- Improvement of systems to accurately implement the above measures, including the appointment of:
 - (a) persons who exercise overall control over the services necessary for accurately implementing the above measures; and
 - (b) persons who audit the relevant services.
- Evaluations of the above measures.
- Other measures specified by the rules of the Commission.

In addition, a casino business operator and its employees shall comply with the Regulations on Prevention of Addiction (which will be attached to the application for a casino business licence).

To ensure responsible gambling, a casino business operator must not allow the following persons to enter its casino facilities or stay therein, except for the cases specified by the relevant Cabinet order:

- a person who does not pay the national admission fee (JPY3,000 per entry) or the local admission fee (JPY3,000 per entry);
- a person, other than a non-resident foreigner, who has entered the casino gaming operation area three times in the past seven days; or
- a person, other than a non-resident foreigner, who has entered the casino ten times in the past 28 days.

For implementing such entry restriction, a casino business operator shall confirm the identity of visitors each time upon their entry into, and exit from, the casino gaming operation area.

To ensure responsible gambling, a casino business operator shall also take measures necessary for:

- identifying persons who are prohibited from entering casino facilities;
- having such entry-prohibited persons leave the casino facilities in cases where such persons are identified; and
- preventing such entry-prohibited persons from using the casino facilities.

For compliance with such rules, a casino business operator shall:

- implement education and training for its employees;
- make rules of conduct;
- appoint persons who exercise overall control over the services necessary for complying with these rules; and
- undertake other measures specified by the rules of the Casino Regulatory Commission.

To prevent problem gambling, only non-resident foreigners may purchase chips using credit cards. For the same reason, automatic teller machines (ATMs) are not permitted to be installed within casino facilities and only ATMs without money-lending functions are permitted to be installed in areas surrounding casino facilities.

In addition, since money lending might accelerate problem gambling, access to money borrowing is only available to:

- customers who have the financial capability to deposit with the casino business operator cash exceeding a certain amount; and
- non-resident foreign customers.

Also, to prevent excessive lending, casino business operators shall check customers' capabilities to repay their loans and shall set a separate cap on the loan amount for each customer.

7.2 Gambling Management Tools

No gambling management tools are yet available.

7.3 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Members of organised crime groups, or those who used to be members of organised crime groups during the past five years, are prohibited from entering casino facilities. A casino business operator must:

- follow know-your-customer (KYC) procedures (confirmation of the identities of customers, the purposes of their transactions and their professions or business purposes, and the identities of persons controlling judicial entities);
- keep records of transactions; and
- notify the authorities of any transaction that is suspected to be a transfer of criminal proceeds.

In addition, the casino business operator must:

- take measures that are necessary to prohibit the transfer of chips among customers and the carrying of chips from within the casino facilities to outside;
- show signs stating that "the transfer or carrying of chips from within the casino facilities to outside is prohibited" in the area of verification of customers' identification, as well as the area of casino activities; and
- notify the Commission of any delivery of chips or other casino business-related transactions

that accompany the payment or receipt of cash exceeding JPY1 million.

More specifically, a casino business operator must:

- establish internal rules for the prevention of transfers of criminal proceeds, which set forth clear procedures for the above measures;
- take measures to update, from time to time, information regarding matters that need to be verified when conducting casino transactions (eg, details of identification documents that are required from customers);
- provide education and training to employees;
- put in place a system for implementing anti-money laundering measures, such as the appointment of a supervising manager;
- conduct self-evaluations and internal audits concerning its anti-money laundering measures; and
- take any other measures that are required under the rules of the Commission.

For the purpose of preventing money laundering, all money transfers and receipts carried out by casino business operators upon customers' requests are only carried out via financial institutions, and each customer deposit is only transferred to that customer's own account.

8.2 AML Requirements

In Japan, money laundering with respect to proceeds from certain serious crimes such as drug-related crimes, murder, burglary, and currency counterfeiting (including activities conducted outside Japan that (i) would be criminal offences if they were conducted in Japan and (ii) are criminal offences under the relevant jurisdiction of the place where such activities were carried out) is prohibited as a crime under the Narcotics Special Provisions Act and the Pun-

ishment of Organised Crimes and Control of Crime Proceeds Act. In addition, in order to prevent money laundering and terrorist financing, the Criminal Proceeds Transfer Prevention Act (CPTPA) requires that certain types of business operators such as financial institutions and real estate agents:

- verify the identity of their customers by confirming the customer identification data, the purpose of conducting the transaction, the customer's occupation or the nature of their business, and the beneficial owner of the customer (for an incorporated entity only) when undertaking certain transactions that are specified in the CPTPA;
- prepare and preserve records of such verification and the transaction itself; and
- report any suspicious transaction to the competent administrative authority.

These regulations are made based on recommendations issued by the Financial Action Task Force on Money Laundering (FATF).

8.3 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

9. Advertising

9.1 Regulatory/Supervisory Agency

The Japan Casino Regulatory Commission is the relevant regulatory/supervisory agency.

9.2 Definition of Advertising

In the Operational Guideline on Examination of Licences, etc, issued by the Japan Casino Regulatory Commission, advertising casino business or casino facilities is defined as "any activity notifying unspecified or many persons for induc-

ing them into taking part in casino activities or entering into casino facilities”.

9.3 Key Legal, Regulatory and Licensing Provisions

In order to prevent problem gambling and maintain the sound upbringing of young people, good morals, a clean entertainment environment, and the protection of customers, the following are prohibited:

- false or over-exaggerated expressions and explanations;
- expressions and explanations that may not be objectively proved to be true; and
- expressions and explanations that may violate good morals or damage a clean entertainment environment.

Every advertisement or promotion of a casino business or a casino facility shall contain:

- a warning regarding the connection between the use of casinos and problem gambling; and
- a notice that minors’ entry into casinos is prohibited.

In advertising the casino business or casino facilities, any person must make efforts:

- to give consideration to their influence over persons under 20 years of age and the relationship between the use of casino facilities and addiction to casino gaming; and
- not to advertise excessively.

More specifically, the casino business operator shall:

- educate and train its employees to comply with these rules;

- create internal compliance rules;
- appoint persons in charge of activities that are necessary for compliance with these rules; and
- appoint persons to audit such activities.

9.4 Restrictions on Advertising

The installation of signboards, posters, and other advertisements is prohibited outside the IR area, except for passenger terminal facilities in airports and ports.

It is expected that the Commission will execute and publish a guideline on the advertisement and promotion of casino business, referencing the existing guidelines under the Tobacco Business Act, whereby, for example, no advertisement of tobacco may be made via radio, the internet, or certain other media unless it is technically feasible to make such advertisement target only adults.

9.5 Sanctions/Penalties

The Commission may order any person who makes any advertisements of, or promotes, casino business in violation of the applicable rules to suspend or correct such advertisements or promotion by a certain deadline. Any person who violates such order may be subject to punishment by imprisonment with work for up to one year, a fine up to JPY1 million, or both.

The Commission may make a recommendation that a person who has advertised or solicited the casino business or casino facilities in violation of the Commission’s guidelines for casino advertisements shall take measures necessary for its correction. If the person does not comply with such recommendation, the Commission may make a public announcement of such non-compliance.

If the Commission finds that where (i) the advertisements might violate the relevant articles of the IR Implementation Law or do not follow the Commission's guidelines for casino advertisements, or (ii) the person might not comply with the Commission's recommendation, then the Commission may order the relevant person to submit necessary reports or have its officials enter such person's offices or any other facilities and may inspect the relevant documents and other materials. A person who has failed to submit such report or submitted a false report, or has refused, obstructed, or avoided an inspection pursuant to the above rules may be subject to punishment by imprisonment with work for up to one year, a fine up to JPY1 million, or both.

9.6 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

There are no disclosure requirements specifically tailored for acquisitions or change of control of gaming and gambling companies.

10.2 Change of Corporate Control Triggers

Under the IR Implementation Law, if the licensed casino business operator intends to carry out a merger, corporate split or transfer of its casino business, it must file with the Commission an application for the approval of such corporate reorganisation transaction. There is no definition of "merger", "corporate split", or "transfer of (casino) business" under the IR Implementation Law and the terms will have the same meanings as those used under the Companies Act.

A merger is a transaction in which a company's rights and obligations are comprehensively accepted by another company and includes two types of mergers:

- an "absorption-type" merger, in which one company will merge into another company, which will be the surviving company; and
- a "consolidation-type" merger, in which both companies will be merged into a newly incorporated company.

A corporate split is a transaction in which all or part of the rights and obligations of a certain business division of a company are comprehensively transferred to another company and includes two types of corporate split:

- an "absorption-type" corporate split, in which an existing company transfers a certain division of its business to another existing company; and
- an "incorporation-type" corporate split, in which an existing company transfers a certain division of its business to a newly established company.

While there is no definition of "(casino) business transfer" in the Companies Act, it is generally considered as a contract-based transaction in which a company transfers all or part of its business (usually including the relevant assets, liabilities, contracts, employees, and other rights and obligations of the target business) to another company.

10.3 Passive Investor Requirements

Any person who intends to become a holder of – eg, voting rights equal to or greater than 5% through a merger or any other transactions or acts specified by the rules of the Commission

(not yet established), shall obtain an authorisation from the Commission.

10.4 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

11. Enforcement

11.1 Powers

The Commission shall audit the operations and the accounting of casino business operators every year.

If and to the extent necessary, the Commission may order:

- a casino business operator;
- a holder of the voting rights of such casino business operator;
- a person who has dominant influence over the business activities of such casino business operator by way of capital contribution, money lending, business, or other relationships; and
- the employees or former employees of such casino business operator to submit the reports or materials relevant to the services conducted or the assets held by such casino business operator.

Even after the casino business operator has obtained a casino business licence, such casino business operator still has to conform to the licence standards listed in the IR Implementation Law concerning the services conducted, or the assets held, by such casino business operator.

The Commission may, if and to the extent necessary for enforcing the IR Law, have its officials:

- ask interested parties questions about the conformity to the licence standards, the services conducted, or the assets held by the relevant casino business operator;
- enter the business office or other establishment of the relevant casino business operator or certain other relevant parties or their employees;
- inspect the accounting books and other items; or
- remove non-electronic or magnetic casino-related devices if and to the extent necessary for testing, without compensation therefor.

The Commission may, when it finds it necessary to maintain the sound operation of the casino business by a casino business operator, taking into consideration the status of the services provided by such operator or the properties thereof:

- order such casino business operator to:
 - (a) amend its statement of operational methods;
 - (b) submit to the Commission the plans for improvement of business operations or status of properties; or
 - (c) take other necessary measures for improving its business operations or status of properties; or
- if and to the extent necessary, order the suspension of all or part of the relevant casino business or the related services provided within casino operation areas.

11.2 Sanctions

The Commission may:

- order the relevant casino business operator to suspend all or part of the relevant casino business or the related services within casino gaming operation areas, setting an appropriate time limit;

- revoke a casino licence or other approval;
- revoke a confirmation upon a casino operator's employees or other staff; or
- order the relevant casino business operator to dismiss the relevant officers.

In addition, the Commission may, when it finds it necessary to maintain the sound operation of the casino business, order the approved principal shareholders of the relevant casino business operators, for example, to take measures deemed necessary for their supervision.

There is no history of enforcement of sanctions since the Commission was established as of January 2020.

11.3 Financial Penalties

There are no special rules regarding calculation or enforcement of financial penalties.

11.4 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

12. Tax

12.1 Tax Rate by Sector

The casino business operator bears the following.

- A floating national tax, the amount of which is:
 - (a) 15% of the GGR (which is composed of (i) the aggregate chip amount received from customers, less the amount refunded to customers, and (ii) the profit gained from betting among customers) per month; and
 - (b) a fixed tax that covers the administrative expenses of the Committee; and

- (c) a floating municipal tax, the amount of which is 15% of the GGR per month.

The casino business operator shall pay these taxes to the national government on a monthly basis, by a specific day of each month.

The national government and the relevant municipal body impose entrance fees on customers other than non-resident foreigners entering casino facilities, in the amount of JPY3,000 as the national entrance fee and JPY3,000 as the municipal entrance fee (JPY6,000 in total).

The casino business operator shall collect these entrance fees from customers upon their entry into casino facilities for the national government and the municipal body, and shall pay such amount to the national government on a monthly basis by a specific day of each month.

12.2 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

No specific licences are required for directors or employees. However, a background check of directors and officers will be made as part of the examination of the licence for the casino business operator. Casino business operators shall obtain pre-confirmation from the Commission in respect of employees or others to engage in certain casino-related services and shall make a post-fact filing in respect of such employees or others with the Commission without delay after

it has them engage in such casino-related services.

As for shareholders, any person who wishes to own 5% or more of the voting rights, shares, or interests in an IR/casino business operator needs to obtain permission from the Commission on the ground that such person may materially affect the casino business operator's casino business by exercising its voting rights, etc, and it will receive distributions from the casino's GGR.

13.2 Application Process

Shareholders and their directors and officers (in case where the shareholder is a judicial entity) must have sufficient social credibility and a person having a certain criminal record will be disqualified. Application for permission shall be filed in advance of their acquisition of shares of a casino business operator. No fees will be required for filing such application.

13.3 Ongoing Annual Fees

No annual fees are applicable.

13.4 Ongoing Requirements

A casino business operator shall submit to the Commission the list of shareholders within three month after the end of each business year.

13.5 Personal Sanctions

A person who acquires 5% or more of the shares of a casino business operator without obtaining the Commission's permission may be subject to punishment by imprisonment with work for not more than one year, or a fine of not more than JPY1 million. A person who fails to submit the annual list of shareholders may be subject to punishment by a fine of not more than JPY300,000.

13.6 Recent or Forthcoming Changes

There are no notable recent or forthcoming changes.

Trends and Developments

Contributed by:

Masayuki Fukuda

Nagashima Ohno & Tsunematsu

Nagashima Ohno & Tsunematsu is widely recognised as a leading law firm and one of the foremost providers of international and commercial legal services. The firm's overseas network includes locations in New York, Singapore, Bangkok, Ho Chi Minh City, Hanoi, Jakarta and Shanghai. The firm also maintains collaborative relationships with prominent local law firms. In representing its leading domestic and international clients, Nagashima Ohno & Tsunematsu has successfully structured and negotiated

many of the largest and most significant corporate, finance, and real estate transactions related to Japan. In addition to its capabilities spanning key commercial areas, the firm is known for groundbreaking domestic and cross-border risk management/corporate governance cases and large-scale corporate reorganisations. The 500+ lawyers of the firm work together in customised teams to provide clients with the expertise and experience specifically required for each client matter.

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**NAGASHIMA
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Recent Enforcement of Criminal Charges Against Users/Related Parties of Offshore Online Gambling

In May 2022, there was a criminal case where a young individual (later accused of non-gambling crime) received money which was mistakenly wire-transferred from his residential town to his personal account and despite the town's request of return, he alleged that he could not return money since he had spent most of the money on gambling through offshore online gambling sites.

Due to this incident, the legality/illegality of Japanese resident customers using offshore gambling services was spotlighted nationwide in Japan. The Japanese Prime Minister made a comment at the June 2022 Diet Budget Committee meeting regarding the increase of enforcement against online casinos and gambling crimes, and subsequently the Japanese government published a statement on 21 June 2022 (as a response to an inquiry from a member of the Diet) that (i) countermeasures against online casinos are being executed by the relevant agencies, the cracking down on gambling crimes is handled by the law enforcement authority, and the relevant agencies will continue to work together to take necessary measures; and (ii) it is important to recognise the flow of money in respect of online casinos, and for such purpose, as an example, the law enforcement agency is using the information included in the notifications of suspicious money laundering transactions filed under the Law on Prevention of Profit of Crime. The Japanese government issued another statement dated 20 June 2023 regarding cracking down on online casino (which says "a user may commit a crime of gambling even when it uses online casino being legitimately operated outside Japan"). In addition, the National Police Agency has posted (and updated from time to

time) on its website a warning statement against the criminality of online gambling.

Since 2016, the law enforcement agency had not been very active in charging resident customers' use of offshore gambling as a crime. Recently, however, the Japanese law enforcement agency has been actively cracking down online gambling-related activities. In early to mid-2023, a police officer and a YouTuber were charged with crimes of non-habitual gambling due to their use of an offshore online gambling site. In September 2023, seven individuals (allegedly involved in a settlement agency business for an offshore online gaming site) were arrested for allegedly having committed a crime of "running a gambling place for the purpose of gaining profit" for Japanese users, although such site is legitimately licensed under the Isle of Man. Some relevant users were also investigated by the police on suspicion of committing a crime of gambling. In August 2024, it was reported that the National Police Agency will launch its first survey into offshore online casinos targeting Japanese users and that the results of such survey will be shared with other national agencies as a step toward regulating Japanese users' access to illegal gambling sites and taking measures against gambling addiction. In September 2024, three individuals were arrested since they allegedly had certain large amounts of money collected from about 10,000 people who took part in overseas online gambling, and had such money paid into their own bank accounts.

Sports Betting

Traditionally, sports betting in Japan has been operated by the public or semi-public sector in respect of only four sports:

- horse racing;
- track cycling;

- motorboat racing; and
- motorcycle racing.

In 2021, it was reported by the Financial Times that the Japanese government secretly began discussions surrounding the legalisation of sports betting (in respect of baseball and football, the two most popular sports in Japan) because professional sports industries/organisations and athletes have suffered enormous economic damage due to the COVID-19 pandemic.

Concurrently, the sports business subcommittee of the Liberal and Democratic Party, the ruling party, published a proposal titled “Aiming to make the sports industry a growth industry”, in which they urged the Ministry of Economy, Trade, and Industry and the Japan Sports Agency to discuss the efficient use of sports betting, considering that gambling contributes to an increase in tax revenue and develops industries in Europe and the US. The professional baseball and professional football industries and certain pro-sports betting companies such as Rakuten, CyberAgent, and Mixi have been lobbying the Japanese government for years to deregulate sports betting, insisting that potential betting revenue in respect of Japanese sports has been outflowed abroad, though such revenue should remain in Japan. In December 2020, the Japan Association of New Economy, a business lobbying body represented by Hiroshi Mikitani, founder of Rakuten, published a proposal for legalising sports betting. As a backdrop, in 2018, sports betting was legalised in the US and has seen remarkable success. Such overseas news has ignited discussions in Japan in relation to the legalisation of sports betting.

Question of legalisation of sports betting

In June 2022, it was reported by a newspaper that a study group within the Ministry of Economy, Trade, and Industry made a draft proposal for legalising sports betting and the Japan Sports Agency established the Sports Future Development Council, which should have begun intensive discussion over liberalising sports betting. While the Liberal and Democratic Party admitted that various discussions had been taking place within the party, it emphasised that it will be important to make a firm scheme (including identifying an entity to run the operation and demonstrating how the profits and other money are to be distributed) that will be acceptable to the people. Most other political parties criticised the move and asked for thorough prudent discussion over the pros and cons of liberalising sports betting, in particular from the viewpoint of concern over its potential to increase gambling problems and promote unjust rigging.

Current legal status of sports betting

Under the current Penal Code, an individual is prohibited from “gambling” or “running a gambling place for the purpose of gaining profit”. In relation to sports betting, bookmakers operate betting services and provide them to users.

Users bet on certain sports on bookmakers’ platforms and such users’ betting may constitute “gambling” since they incur a possibility of gaining or losing property on a matter whose “outcome depends upon chance”. While the outcomes of sports are not determined solely by chance, and players’ skills or other extrinsic factors are also important, the Japanese courts’ precedent states that the above-mentioned requirement that the “result depends upon chance” may be satisfied if chance may even slightly affect the result, except for when the result is obvious judging from the difference

of skills or other factors, such as in betting on matches of Japanese chess (*shogi*) or “Go”, in which games are normally categorised as “two-player, zero-sum, logical perfection information games” (where there is little room for chance to affect the outcome).

In respect of bookmakers who control the premises, accept bets from users, distribute winners’ prizes, and collect certain commission fees or entry fees, such activities will constitute “running a gambling place for the purpose of gaining profit” prohibited under the Penal Code. Under a Supreme Court precedent, the above requirement of “running a gambling place” may be satisfied even where a person does not necessarily gather customers into a particular physical site. In this regard, in 2015, a lower court (Fukuoka District Court) held that, in a case where a bookmaker accepted bets from users via emails and the defendant assisted the bookmaker by forwarding emails including handicaps and other information to users, it would be difficult to conclude that the bookmaker had secured and provided a certain space or facility as a gambling place. The court denied an argument that an electronic space by which the bookmaker and the customers are connected may constitute a “gambling place” since such construction is far from what is normally understood from the wording of the Penal Code. However, in 2017, another lower court (Osaka High Court) held, in a case where a baseball bookmaker accepted bets via a mobile phone application, that a “gambling place” may include collective places, including a place where bets are received and tallied by a person who also has other information (eg, as to the customer’s location) and it is not necessarily limited to a place where gambling activity physically takes place.

In respect of licensors who hold the rights to official statistical data and provide such data to data providers in exchange for fees (such as sports leagues, sports teams, or athletes) and data providers who receive official statistical data from the licensors and provide such data (with added values such as odds for sports betting) to bookmakers, they may possibly be charged with aiding and abetting users’ “gambling” and/or bookmakers’ “running a gambling place for the purpose of gaining profit” considering the court precedent where providing roosters for cockfighting or providing market price information for “market price gambling” was charged with aiding and abetting gambling and/or running a gambling place for the purpose of gaining profit. In this regard, whether it will be charged as an accessory to gambling or for running a gambling place will be determined by the relationship among the parties or the roles played by the parties (if licensors or data providers play a major role, they may be charged even as co-principal criminals for “gambling” or “running a gambling place for the purpose of gaining profit”).

International Gambling

Gambling activities outside of Japan will not constitute gambling-related crimes under the Penal Code. Therefore, if a bookmaker is located outside Japan and provides sports betting services only to non-Japanese residents, or if a licensor or data provider supplies data to a bookmaker who is located outside Japan and provides sports betting services only to non-Japanese residents, such activities will not constitute gambling-related crimes under the Penal Code. Practically speaking, however, since sports betting services are usually provided via the internet, it will be difficult to ensure that sports betting services are not available to Japanese resident users; in reality, it is said that many

Japanese residents use offshore sports betting services, even though such use might be illegal. Based upon such analysis and reality, it remains risky for a Japanese sports industry/organisation or athlete to provide their data to offshore bookmakers or data providers.

E-sports

In respect of e-sports, there has recently been discussion over whether or not e-sports events with prize money (in Japan, prize money for e-sports events will be paid only by a third-party sponsor on the grounds that if prize money is paid from entry fees paid by players, such competition may constitute “gambling”, a criminal offence under the Penal Code) shall be regulated under the Act on Control and Improvement of Amusement Business (the “Amusement Business Act”) as a business allowing customers to use slot machines, video game machines, or other game machines that may be used for originally unintended use stimulating customers’ desire to gain profit by chance in stores and other similar facilities (in short, an amusement arcade business). If an e-sports event is regulated by the Amusement Business Act, the prize money for such e-sports event would be limited to JPY9,600 (around USD100). First of all, amusement arcade businesses must be operated in “stores and other similar facilities” and therefore online e-sports events will not be regulated under the Amusement Business Act. Secondly, the Amusement Business Act only regulates businesses that allow customers to use “slot machines, video game machines, or other game machines which may be used for originally unintended use stimulating customers’ desire for gaining profit by chance”. Therefore, e-sports events using only computers, tablets, smart phones, or other transmittable devices will not be regulated by the Amusement Business Act.

Meanwhile, e-sports events using video game machines seem to be regulated by the Amusement Business Act since video game machines are expressly listed as gaming machines in the Amusement Business Act. The National Public Safety Commission, the supervising agency of the Amusement Business Act, has not issued any formal opinion on such issue. However, the purpose of the Amusement Business Act is to regulate amusement arcade businesses that may be used to stimulate customers’ desire for gaining profit by chance. Therefore, e-sports events that do not stimulate customers’ desire for gaining profit by chance shall not be regulated by the Amusement Business Act. In this regard, the Japan Esports Union (JESU) has published the “Guidelines for Events with Entry Fees” which suggest that if the aggregate amount of the entry fees collected from the participating players will not exceed the operational cost of the event (in other words, the players will pay entry fees only to partially cover the operational cost of the event), such an e-sports event will not be regulated by the Amusement Business Act since it will not stimulate customers’ desire to gain profit by chance.

KAZAKHSTAN



Law and Practice

Contributed by:

Ivan Kurochkin, Dmitry Hotsyn and Anastasiya Yautodzyeva
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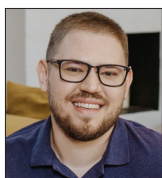
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4H Agency is a global gambling advisory firm with a 20-member team based in Georgia, the UAE, Ukraine, France, Latvia and Mexico. Specialising in comprehensive guidance for B2C operators and B2B providers, the firm's areas of expertise include market insights, regulatory compliance, licensing, payment systems and public affairs, with a focus on delivering tailored, transparent solutions. Recent projects include consulting with startups and industry leaders on licensing strategies, product localisation and navigating regulatory reforms. More-

over, 4H has been extensively involved in governments' efforts to legalise gambling or reform gambling regulations. Founded in 2020, 4H has rapidly grown into an international hub with a versatile team dedicated to delivering 360-degree support across the gambling landscape. With a strong foundation in legal advisory, 4H has expanded to include consultancy, payment solutions and proprietary product development. 4H Agency's mission is to drive transformation and transparency within the global gambling industry.

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1. Introduction

1.1 Current Outlook and Recent Changes

Kazakhstan has seen substantial growth and modernisation of its gambling sector in recent years. The government has been making significant strides towards reforming and updating gambling laws, aiming to align the sector with international standards while also ensuring a well-regulated and socially responsible attitude. The country's gambling industry is currently divided into specific zones, with casinos and other gambling facilities only allowed in certain designated areas. This zoning approach has helped regulate physical gambling operations and concentrate industry activity in controlled regions.

Recent trends indicate a heightened focus on consumer protection and responsible gambling (RG). There have been discussions about introducing tighter regulations, such as more robust age verification requirements, gambling addiction awareness campaigns and restrictions on advertising.

Additionally, Kazakhstan is looking into the potential for implementing advanced technological solutions, including blockchain and cryptocurrency, to ensure transparency and better tracking of financial transactions in the gambling industry. However, cryptocurrency use in gambling remains largely unregulated, and the government has yet to clarify its stance on this issue.

2. Jurisdictional Overview

2.1 Online

The only permitted forms of online gambling are lotteries, sports betting and totalisators.

However, online sports betting/totalisator operators are required to have at least one sports betting/totalisator shop to operate these online platforms. Only live sports event betting is permitted; wagers are not allowed for virtual (random number generator (RNG)-based) events.

The current online gambling landscape in Kazakhstan can be characterised as follows:

- online casinos (online slots, poker, etc) are prohibited;
- online sports betting and totalisators are permitted, with an obligatory offline presence;
- online lotteries (including bingo, keno and other lottery-type games) are under state monopoly;
- social gaming is vastly unregulated; and
- fantasy sport is prohibited.

2.2 Land-Based

The land-based gambling industry is regionalised. Land-based gambling establishments may be located in one of two regions: Qonayev in the Almaty region and the Burabay district of the Akmola region.

The following land-based facilities/offerings are permitted:

- sports betting shops;
- totalisators;
- land-based casinos;
- slot-machines (in both separate halls and land-based casinos); and
- land-based lotteries.

Note that lotteries are not considered a form of “general” gambling under the definitions of the Gambling Law; they are regulated by separate legislation and subject to state monopoly.

Accordingly, this guide does not provide details of land-based lotteries in Kazakhstan.

3. Legislative Framework

3.1 Key Legislation

A key piece of legislation regulating the gambling industry in Kazakhstan is the Law on Gambling (No 219) dated 12 January 2007, hereinafter referred to as the “Gambling Law”.

The following laws, among others, also form part of Kazakh gambling legislation:

- Law No 495-V KRZ (the Law On Lotteries and Lottery Service);
- Law No 191-IV (the Law On Counteraction of Legitimization (Laundering) of Incomes Received by Illegal Means, and Financing of Terrorism);
- Law No 94-V (the Law On Personal Data and Its Protection);
- Law No 508 (the Advertising Law); and
- the Law On Taxes and Other Mandatory Payments to the Budget (Tax Code).

3.2 Definition of Gambling

The Gambling Law defines gambling as “a risk-based agreement on winnings entered into by the participants of gambling among themselves or with a gambling operator”.

3.3 Definition of Land-Based Gambling

The Gambling Law does not provide a direct definition of “land-based gambling”.

Instead, there is a set of definitions outlining the status of gambling operators within different regulated areas (as outlined in 2.2 Land-Based).

The regulated areas are as follows:

- sports betting shops, in which the operator of a gambling business offers bets to participants and takes the opposite side in such bets;
- totalisators, the operators of which provide intermediary services when a bet is made between participants;
- land-based casinos – ie, gambling establishments with gambling tables and slot-machines; and
- slot-machine halls – ie, gambling establishments in which only slot-machines are used for gambling.

3.4 Definition of Online Gambling

The Gambling Law does not provide a direct definition of online gambling. Instead, the Gambling Law provides several definitions that determine the scope of online gambling, namely:

- internet casino – an internet resource that provides the capability to operate and conduct gambling activities in real time via the internet and/or electronic money, with provisions for payouts;
- electronic casino – an establishment that uses hardware/software and/or an internet resource to operate and conduct gambling activities in real time, via the internet and/or electronic money, with provisions for payouts; and
- electronic cash registers for sports betting and totalisators – information systems through which bets are accepted (recorded) and winnings are paid using information and communication networks.

3.5 Key Offences

Gambling-related offenses are set out in the Criminal Code as well as the Code of Administrative Offences.

The Criminal Code provides, inter alia, for the following offences:

- the illegal opening of a gambling establishment;
- the provision of premises for illegal gambling business;
- the organisation and conduct of gambling outside two special zones established by the Gambling Law; and
- unlicensed gambling operations.

The Code of Administrative Offences provides, inter alia, for the following key offences:

- failure to comply with the requirements regarding the location of gambling establishments or gambling equipment;
- failure to comply with the requirements regarding gambling operations, accepting bets and payment of winnings outside of the regulated locations, as determined by the Gambling Law;
- payment of winnings in a form other than money;
- failure of the gambling operator to comply with requirements regarding obligatory funds (mandatory reserves, as specified in 4.7 Application Requirements); and
- failure to comply with the requirements regarding the number of slot-machines in a casino.

3.6 Penalties for Unlawful Gambling

Possible penalties for gambling-related offences include correctional labour or community service, imprisonment, confiscation of properties,

finances and licence revocation. Liability for violation of the law can be imposed on both the offending company and the individual responsible.

In cases of criminal liability of the gambling operator, key penalties may include:

- fines amounting to ten to 20 times the income received from the unlawful actions;
- correctional labour or community service of up to 1,200 hours;
- imprisonment for up to seven years; and
- confiscation of the property of the gambling operator.

In cases of administrative liability, key penalties may include:

- fines of up to EUR7,000;
- suspension or revocation of the gambling licence; and
- confiscation of the income of the gambling operator obtained as a result of the unlawful actions.

Please note that under Kazakhstan's legislation, all prices are set according to the minimum calculation index, which is adjusted annually. For clarity, the current KZT/EUR exchange rate is used to display the amounts in this chapter (as of November 2024, EUR1 = KZT526.3).

3.7 Recent or Forthcoming Legislative Changes

Most recent amendments to the Gambling Law took effect on 9 September 2024. These changes aim to reduce the harm associated with gambling and establish consistent rules for casinos, sports betting operations and related businesses. Amendments were also introduced to the Criminal Code, establishing penalties for electronic and online casinos operators.

Other significant changes include:

- the creation of a new regulatory body – the Committee for Gambling and Lottery Regulation (the “Regulator”);
- the introduction of the so-called unified accounting system, where all licensed operators are required to integrate with this state-run system; and
- a new list of illegal foreign operators, which will be managed by the Regulator and published on its website.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Regulator (forming part of the Ministry of Tourism and Sports) acts as the key gambling regulatory authority in Kazakhstan.

4.2 Regulatory Approach

Kazakhstan employs a prescriptive and reactive approach to gambling regulation, emphasising strict compliance and enforcement measures.

Recently, the government modified the system of regulatory oversight, establishing a new regulator with broad discretionary powers for independent prescriptive and enforcement decision-making. With amendments to the Gambling Law effective as of 9 September 2024, the updated regulations focus on harm reduction and creating uniform rules across gambling forms.

In its crackdown on illegal gambling, the Regulator has pursued over 100 legal cases in 2024 alone, identified over 11,000 websites with signs of unlawful activities and blocked thousands of these sites in collaboration with other state

agencies, including the Financial Monitoring Agency and the Prosecutor General’s Office.

4.3 Recent or Forthcoming Changes

There have been no significant recent changes related to licensing and the regulatory framework.

4.4 Types of Licences

The following types of licences are available in Kazakhstan:

- sports betting shop licences;
- totalisator licences;
- land-based casino licences; and
- slot-machine hall licences.

Online gambling activity is not covered by a separate licence, instead being an addition to the land-based licence. Also, supplier licences (business-to-business (B2B) provider licences) are not provided under the Gambling Law.

4.5 Availability of Licences

The restrictions on licences are as follows:

- sports betting shop licence – no restrictions;
- totalisator licence – no restrictions;
- land-based casino licence – there are restrictions on the location of the establishment, where a casino can only be located in at least a three-star hotel in two special locations, as specified in 5.1 Premises Licensing; and
- slot-machine hall licence – there are restrictions on the location of the establishment, where a slot-machine hall can only be located in an at least three-star hotel in two special locations, as specified in 5.1 Premises Licensing.

4.6 Duration of Licences

All licences are issued for a period of ten years.

Licences can also be renewed at least 90 calendar days before expiry. In this case, the effective date of the new licence will be the day following the expiration date of the current licence.

4.7 Application Requirements

The general application requirements are broadly the same for all operators and suppliers, namely:

- each applicant must own or legally control a building (or part thereof) compliant with sanitary and fire safety standards;
- each applicant must own the equipment necessary for organising and conducting relevant gambling activity;
- contracts must be in place with licensed security service providers authorised under Kazakhstan law;
- each applicant must develop operational rules for their games in both Kazakh and Russian; and
- each applicant must provide proof of payment of the application licence fee.

Key differences in application requirements depending on the licence type are as follows:

- sports betting applicants shall maintain a mandatory reserve of EUR278,000 in a bank on the approved list of the Kazakh authorities;
- totalisator applicants must maintain a mandatory reserve in the amount of EUR70,000; and
- land-based casino and slot-machine hall applicants must develop tokens in Kazakh and Russian, as well as maintain a mandatory reserve in the amount of EUR417,000.

4.8 Application Timing

The timescale for licence applications is as follows:

- licence issuance – up to ten business days from the date of application submission; and
- licence renewal – up to three business days.

If any required documents are incomplete or outdated, the Regulator will provide a written notice of refusal within two business days. However, the Regulator may request additional documents if needed, which could impact the processing time.

4.9 Application Fees

Depending on the type of licence, the application fee differs as follows:

- sports betting shop licence – EUR4,450;
- totalisator licence – EUR4,450;
- land-based casino licence – EUR26,750; and
- slot-machine hall licence – EUR26,750.

Application fees are payable upon applying for a licence.

Since online sports betting/totalisator licences are not considered as fully separate licences, their cost is integrated into the general application costs of the relevant land-based licence.

4.10 Ongoing Annual Fees

Along with application licence fees, the Kazakh Tax Code also provides for the following annual licence fees (in the Tax Code, such fees are defined as “fees for the usage of a license”):

- sports betting shop licence – EUR4,450;
- totalisator licence – EUR4,450;
- land-based casino licence – EUR26,750; and
- slot-machine hall licence – EUR26,750.

Since online sports betting/totalisator licences are not considered as fully separate licences,

their cost is integrated into the general operation costs of the relevant land-based licence.

5. Land-Based Gambling

5.1 Premises Licensing

The Gambling Law sets forth two types of requirements applicable to the location of gambling premises (buildings):

- general requirements applicable to all gambling operators; and
- specific locational requirements that are applicable to operators of either casinos or slot-machine halls.

General Requirements

All gambling venues should be located in non-residential premises and adhere to several additional restrictions. It is forbidden to locate gambling venues in:

- non-residential premises in residential buildings;
- buildings of industrial enterprises;
- communal and warehouse facilities;
- religious buildings (structures);
- buildings of state bodies and institutions;
- educational organisations;
- healthcare buildings;
- cultural buildings;
- airports;
- train stations; and
- all types of urban and suburban public transport stations.

Specific Locational Requirements

The Gambling Law also establishes an additional requirement for the location of casinos and slot-machine halls. Specifically, casinos and

slot-machine halls can be located only within specially designated zones, namely:

- Qonayev in the Almaty region; and
- the Burabay district of the Akmola region.

Moreover, casino and slot-machine halls can be located only in at least three-star hotels.

There are no requirements related to the licensing of the premises themselves.

5.2 Recent or Forthcoming Changes

As well as the changes mentioned in 3.7 **Recent or Forthcoming Changes**, there has been an important development related to land-based gambling: the inclusion of Alatau, in addition to the two existing gaming areas (Konaev in the Almaty region and Burabay in the Akmola region), as a region that can accommodate casinos (though only from 2050).

The head of government signed a document outlining the development of the region and the establishment of a “green zone” via several stages: the initial phase is to start in 2030, the intermediate stage is to start in 2040 and the completion date is 2050.

6. Online Gambling

6.1 B2C Licences

Kazakh gambling legislation regulates almost all types of online gambling. The only online gambling permitted is sports betting/totalisators in relation to live events; online casinos, slots and other types of betting (eg, betting on virtual events) are expressly prohibited.

It should also be noted that online sports betting and totalisators are not considered separately

and cannot be conducted by operators without licensed land-based premises.

6.2 B2B Licences (Suppliers, Software, Etc)

As mentioned in 4.4 **Types of Licences**, Kazakh gambling legislation does not provide for any type of B2B licences or permissions.

6.3 Affiliates

Recent amendments to the legislation in Kazakhstan directly affected the regulation of advertising. Please refer to 9.4 **Restrictions on Advertising** and 9.6 **Recent or Forthcoming Changes** for further details.

Gambling advertising restrictions have been tightened recently, with new rules banning bloggers and influencers from promoting even licensed betting companies. Violators face fines starting at EUR380.

6.4 White Labels

The Gambling Law does not specifically regulate the use of white-label providers.

However, in practice, it is possible to operate white-label models in Kazakhstan, and operators can manage multiple domains under this approach.

6.5 Technical Measures

Kazakhstan's legislation provides several mechanisms for the blocking of websites of illegal gambling operators. The Ministry of Digital Development, Innovations, and Aerospace Industry of the Republic of Kazakhstan, the authority responsible for telecommunication services, carries out such blocking activities based on orders from the prosecution authorities.

Before 2020, website blocking was based on court decisions. Now, various authorities can initiate blocking actions. For example, last year, the Agency for Financial Monitoring and the Ministry of Culture and Information together prevented the large-scale organisation of card games on TikTok by setting up an AI system to promptly block broadcasts of illegal content.

Currently, efforts are also underway to counter the organisation of illegal lotteries on other social networks, including through financial blocking measures. Foreign organisers of these games cannot accept money directly from Kazakhstani players, so they use local payment organisations and banks instead.

6.6 Recent or Forthcoming Changes

Recent amendments have introduced rules for identifying foreign gambling operators whose activities are considered illegal in the Republic of Kazakhstan. These operators will be added to an official list maintained by the Regulator, which will be published on its website along with any resulting enforcement actions.

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

7.1 RG Requirements

Under the Gambling Law, the following RG requirements are applicable to licensed gambling operators:

- gambling operators are required to display a warning about the risks and harms associated with participating in gambling and/or sports betting in a prominent place within gambling establishments, as well as on their websites, and the warning must include the

potential negative consequences of participation in such activities;

- gambling operators shall not allow individuals under the age of 21 to participate in gambling, nor permit Kazakh citizens aged 21 or older who are restricted from gambling to participate;
- Information about individuals on the restricted list is confidential and cannot be shared without the consent of the individual or their legal representative, except on specific legal grounds; and
- cashless and cash payments, including electronic money transfers between participants and gambling operators, must be made through a unified accounting system, which must reject payments to or from individuals on the restricted list.

7.2 Gambling Management Tools

There are two main tools for promoting RG in Kazakhstan.

Self-or Mandatory Exclusion

A citizen of the Republic of Kazakhstan who has reached the age of 21 may voluntarily restrict their participation in gambling – for a period of six months to ten years – by submitting an application to the Regulator to be included on the list of individuals restricted from participating in gambling.

Close relatives and family members have the right, based on a court decision that has entered into legal force, to limit the capacity to gamble of a citizen by submitting an application to the Regulator for the inclusion of such citizen on the list of persons restricted from participating in gambling.

An individual included on the list of persons restricted from participating in gambling and/or

sports betting can be removed from the list by the Regulator based on a court decision that has entered into legal force to revoke the limitation on the citizen's capacity to gamble/bet.

Mandatory Display of RG Information

There is a requirement for operators to display warnings about the dangers of excessive gambling, and to provide information on self-exclusion procedures and contact details for psychological support services for gamblers and their families.

7.3 Recent or Forthcoming Changes

Recent changes introduced restrictive and incentivising measures aimed at reducing gambling addiction among the population. The list of individuals prohibited from participating in gambling and sports betting has been expanded. It now includes individuals listed in the Unified Debtors Register (an electronic database containing information on debtors under enforcement proceedings). Participation in gambling and sports betting is also restricted for individuals holding senior government positions and individuals authorised to perform state functions – and those associated with them – through the introduction of an anti-corruption restriction.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML legislation applicable to gambling operators is the Law On Preventing and Countering the Legalization (Laundering) of the Proceeds of Crime, and the Financing of Terrorism (the “AML Law”).

8.2 AML Requirements

According to the AML Law, a transaction involving money or other assets is subject to financial

monitoring if the transaction amount is equal to or exceeds EUR1,900 and is related to receiving winnings, in cash, from sports betting, gambling in gambling establishments or lotteries, including in electronic form.

Additionally, gambling operators should implement a system of internal controls, which should include:

- policies aimed at minimisation of the risks associated with the legalisation of the proceeds of crime, the financing of terrorist activities and the financing of the proliferation of weapons of mass destruction;
- policies regarding identification, documenting suspicious financial transactions, financial transactions subject to special controls, and timely submission of information and documents to the financial regulator;
- policies ensuring the preparation and transmission of reports of financial transactions subject to special controls and suspicious financial transactions carried out by employees;
- identification and assessment of the risks associated with AML requirements, including the risk of working with a given client;
- monitoring and control of the risks associated with AML requirements; and
- limitation (reduction) of the risks associated with AML requirements.

8.3 Recent or Forthcoming Changes

The latest updates in the approach to AML came in 2022, when the Self-Regulatory Organization of Bookmakers of the Republic of Kazakhstan (the “SRO of Bookmakers of the Republic of Kazakhstan”), the Association of Bookmakers of Kazakhstan and the Agency of the Republic of Kazakhstan for Financial Monitoring signed a joint memorandum on co-operation for com-

bating money laundering and terrorist financing. This was a reaction to legislative changes made in April 2022, where the government decided to ban the use of credit cards for gambling-related payments.

Apart from the foregoing, there has been no major progress in strengthening legislative regulation or making any decisions in relation to AML in recent years. However, the Regulator’s work on this front is expected to intensify in the near future, since the recent limitations on the advertising of gambling and the maintenance of self-exclusion rules could lead to an increase in the offshore market, and therefore to an increase in the risk of money laundering.

9. Advertising

9.1 Regulatory/Supervisory Agency

The Ministry of Information and Social Development of Kazakhstan, and its regional units, are responsible for the regulation of matters related to the advertising of gambling activities.

9.2 Definition of Advertising

According to the Advertising Law, advertising is information disseminated and/or placed – in any form and by any means, and for an undefined audience – with the aim of generating or maintaining interest in a natural or legal person, goods, trade marks, works or services, and promoting sales.

9.3 Key Legal, Regulatory and Licensing Provisions

Kazakh regulations regarding advertising are quite restrictive in nature (the same approach is used by other post-Soviet countries). For a detailed description of such restrictions, please see 9.4 Restrictions on Advertising.

It should be noted that there is no separate licensing or regulatory framework concerning advertising in the gambling sector; the overall rules are general, with little indication of which are applicable to operators.

9.4 Restrictions on Advertising

The following restrictions apply to gambling advertising in Kazakhstan:

- advertising of online casinos and unlicensed gambling is prohibited;
- lottery advertising is prohibited, except for advertisements placed by the lottery operator or agents within the framework of a commission agreement with the operator;
- gambling advertising is prohibited, except advertising located at licensed premises, within sports facilities or on athletes' uniforms; and
- gambling advertising may only include the name, trade mark elements, location, website (if available), date of issuance, validity period and licence number of the licensed operator.

9.5 Sanctions/Penalties

Violation of the advertising regulations is penalised by a fine ranging from EUR400 to EUR3,100.

The Regulator can also block the websites of illegal unlicensed or offshore gambling operators.

9.6 Recent or Forthcoming Changes

As mentioned earlier, recent amendments to the Gambling Law also established restrictions on the advertising of sports betting shops and totalisators. Under this new regulation, all outdoor (visual) advertising of sports betting shops and totalisators – as well as advertising on vehicles, in mass media, and in cinema, video, and reference services – is now prohibited.

However, there are exceptions, which include:

- outdoor advertising at the location of a sports betting shop or totalisator;
- advertising within sports facilities and on athletes' uniform;
- advertising in registered sports-themed media; and
- advertising during live broadcasts of international sports competitions by domestic TV channels.

These measures are aimed at reducing gambling addiction among the population and regulating the activities of the gambling industry in the country.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Kazakhstan Gambling Law does not provide for any specific requirements with regard to acquisitions and changes of control of gambling companies.

10.2 Change of Corporate Control Triggers

Concerning changes in corporate control triggers, please refer to **10.1 Disclosure Requirements**.

10.3 Passive Investor Requirements

Concerning requirements for passive investors in acquisitions or changes in control, please refer to **10.1 Disclosure Requirements**.

10.4 Recent or Forthcoming Changes

The latest legislation does not contain any policies regarding acquisitions and changes of control.

11. Enforcement

11.1 Powers

According to the gambling legislation, the Regulator is obliged to:

- monitor the compliance of gambling operators, unlicensed online casinos and foreign sports betting operators with gambling and AML laws, where the Regulator has the authority to block broadcasts or take legal action as necessary;
- issue fines to, and suspend or revoke the licences of, operators who fail to comply with regulations;
- maintain a list of individuals restricted from participating in gambling to enforce exclusion and RG measures;
- collect and analyse reports from gambling operators to identify and address compliance issues; and
- impose penalties for violations of the gambling regulations, etc.

11.2 Sanctions

The Regulator routinely inspects licensed gambling operators to ensure they meet the licensing requirements and comply with gambling regulations. If operators breach these requirements or regulations, they may face administrative liability, which can lead to fines, property confiscation, or suspension or revocation of their gambling licence.

Additionally, representatives of offshore gambling operators conducting activities within Kazakhstan without a proper licence may face criminal liability, since unlicensed operation is prohibited. The Regulator's approach is notably strict, as demonstrated by numerous court cases in which both licensed and offshore operators have been held accountable in various ways.

As an example of enforcement in the gambling sector, by early 2024, the Ministry of Internal Affairs and the National Security Committee, under the co-ordination of the Prosecutor General's Office, had dismantled a major illegal online casino network disguised as lotto clubs. Kazakh police conducted 570 searches of lottery premises across the country, seizing more than EUR1 million as well as various forms of evidence, including documents and gambling equipment. These operations led to the shutdown of 326 lotteries nationwide. Servers broadcasting online casino games from abroad were identified and blocked, while administrators were detained.

Prior to the foregoing, in 2023, the Ministry of Internal Affairs and the National Security Committee shut down underground casinos operating under the guise of "wellness centres" and hotel complexes in the Khorgos International Border Cooperation Center. Five individuals, including two foreigners, were detained. Seized items included slot-machines, casino tables and cash.

Since the beginning of 2024, the Regulator has filed 103 lawsuits. Investigations are ongoing, but verdicts have already been delivered to 48 suspects. In total, more than 11,000 websites with signs of illegal activity have been identified. Of these websites, 6,639 deemed potentially illegal have been blocked, including 227 by the State Technical Service, while 1,961 are currently inaccessible and 1,353 were found to have violated the law.

These extensive enforcement actions demonstrate the authorities' strong commitment to overseeing and cracking down on illegal industries, with strict measures and severe penalties.

11.3 Financial Penalties

The calculation of financial penalties depends on several factors, such as the severity of the offense and the number of participants involved. For example, the strictness of enforcement may increase if the offense was committed by a group of persons, resulted in large financial gain or was committed by an individual abusing their official position.

As financial penalties result from administrative or criminal liability, their enforcement methods are consistent with the sanctions described in **3.6 Penalties for Unlawful Gambling** and **11.2 Sanctions**.

11.4 Recent or Forthcoming Changes

In 2024, Kazakhstan established a new regulatory body, the Regulator, which operates under the Ministry of Tourism and Sports.

Moreover, under recent updates to enforcement within the Kazakh gambling sector, bloggers and influencers are now prohibited from advertising or promoting bookmakers, with violations being subject to fines starting at EUR380. The list of individuals barred from participating in gambling has also expanded and now includes individuals holding public positions of responsibility, such as civil servants, military personnel, employees of special and law enforcement agencies, and heads of budget organisations. These individuals face dismissal if they fail to comply with the restrictions.

12. Tax

12.1 Tax Rate by Sector

Gambling tax is calculated on the basis of taxable items and is payable per month:

- sports betting shops and totalisators are taxed per cash register (EUR2,100);
- land-based casinos are taxed based per gaming table (EUR11,550);
- slot-machine halls are taxed per slot-machine (EUR420);
- online totalisators are taxed per electronic cash register (EUR27,800); and
- online sports betting is taxed per electronic cash register (EUR20,900).

As for general taxation, all businesses in Kazakhstan are subject to a 20% income tax.

12.2 Recent or Forthcoming Changes

There have been no recent changes to gambling taxation.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Kazakh gambling legislation does not regulate personal licences.

13.2 Application Process

See **13.1 Types of Authorisations and Licences**.

13.3 Ongoing Annual Fees

See **13.1 Types of Authorisations and Licences**.

13.4 Ongoing Requirements

See **13.1 Types of Authorisations and Licences**.

13.5 Personal Sanctions

See **13.1 Types of Authorisations and Licences**.

13.6 Recent or Forthcoming Changes

See **13.1 Types of Authorisations and Licences**.

MACAU SAR, CHINA

Law and Practice

Contributed by:

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Lektou was founded in 1985 and was formerly known as Rato, Ling, Lei & Cortés – Advogados e Notários. It has established itself as a leading full business law firm in Macau, with additional offices in Hengqin and Shenzhen (China), and Lisbon and Oporto (Portugal). Lektou is dedicated to excellence in legal services, emphasising professionalism, integrity, multiculturalism and innovation to create value for clients while striving to find the best solutions. In the dy-

namic field of gaming law, Lektou stands out as a trusted adviser with extensive experience in gaming-related transactions, regulatory compliance, licensing for operators and suppliers, and all facets of the gaming industry. Over the years, the firm has honed its specialisation, ensuring that clients benefit from insights and strategies that reflect the unique challenges and opportunities in both Macau and Portugal.

Author



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1. Introduction

1.1 Current Outlook and Recent Changes

Law No 7/2024 has introduced a comprehensive overhaul of the credit framework within casino gaming, dismantling the previous structure and implementing significant changes to credit management practices. Under this new regulatory landscape, only casino concessionaires are authorised to extend credit to patrons directly. This shift marks a transformative phase for the industry, fundamentally altering the dynamics between high-stakes players, gaming promoters, and casino operators. In the past, gaming promoters were instrumental in credit facilitation and maintained close relationships with high rollers, providing flexible, tailored arrangements. Now, however, their role is restricted to acting solely as agents for the concessionaires, diminishing their bargaining power and potentially leading to less personalised credit options for high-stakes players.

This policy shift pushes the gaming industry to rethink its engagement with high-roller patrons and encourages concessionaires to develop innovative strategies to attract and retain this crucial customer base. Adapting to these stricter credit controls will require operators to balance regulatory compliance with the high demands of the competitive gaming environment.

Further, Law No 20/2024, enacted on 28 October 2024, enhances the regulatory framework for penalising unlawful gambling activities, with increased fines and penalties across six categories, including unauthorised games of chance, pari-mutuel betting, online gaming, and illegal lotteries. The legislation also targets illegal loans used for gambling and includes provisions for the administrative dissolution of entities involved in gambling-related crimes. To bolster

enforcement, the law allows nighttime residential searches and extends pre-trial detention, offering law enforcement stronger tools to combat illegal activities. These provisions indicate a marked shift in Macau's approach to regulatory oversight, underscoring a commitment to tighter controls and robust legal consequences for violations.

Looking forward, casino concessionaires are expected to have a stricter oversight and enforcement by the government whilst they must, under the concession contracts, broaden their reach to international markets and take part in government-led initiatives that prioritise local small and medium-sized enterprises (SMEs), labour rights, and community-focused projects. After facing challenges in attracting foreign gamblers to specific zones, the government is promoting the adoption of RFID technology to closely monitor betting activities among international patrons. This system is designed to give casinos more precise insights into betting patterns and turnover among foreign customers, with the aim of informing strategies that better engage this vital demographic.

The actual effects of these regulatory adjustments will depend on multiple factors, including the response of foreign players to the RFID tracking measures and the adaptability of casinos as they integrate these technological and operational changes. Industry stakeholders are observing these shifts closely to understand how they will shape the competitive landscape in Macau and whether they will lead to sustained engagement from foreign visitors in the gaming sector.

2. Jurisdictional Overview

2.1 Online Interactive Gaming

In Macau, the term “interactive gaming” (online gaming) is defined within the regulatory framework to limit the scope of online and telecommunications-based gambling activities.

In general terms, and with the sole exception of sports lottery (football and basketball) interactive (online) gaming is not permitted. Macau enforces a strict prohibition on online gaming, covering online casinos, poker, and all forms of interactive gaming. During discussions surrounding the newly enacted Law No 20/2024, dated 28 October 2024 (Law to Combat Illegal Gambling Crimes), the government reaffirmed its opposition to legalising online gaming, citing significant social and regulatory concerns. Officials stated that regulating online gaming is not part of Macau’s legislative agenda. Consequently, operators are not allowed to offer online games, and individuals found facilitating such activities face severe penalties.

Furthermore, the recently enacted Law No 20/2024 criminalises the unauthorised operation of online gaming, covering games of chance and pari-mutuel betting. Under this law, individuals who operate, promote, or organise online gaming without appropriate legal authorisation – regardless of whether the systems, devices, or servers are located in Macau – face prison sentences ranging from one to eight years, with negligent involvement in such activities also subject to legal penalties.

In summary, all forms of online gaming are prohibited, except the following.

Sports Betting

Status: permitted, with restrictions

Sports betting in Macau is limited primarily to sports lotteries, specifically for football and basketball, under exclusive concessions. While popular in many international jurisdictions, general sports betting – such as those covering a broader range of sports or events – is tightly regulated and not readily permitted without explicit government concessions. These operators are subject to regulatory oversight by the Gaming Inspection and Coordination Bureau (DICJ) to maintain compliance with local laws and regulations.

For operators located outside Macau – and without prejudice to what is now criminalised under Law No 20/2024 and that has been mentioned – there have been reports of international co-operation in offering online gaming services to the Macau market. However, it remains unclear if Macau residents betting on foreign offshore platforms on a passive basis is considered illegal, as Macau’s laws lack a defined basis for action against foreign operators in cross-border betting scenarios.

2.2 Land-Based

Under Macau’s legal framework, three types of land-based gaming are permitted.

Games of Chance

Defined under Macau Gaming Law (specifically “Article 2.1.1”) as “those in which the result is contingent because it depends exclusively or mainly on the luck of the player”. Casino games of chance and their rules are authorised by the Secretary for Economy and Finance, published in the Macau SAR Official Gazette, based on recommendations from the Gaming Inspection and Coordination Bureau (DICJ), either on its own initiative or at the request of concessionaires.

Macau's authorised casino games include a variety of traditional and regional options, such as Baccarat, Blackjack, Craps, Fan Tan, Poker variations (like Texas Holdem), and Mahjong, among others. Games can only be conducted within the casinos or gaming areas of the concessionaires.

Pari-mutuel

Pari-mutuel (animal racing – horse and greyhound only), defined as a “system of betting on animal racing or a sporting event in which the winners split the total amount bet, after deduction of commissions, fees and taxes in proportion to the amount individually bet” (currently there are no concessions for the operation of pari-mutuel pursuant to the termination of horse-racing concession on 31 March 2024).

Operations Offered to the Public

Under the Macau Gaming Law these operations are “those in which the hope of winning resides solely on luck, such as lotteries, raffles, tombola and sweepstakes”. Sports betting on football and basketball is allowed under an instant lotteries' concession contract established before the 2001 Gaming Law.

Social games are also permitted.

3. Legislative Framework

3.1 Key Legislation

The primary legislation is set out below in chronological order. The list does not include secondary legislation.

Games of Chance

- Decree-Law No 47/98/M, dated 26 October 1998 (Administrative Licensing Legal Framework).
- Decree-Law No 39/99/M, dated 3 August 1999 (Article 1171 of the Macau Civil Code).
- Decree-Law No 40/99, dated 3 August 1999 (Commercial Code: gaming companies and commercial contracts).
- Law No 16/2001, dated 19 September 2001, with the amendments introduced by Law No 7/2022 (“Macau Gaming Law”: setting the general framework for the operation of games of fortune in casinos).
- Administrative Regulation No 26/2001, dated 29 October 2001, with the amendments introduced by Administrative Regulations Nos 34/2001, 4/2002 and 28/2022 (sets the general terms of the public tender required to select the concessions to operate games of fortune in casinos, as well as the suitability and financial capacity requirements of bidders and concessionaires).
- Law No 10/2012, dated 27 August 2012, with the amendments introduced by Law No 17/2018 (frequency of casinos).
- Administrative Regulation No 26/2012, dated 26 November 2012 (sets the rules applicable to the supply of gaming machines and related gaming equipment).
- Administrative Regulation No 19/2021, dated 21 June 2021 (DICJ framework).
- Administrative Regulation No 32/2022, dated 28 July 2022 (creates the Macau Gaming Commission).
- Administrative Regulation No 54/2022, dated 7 December 2022 (sets the rules for reduction or exemption of additional contributions).
- Law No 16/2022 of 16 December 2022 (regime of operation of casino games of chance).
- Administrative Regulation No 55/2022, dated 21 December 2022 (regulation of the regime of operation of casino games).
- Law No 7/2024 of 22 April 2024 (regime of credit for casino games of chance).

Lotteries and Sports Lotteries

- Ordinance No 27/86/M, dated 1 February 1986 and Law No 12/87/M, dated 17 August 1987 (Instant Lottery).
- Concession Contract awarded to SLOT – *Sociedade de Lotarias e Apostas Mútuas Limitada*, dated 21 February 1989, valid until 5 June 2024.
- Ordinance No 138/98/M dated 5 June 1998 (Sports Lottery – Football).
- Chief Executive Order No 62/2000, dated 27 April 2000 (Sports Lottery – Basketball).
- Executive Order No 8/2004 of 3 March 2004 (Lottery “Pacapio”).
- Executive Order No 20/2005 of 27 May 2005 (basketball betting).
- Executive Order No 67/2018 of 20 April 2018 (football betting).

Pari-mutuels

- Decree-Law No 7611 of 26 August 1964 (regulation for greyhound racing), with amendments.
- Ordinance No 163/90/M, dated 27 August 1990 (Horse Racing and Pari-mutuels).

Note: the legislation on greyhound racing has not been revoked, despite there being no concession for that activity in place.

Criminal Penalty Regime

- Law No 6/97/M, dated 30 July 1997 (Organized Crime Act), partially revoked.
- Law No 16/2001, with the amendments introduced by Law No 7/2002 (48-B establishes the crime of disobedience for entities that do not allow the authorities to enter the gaming premises subject to supervision, as well as administrative sanctions).
- Law No 2/2006, dated 3 April 2006 (Anti-money Laundering Act).

- Law No 3/2006, dated 3 April 2006 (Anti-terrorism Financing Act).
- Administrative Regulation No 7/2006, dated 7 April 2006 (preventive measures for the crimes of money laundering and financing of terrorism).
- Instruction No 1/2016, dated 21 April 2016, with amendments introduced by Instruction No 1/2019 (DICJ’s Instruction on Anti-money Laundering and Combatting the Financing of Terrorism for the Gaming Sector).
- Law No 20/2024, dated 28 October 2024 (Law on Combating Illegal Gambling Crimes).

3.2 Definition of Gambling

Defined under Macau Gaming Law as “those in which the result is contingent because it depends exclusively or mainly on the luck of the player”.

3.3 Definition of Land-Based Gambling

See 3.2 Definition of Gambling.

3.4 Definition of Online Gambling

According to Article 2.1.2) of Macau Gaming Law, interactive gaming encompasses games of fortune or chance under specific conditions that both define and restrict this category.

- Must involve the opportunity to win a prize, which can either be in cash or another item of value. This prize offer is essential to the game’s structure and must be in accordance with the game’s official rules.
- Players participate through telecommunications technologies, including phones, fax, internet, data networks, video signals, or digital data transmission, and players must either make, or agree to make, payments to engage in the game, whether in cash or other valuables.

- Must be offered or formally approved as casino games of chance, or as electronic or mechanical gaming machines within Macau casinos.

3.5 Key Offences

There are different offences stated in the Macau gaming legal and regulatory framework with different penalties depending on its nature.

Criminal Nature

Under the Gaming Law, simple disobedience (Article 48-B) is a crime applying to individuals who obstruct inspection authorities, such as DICJ or the Financial Services Bureau, by refusing them entry, failing to allow them to complete inspections, or withholding requested documents and data.

Law No 16/2022 introduced the crime of illicit deposit (Article 40), which targets casino concessionaires, gaming promoters, and related personnel who accept funds not intended for gaming purposes. This offence is punishable by two to five years of imprisonment for individuals, with fines up to MOP10.5 million or judicial dissolution for entities.

Disobedience (Article 41) under Law No 16/2022 reaffirms penalties for refusal to comply with inspection authority requirements, supporting enforcement within Macau's gaming regulatory environment.

As to the unlawful gambling, see also **3.6 Penalties for Unlawful Gambling**.

Administrative Nature

Under Macau Gaming Law (Article 45), the Chief Executive may terminate a casino concession for threats to Macau's or national security, significant obligation breaches, public interest, or

unsuitability of the concessionaire. Concession also ends by mutual agreement, reversion, or expiration.

In addition (Article 47), the Chief Executive may unilaterally terminate a concession for abandonment, non-payment, unauthorised transfer of rights, or unfulfilled investment obligations. All associated assets revert to Macau SAR without compensation.

Finally, it should be noted that, according to Article 48, the Chief Executive may terminate a concession if the casino concessionaire endangers national or Macau's security or is deemed unsuitable.

Contractual Nature

Casino concession contracts in Macau outline significant penalties for unauthorised actions, such as the transfer, disposal, or encumbrance of casino operations.

3.6 Penalties for Unlawful Gambling

Under Law No 20/2024, the penalties for unlawful gambling activities in Macau cover various offences with distinct penalties.

1. Unlicensed games of chance – operating unauthorised games of chance is punishable by imprisonment from one to eight years. Anyone collaborating in such activities can face up to three years in prison or a fine up to 360 days.
2. Participation in unlawful games – engaging in illegal gambling is penalised with imprisonment of up to six months or a fine up to 180 days. Being present in unauthorised gambling establishments may incur a fine of up to 90 days.
3. Unlicensed pari-mutuel betting – unauthorised pari-mutuel betting operators face one to eight

years of imprisonment, while collaborators may receive up to three years in prison or a fine up to 360 days.

4. Unlicensed online gambling – organising or promoting online games of chance or pari-mutuel betting without authorisation results in one to eight years of imprisonment. Negligence in such cases is also punishable.

5. Illegal lottery operations – running or selling unauthorised lottery tickets may lead to prison sentences of up to three years or fines of up to 360 days for operators, and up to two years or 240 days for unauthorised ticket sellers.

6. Unlawful loans and currency exchange – providing loans for gambling purposes can result in prison terms of one to five years, or up to eight years if identification documents are used as guarantees. Unauthorised currency exchange related to gambling carries a maximum sentence of five years.

7. Coercion and fraud in gambling – coercing someone to gamble through violence or threats is punishable by two to eight years in prison. Fraudulent gambling practices or using counterfeit gaming tokens may lead to prison sentences of one to five years.

3.7 Recent or Forthcoming Legislative Changes

Law No 20/2024 was enacted on 28 October 2024 and replaced Law 8/96/M. With its enactment, there is currently no anticipation of additional legislation in this area, as this law is expected to comprehensively address the needs and objectives of the industry in the future.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gaming Inspection and Coordination Bureau (DICJ), organically under the Secretary for Economy and Finance, is the public authority of the Macau SAR responsible for collaborating in the formulation of gaming industry policies, implementing these policies, and overseeing the regulation, supervision, and co-ordination of gaming operations and activities. Its organisation and functions are governed by Law No 19/2001, which defines its duties as follows.

- Assisting in defining, co-ordinating, and implementing gaming industry policies.
- Ensuring that casino gaming concessionaires, management companies, gaming promoters, and related entities abide with Macau SAR laws and uphold public interests.
- Supporting the drafting and refinement of gaming regulations and issuing necessary guidelines to relevant entities.
- Monitoring activities of casino gaming concessionaires, gaming promoters, and others to ensure compliance with legal and contractual requirements.
- Evaluating the financial capacity and suitability of concessionaires and other gaming-related entities.
- Overseeing all gaming activities to ensure they operate lawfully.
- Enforcing compliance with gaming laws.
- Tracking gross gambling revenue and other specified earnings.
- Conducting studies and research on gaming-related issues.
- Granting licences for casino game promotion activities.
- Regulating, inspecting, and approving gaming machines, equipment, and systems.

- Approving equipment and systems for use by casino gaming concessionaires.
- Encouraging casino gaming concessionaires and gaming promoters to comply with government policies and fulfil social responsibilities.
- Promoting responsible gambling practices.
- Performing other legally mandated responsibilities.

Other Agencies

In addition to the DICJ, other regulatory entities are empowered to oversee the gaming industry.

- Financial Services Bureau (DSF) – is responsible for managing and collecting all revenues owed to the Macau SAR. In co-ordination with the DICJ, it also has the authority to conduct audits of casino gaming concessionaires and promoters to ensure adherence to financial obligations and regulatory standards.
- Judiciary Police (PJ) – operates a dedicated unit with exclusive authority to investigate crimes within casinos, other gaming venues, and their surrounding areas.
- Financial Intelligence Office (GIF) – gathers and analyses the information related to potential money laundering and terrorist financing.
- Social Welfare Bureau (IAS) – addresses issues related to problem gambling, providing resources and support to mitigate the social impact of gambling.
- Health Bureau (SS) – is responsible for enforcing the casino smoking ban, ensuring compliance with public health regulations in gaming establishments.

4.2 Regulatory Approach

Macau's gaming regulatory framework is a hybrid system, combining prescriptive requirements with risk-based elements.

Embedded prima facie casino gaming concession contracts, the framework outlines strict guidelines and operational standards for concessionaires, promoters, and other industry stakeholders. It mandates comprehensive regulations for licensing, financial reporting, and operational practices – eg, internal control guidelines of DICJ – while setting clear expectations for compliance with laws and regulations.

In parallel, Macau's model incorporates risk-based regulation, especially in anti-money laundering (AML) and counter-terrorism financing (CTF). Agencies like the Financial Intelligence Office (GIF) apply risk indicators to assess transactions and monitor activities, enabling resource prioritisation toward higher-risk areas and tailored regulatory actions to safeguard the region's financial stability.

4.3 Recent or Forthcoming Changes

Macau's recent regulatory reforms – that date back to 2021 – in the gaming industry signal a decisive move towards tighter oversight, enhanced financial stability, and broader economic diversification.

Key developments include the following.

- As mentioned Macau's the recent enacted updated framework for gambling-related offences imposes tougher penalties and grants law enforcement additional powers to tackle illicit activities, including unlicensed currency exchanges within casinos, with strict penalties for offenders, reinforcing compliance with capital control regulations, and achieving one of the public policy statements of the Macau Gaming Law (Article 1-A.4): “[t]he operation of games of chance in casinos must remain free from criminal influence, ensuring that the casino's management and

operations align with the policies and mechanisms of the Macau Special Administrative Region concerning the fight against illegal cross-border capital flows and the prevention of money laundering and terrorism”.

- As of August 2024, only casino gaming concessionaires can extend credit to players, removing the independent credit role of gaming promoters to bolster financial oversight.
- With the recently elected Chief Executive, Mr Sam Hou Fai, at the helm, Macau aims to reduce its reliance on gaming and promote economic diversification.
- DICJ is increasing its inspectorate, increasing its staff to strengthen regulatory enforcement and industry compliance.

4.4 Types of Licences

Macau's gaming industry operates under an administrative concession model, where the government grants concessions to legally incorporated entities through administrative concession contracts. This approach applies to the operation of casino games, lotteries and (Chinese and sports lotteries). For casino gaming, concessions are awarded via an international bidding process organised by the Macau government, and only a maximum of six concessions are permitted under current statutes.

To qualify, applicants must be Macau-incorporated limited liability companies with a registered share capital of at least MOP5 billion (USD625 million). The company's business scope must include casino gaming, and a Macau permanent resident must hold at least 15% of the share capital and act as managing director. Applicants, qualified shareholders, directors, and key employees undergo a suitability assessment by the DICJ to ensure they meet stringent legal and financial standards. Financial capacity must be

demonstrated through guarantees from financial institutions or primary shareholders.

In the most recent 2022 international tender, seven entities competed for six available concessions, which were awarded to existing operators Wynn Resorts (Macau) SA, MGM Grand Paradise, SA, Galaxy Casino, SA, SJM Resorts, SA, Venetian Macau, SA, and Melco Resorts (Macau), SA. These ten-year contracts took effect on 1 January 2023, and will run through 31 December 2033.

Law No 16/2022, governing casino operations, also introduces a licensing requirement for gaming promoters, and all casino management companies and gaming promoter collaborators must obtain authorisations.

4.5 Availability of Licences Casino Gaming Concessions

In Macau, the operation of casino games is strictly regulated, requiring the award of a concession. Applications for these concessions are permitted only when the Macau government initiates a formal tender process, which is both limited and competitive. While this process provides entry points for eligible operators, it is unlikely that new tenders will be offered in the foreseeable future.

Gaming Promotion

Alongside the concession for the operation of casino games, the government also issues specific licences exclusively for gaming promoters who engage with the casino gaming concessionaires to support and promote gaming activities within their casinos. These licences are available for gaming promoters.

Gaming Equipment

The authorisation regime in Macau for gaming machines, equipment, and systems is governed by stringent regulatory requirements. Only manufacturers with authorisation from the Gaming Inspection and Coordination Bureau (DICJ) are permitted to supply gaming machines in the region. This authorisation mandates that suppliers meet high standards in terms of technical specifications, quality control, and operational security. Additionally, gaming machines must comply with technical standards approved by Macau, undergo rigorous inspections, and be compatible with the electronic monitoring systems required by the DICJ.

4.6 Duration of Licences

Casino Gaming

Under Macau Gaming Law, the maximum term for a gaming concession is set at ten years. However, extensions can be granted in exceptional cases, allowing renewals of up to three additional years if justified and approved by the Chief Executive.

Gaming concessionaires undergo a performance review every three years, ensuring ongoing compliance with contractual obligations. According to Article 45, the Chief Executive, with input from the Specialized Commission for Casino Games, holds authority to terminate a concession based on several grounds, including risks to national or Macau security, mutual agreement with the concessionaire, non-compliance, and reasons of public interest.

Unilateral termination can also occur if a concessionaire fails to meet critical obligations, such as abandoning or suspending operations without cause, unauthorised transfers of operations, failure to pay required taxes or premiums, or

neglecting investment commitments stipulated in the concession contract.

Additionally, the Macau government retains the right to redeem or order administrative intervention (sequestration) of a concession in specific circumstances. Should termination or redemption occur, Macau can assume control of the casinos and gaming assets, reinforcing the government's commitment to regulatory integrity in the gaming sector.

Gaming Promotion

The validity of a gaming promoter licence in Macau, as specified in Law No 16/2022, is initially from the date of issuance until 31 December of the following year. After the initial period, the licence can be renewed annually. Each renewal extends the licence for an additional year, contingent upon continued compliance with licensing requirements and suitability assessments.

Gaming Equipment

The authorisation is granted if the conditions are met, and the authorised entities shall submit an application to renew the authorisation every year to continue supplying gaming equipment.

Additionally, a mandatory suitability review is required every six years.

4.7 Application Requirements

Casino Gaming Concessions

The process of applying for a concession is regulated by Administrative Regulation No 26/2001. As mentioned, Macau operates under a concession system. This system grants a concession to operate to successful applicants following a public tender. The process begins with the establishment of a tender committee by the Executive. Interested companies/bidders, along with their directors, key employees

and shareholders holding more than 5% of the share capital, undergo a suitability and financial capacity assessment supervised by the DICJ before receiving authorisation. Once the public tender is concluded and all requirements and criteria are met, a concession contract is signed between the concessionaire and the Macau government, providing further legitimacy to the casino gaming concessionaire's operations.

Gaming Promotion Licence

As to the gaming promotion activity, Law No 16/2022 lays out rigorous conditions to ensure that only qualified entities meet the standards to be licensed as gaming promoters, with requirements on corporate structure and purpose, financial capacity, residency and ownership, suitability, existence of an operational agreement, as well as a guarantee to ensure compliance. The following provides a summary.

1. The entity must be a legally established company in Macau, specifically structured as a limited liability company by shares. Importantly, its exclusive business scope must be limited to gaming promotion.

2. Applicants are required to maintain a minimum capital of MOP10 million (approximately USD1.25 million), fully paid in cash upon incorporation. This capital threshold must be maintained throughout the licence period to ensure financial resilience and responsibility in operations.

3. At least 50% of the company's share capital must be owned by Macau permanent residents who are at least 21 years old. Additionally, all shareholders must be individuals legally capable of exercising their rights, ensuring local representation and accountability.

4. The company, along with its major shareholders, directors, and key employees, must undergo a suitability review conducted by DICJ. This assessment checks for financial stability, outstanding debts, unresolved legal fines related to gaming, and the absence of any bankruptcy or insolvency history among stakeholders.

5. Applicants must secure an agreement with a licensed casino concessionaire to provide gaming promotion services. This partnership must be formalised and is a crucial prerequisite for obtaining the promoter licence.

6. To ensure compliance with Macau's stringent gaming regulations, promoters must provide a financial guarantee as stipulated by law.

Gaming Equipment Authorisation

To secure authorisation from DICJ, gaming machine manufacturers must provide comprehensive documentation, including proof of authorisation from relevant jurisdictions, records of compliance, and details of authorised machine models. Additionally, applicants must submit a notarised legal declaration affirming the standing of existing licences and a full disclosure of ownership structure, focusing on stakeholders with 5% or greater capital involvement.

4.8 Application Timing

Casino Gaming Concessionaires

For casino gaming concessions, the timeline follows the schedule set out in the public bidding rules, which defines the phases and deadlines for application, evaluation, and awarding.

Gaming Promoters

There is no set timeline for gaming promoter licences. The time required for approval depends on how quickly applicants meet all specified requirements, as each application undergoes a

detailed review to ensure compliance with regulatory standards.

Gaming Equipment Manufacturers and Distributors

There is no set timeline for the authorisation to be granted. The time required for approval depends on how quickly applicants meet all specified requirements, as each application undergoes a detailed review to ensure compliance with regulatory standards.

4.9 Application Fees

Macau's casino concession tender process establishes clear guidelines to ensure that applicants meet the highest standards for operating gaming activities. The tender programme specifies minimum requirements for applicant eligibility, including financial capacity, suitability, and the ability to contribute positively to the Macau SAR. Applicants must also offer terms that align with the proper and advantageous operation of casino games in Macau.

To participate, applicants must provide a guarantee deposit, the amount of which is set by an order from the Chief Executive.

4.10 Ongoing Annual Fees

Casino concessionaires in Macau are obligated to pay an annual premium, consisting of a fixed and a variable portion, for the right to operate games of chance. The fixed portion is currently set at MOP30 million, as determined by the Chief Executive's Dispatch No 215/2001. The variable portion is based on the specific gaming activities conducted, with costs assigned per type of gaming table and machine: VIP tables incur MOP300,000 each, non-VIP tables MOP150,000 each, and gaming machines MOP1,000 each. Contracts also establish a minimum guaran-

teed amount for this variable premium portion, regardless of the number of tables operated.

A special premium applies when gaming tables or machines fail to meet an annual minimum gross revenue, as set in Dispatch No 162/2022. This special premium is MOP7 million per gaming table and MOP300,000 per gaming machine and compensates for the difference between actual and minimum revenue.

Additionally, concessionaires must make special contributions during the concession term. These include a 2% contribution of the gross gaming revenue (GGR) to a public fund for cultural, social, and educational initiatives, and a 3% contribution to support urban development, tourism promotion, and social security. The Chief Executive may reduce or waive these contributions under specific conditions, such as efforts to expand customer markets or the occurrence of extraordinary, unforeseen events that negatively impact Macau's economy and casino operations.

As to gaming promoters, under Dispatch No 232/2022, there are specific fees for gaming promoters and collaborators as follows.

- Gaming Promoter Licence – issuance and renewal fees are set at MOP3,000, with a MOP500 fee for a replacement copy.
- Collaborator Authorisation – issuance and renewal fees are MOP1,500, and a replacement copy incurs a fee of MOP200.

5. Land-Based Gambling

5.1 Premises Licensing

The 2022 reform in Macau introduced updates to the definition and regulation of casino gaming premises, summarised as follows.

Authorised Locations Only

Gaming is now exclusively permitted in venues authorised by the Chief Executive. Approval takes into account Macau's urban planning standards and social impact, with insights from the Specialized Gaming Commission to ensure community alignment.

Property Ownership Requirements

Casinos are generally required to be on properties owned by their concessionaires, with limited exceptions for temporary gaming on Macau-registered vessels or aircraft travelling on designated routes outside the region. Additionally, a grace period has been established for satellite casinos. See **5.2 Recent or Forthcoming Changes**.

Regulated Casino Zones

Every gaming establishment must include specific functional zones, which include designated areas for gaming, cashier and treasury operations, surveillance, storage for chips and cash, and restricted logistical spaces for employees.

Modification and Closure Approvals

All structural changes or closures of casino premises require prior approval from the Chief Executive. Upon concession expiry or termination, casino facilities and equipment may revert to government control, reinforcing regulatory oversight.

Enhanced Security and Compliance Measures

Casinos are required to implement rigorous surveillance and monitoring systems as mandated by Macau's regulatory bodies.

5.2 Recent or Forthcoming Changes Recent Changes

Law No 7/2024 kind of closed the loop in terms of legal and regulatory framework for land-based casino industry in Macau. It has overhauled how casinos extend credit to patrons, centralising this authority with concessionaires and shifting away from the previous promoter-driven model. Promoters, who formerly played a central role in extending credit to high-stakes players, are now limited to acting as agents for concessionaires, without the ability to independently negotiate credit terms. This change could lead to a more standardised approach to credit and may prompt operators to explore new strategies for engaging high-value patrons within this structured framework.

Complementing these changes, Law No 20/2024, effective from 28 October 2024, intensifies Macau's stance on illegal gambling by introducing broader penalties, including fines for unauthorised gaming, illegal loans, illegal money exchange, and unlicensed betting operations. Provisions include nighttime searches and extended pretrial detention, aiming to strengthen enforcement and regulatory oversight, signalling a significant shift in Macau's regulatory framework to support a more controlled gaming environment.

Focus on SMEs and Social Responsibility

In alignment with concession contracts, casino concessionaires will continue to be expected to contribute to the local economy by supporting Macau's SMEs and engaging in socially respon-

sible projects. Concessionaires, under the concession contracts, are encouraged to direct resources toward local development, labour rights, and community-focused initiatives, reinforcing a commitment to Macau's broader economic and social landscape.

RFID Tracking for International Markets

Following efforts to attract foreign gamblers to designated areas, the government has advocated for the use of RFID technology to monitor betting activity among foreign visitors. Infrastructure to support RFID tracking is expected to continue to be installed, with the goal of analysing betting patterns and turnover among international patrons. This technology is expected to provide operators with insights to improve their strategies in engaging foreign markets. However, the effectiveness of these measures will depend on the response of international gamblers and how well casinos adapt their business approaches to the new data-driven framework.

Satellite Casinos

As previously noted, the 2022 reform introduced a grace period for "satellite casinos" – casinos operated by concessionaires on properties owned by third parties – allowing them to meet new ownership requirements. Under this provision, satellite casinos can continue operations during a three-year transition period, from 1 January 2023 to 31 December 2025. This grace period gives operators time to adjust their property ownership structures or make other necessary compliance changes.

Whether concessionaires will acquire these properties or if 31 December 2025 will mark the end of satellite casinos remains to be seen.

Enhanced Oversight

DICJ has taken decisive steps to enhance regulatory oversight within the gaming sector. Empowered by recent legislative updates, the DICJ now enforces stricter controls over concessionaire practices, including credit issuance, anti-money laundering protocols, and the activities of gaming promoters. This increased oversight may involve more frequent audits and detailed background checks on major industry participants, ensuring that all operations align with Macau's high standards for integrity and transparency, with the goal of building a stronger framework for accountability and reinforce Macau's commitment to a sustainable and secure gaming industry.

6. Online Gambling

6.1 B2C Licences

B2C licences are not applicable in Macau.

6.2 B2B Licences (Suppliers, Software, Etc)

B2B licences are not applicable in Macau.

6.3 Affiliates

The use of affiliates does not apply in Macau.

6.4 White Labels

In Macau, white labels do not apply.

6.5 Technical Measures

Technical measures are not applicable in this jurisdiction.

6.6 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes regarding the enactment of Law 20/2024, which criminalises unauthorised online gambling. According to Article 7, individuals who operate,

promote, or organise online games of chance or pari-mutuel betting without legal authorisation may face prison sentences ranging from one to eight years. This applies to all forms of remote gambling conducted through electronic or digital platforms, regardless of whether the systems or equipment are physically located in Macau. Additionally, negligent involvement in such activities is also subject to penalties, reinforcing Macau's stringent approach to unlawful online gaming.

To ensure compliance with this newly enacted law, enforcement measures are anticipated, potentially including heightened monitoring of digital platforms, cross-border co-operation, and investigative protocols designed to identify and prosecute unauthorised operators. The law's rigorous enforcement is expected to uphold Macau's regulatory standards by deterring illegal online gambling activities, preserving the integrity of Macau's gaming industry, and aligning with broader goals of public and economic security.

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

7.1 RG Requirements

The RG requirements are stated in the Macau Gaming Law (Articles 42-A and 42-B) mandates casino concessionaires to actively promote responsible gambling. This includes offering clear information on safe gambling practices and the risks of addiction, as well as enforcing access restrictions for individuals who are barred from entering casinos.

The concession contracts expand on these responsibilities, mandating that each casino

gaming concessionaire establish a specialised team dedicated to responsible gambling support. This team is tasked with assisting individuals impacted by gambling-related issues and training staff to identify and respond to signs of problem gambling. Additionally, concessionaires must submit annual reports to the DICJ, outlining their responsible gambling activities and plans for the upcoming year.

7.2 Gambling Management Tools

See 7.1 RG Requirements.

Macau has implemented measures to encourage responsible gambling practices, including allowing individuals and their family members to voluntarily ban themselves from entering casinos for a period of up to two years. This confidential process is managed through the Gaming Inspection and Coordination Bureau (DICJ).

Following the 2022 amendment to Macau's Gaming Law, new regulations have been put in place. These require casinos to develop and implement comprehensive responsible gambling strategies, including:

- restrictions on gambling-related advertisements;
- limitations on the placement of ATMs within casino premises; and
- mandatory provision of support resources for those affected by gambling issues.

As part of these support resources, casinos must offer access to helplines and information about treatment centres for individuals seeking assistance with gambling-related problems.

7.3 Recent or Forthcoming Changes

The 2022 reform introduced the aforementioned RG requirements, which casino gaming conces-

sionaires have since implemented. Although most gamblers are not local residents, maintaining these measures is crucial to fostering a safe gaming environment and upholding Macau's commitment to responsible gaming. Additionally, the government could conduct and publish more accurate studies assessing the social and economic impacts of gambling. These studies could provide valuable insights to evaluate the effectiveness of responsible gambling measures and guide future public policy.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Macau's casino industry adheres to strict anti-money laundering (AML) standards, overseen by the DICJ and aligned with APG guidelines.

Casino concessionaires must conduct customer due diligence, report suspicious transactions, and undergo independent annual audits. Meticulous accounting and accessible record-keeping are mandated, with auditors required to immediately report any suspected money laundering. The DICJ and DSF may perform unannounced audits, and the Chief Executive may order further financial audits for public interest.

Key legislation includes the following.

- Laws No 2/2006 and No 3/2006 (amended by Law No 3/2017) for AML/CFT measures.
- Administrative Regulation No 7/2006 (amended by Administrative Regulation 7/2017) on AML/CFT preventive protocols.
- DICJ Instruction 1/2016 (amended by Instruction 1/2019) outlining preventative measures required of gaming operators.

8.2 AML Requirements

Macau's AML framework for casinos requires rigorous transaction reporting and internal compliance.

High-Value Reporting (ROVE)

For high-value transactions of MOP500,000 (USD62,500) or more within 24 hours, a report – known as “ROVE” – must be completed within two business days. The ROVE must include details such as the individuals involved, transaction amount, origin of funds, and compliance officer approval. It is submitted to the DICJ electronically on the 1st and 15th of each month.

Suspicious Transaction Report (STR)

Suspicious activities, regardless of amount, are reported to the Financial Intelligence Unit (GIF) through a Suspicious Transaction Report (STR) within two working days of detection. Casinos must report any gaming, betting, or credit activities that seem unusual in nature, complexity, or amount and could indicate money laundering or terrorist financing. If customer due diligence alerts a patron to the investigation, it is permissible to delay actions as long as the transaction is still reported as suspicious.

Internal AML Programme Requirements

Casinos must also maintain an internal AML programme that includes continuous staff training and assessments of their control systems to ensure AML/CFT measures are effective. The Chief Executive sets specific AML programme standards, considering FATF recommendations and evaluation reports, to enhance the effectiveness of these preventative measures.

8.3 Recent or Forthcoming Changes

Macau SAR, a member of the Asia-Pacific Group on Money Laundering (APG) since 2001, has steadily reinforced its AML framework, especial-

ly within the casino industry. Since 2015, DICJ introduced heightened standards, focusing on advanced accounting practices, enhanced customer due diligence, and required suspicious transaction reporting. Macau's efforts were recognised in APG's evaluations, achieving compliance with 37 of 40 FATF recommendations by 2017 and all 40 by 2019, becoming the first evaluated jurisdiction to do so.

In 2024, Macau's Financial Intelligence Office reported a 29.6% increase in Suspicious Transaction Reports (STRs) from January to September, totalling 4,118. This rise was mainly due to increased reports from the financial (20.5%) and gaming sectors (73.8%), with remaining reports from other institutions (5.7%). These figures reflect Macau's growing vigilance and commitment to AML compliance, with further evaluations anticipated soon.

9. Advertising

9.1 Regulatory/Supervisory Agency

The primary regulatory bodies overseeing advertising in Macau include the Economic and Technological Development Bureau (DSED), which monitors compliance with advertising standards, and the Gaming Inspection and Coordination Bureau (DICJ), which specifically regulates advertising within the gaming industry.

9.2 Definition of Advertising

There is no specific definition of advertisement of gaming in Macau. Nonetheless, under Law No 7/89 (Macau's Advertising Law) an advertisement is broadly defined as any public communication intended to promote products, services, or activities, regardless of the medium used. This definition includes all promotional materials aimed at influencing consumer behaviour or

raising awareness of a specific activity or service.

9.3 Key Legal, Regulatory and Licensing Provisions

Promotional activities within casinos require DICJ's approval.

9.4 Restrictions on Advertising

Law No 7/89/M regulates advertising content and methods, with specific restrictions on games of chance. Advertising that directly promotes games of chance is prohibited, although information related to gaming can be shared in limited contexts like classified listings or yearbooks. The law aims to control public exposure to gaming advertisements, restricting promotional activities outside approved venues and minimising the impact on the general public.

This restrictive stance was formalised in June 2015 when guidelines clarifying what qualifies as illegal advertising of games of chance, limiting these rules strictly to gaming-related promotions.

In July 2019, DICJ extended these rules to non-gaming commercial activities within casinos. Concessionaires and promoters must now obtain prior approval for any promotional activities within casino premises, covering verbal announcements, media displays, and physical promotional materials, further underscoring Macau's commitment to regulating gaming advertisement.

Despite the aforesaid restrictions, under Macau's gaming law and concession contracts, casino gaming concessionaires are required to promote their developments both locally and internationally, positioning Macau as a top destination for tourism and entertainment. These advertising

efforts align with the government's goal of economic diversification, extending Macau's appeal beyond gaming.

Concessionaires must also work closely with the Macau government on global promotional initiatives, supporting campaigns that showcase Macau's unique offerings.

9.5 Sanctions/Penalties

Violations of gaming advertising regulations incur administrative fines of MOP2,000 to 12,000 for individuals and MOP5,000 to 28,000 for companies.

9.6 Recent or Forthcoming Changes

No changes to advertising rules are expected in the near future.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosure Requirements

The disclosure requirements for Macau casino concessionaires and shareholders, particularly those holding 5% or more of the share capital, are outlined under the Macau Gaming Law and concession contracts.

Key obligations include the following.

- Any transfer or encumbrance of shares, or other rights related to these shares, by the concessionaire or shareholders holding 5% or more of the company's capital, requires prior authorisation from the Secretary for Economy and Finance. This includes actions such as assigning voting rights to non-shareholders, transferring real or credit rights exceeding limits set in the concession contract, and

entering into loan agreements above specified thresholds. Failure to obtain this authorisation renders the actions null and void.

- Furthermore, if a shareholder's interest is transferred by inheritance, the concessionaire must inform DICJ within 15 days of the inheritance, along with relevant documents.

Once authorisation is granted, concessionaires are required to submit supporting documents to the DICJ within 30 days of the transaction.

Cross-Shareholding

There are legal restrictions on cross-shareholding among casino gaming concessionaires, prohibiting a concessionaire or a qualified shareholder from directly owning shares in another casino concessionaire or indirectly holding 5% or more of the share capital in another concessionaire.

Foreign Gaming and Public Listing

Moreover, the concessionaire must inform DICJ within 15 days of becoming aware that any of its directors or any shareholder holding, directly or indirectly, 5% or more of its capital are involved in licensing or concession processes for operating casino games of chance in other countries or regions, commencement or cessation of such gaming operations abroad.

Same applies if any shareholders holding 5% or more of the concessionaire's capital, directly or indirectly, are listed on a stock exchange.

If a concessionaire wishes to operate games of chance in casinos in other countries or regions, it must obtain prior authorisation from the Chief Executive, following consultation with the Specialized Committee on Games of Chance. To meet this requirement, the concessionaire is obligated to submit to the Macau SAR govern-

ment, or make efforts to obtain and submit, any documents, information, or data requested for this purpose, except for those deemed confidential by law.

10.2 Change of Corporate Control Triggers

See 10.1 Disclosure Requirements.

10.3 Passive Investor Requirements

See 10.1 Disclosure Requirements.

10.4 Recent or Forthcoming Changes

No changes to advertising rules are expected in the near future in Macau.

11. Enforcement

11.1 Powers

Under Macau's gaming laws, regulations, and casino gaming concession contracts, DICJ is granted a comprehensive set of enforcement powers.

These allow the DICJ to, among others, do the following.

- Perform regular and unannounced inspections of gaming premises to ensure compliance with legal and contractual obligations. Inspectors may access all areas of a casino, review operational practices, and examine pertinent documents to verify adherence to regulations.
- Impose fines and other penalties in cases of regulatory violations.
- Actively monitor revenue flows and conduct periodic financial audits to promote financial transparency and mitigate risks of money laundering and other illicit activities.

- License gaming promoters and approve gaming equipment and systems used within casinos.

11.2 Sanctions

See 3.5 Key Offences and 3.6 Penalties for Unlawful Gambling.

Criminal Sanctions

The Gaming Law establishes the offence of simple disobedience (Article 48-B), applicable to anyone who refuses to permit inspection staff from the DICJ or the Financial Services Bureau to enter and remain in inspection areas until the inspection is complete, or who fails to present and provide requested documents and data as required by law.

As mentioned, the recently enacted Law No 20/2024 also criminalises certain conducts with imprisonment up eight years.

The Criminal Procedure Code in Macau governs the entire criminal process, starting with Investigation and Evidence Collection, where the Judiciary Police (PJ) conducts inquiries, gathers evidence, and collaborates with specialised agencies on financial crimes. Following this, the Public Prosecutions Office (MP) evaluates the evidence and decides on filing charges, ensuring due process in accordance with the code. Judicial process and sentencing take place in court, where structured trials assess evidence and legal arguments. Sentences, including imprisonment or fines, are then imposed if defendants are found guilty by a decision that cannot be appealed.

Administrative Sanctions

With the 2022 reform, Macau's Gaming Law now clearly defines administrative penalties for non-compliance, with fines scaled by the severity of

the offence. Previously, administrative offences were managed under various laws, including those addressing illegal gambling, AML, and advertising.

Sanctions include the following.

- Minor offences – fines from MOP100,000 to 500,000 for violations like breaches in accounting or internal controls.
- Serious offences – fines between MOP600,000 and 1.5 million for failures to meet capital requirements or similar infractions.
- Grave offences – fines from MOP2 million to 5 million for severe violations such as unauthorised gaming or use of non-owned properties for gaming activities.

Law No 16/2022 (Law on Operation of Casino Games) further specifies fines for specific infractions, such as up to MOP500,000 for failure to submit management contracts and up to MOP5 million for exceeding commission limits. Additional penalties can include partial or full casino closures for up to one year or public disclosure of the sanctions imposed.

In addition to fines, the law authorises further sanctions, including temporary bans on credit extension or representation contracts for up to one year and mandatory public disclosure of violations.

Law No 7/2024 (Credit for casino gaming law) introduced administrative sanctions for non-compliance, with concessionaires and gaming promoters now face stricter financial penalties based on offence severity.

- Severe violations – fines of MOP2 million to 5 million apply for unauthorised credit activities and critical regulatory breaches.
- Moderate violations – fines from MOP600,000 to 1.5 million target failures in contract compliance and oversight.
- Minor violations – fines of MOP100,000 to 500,000 are imposed for less serious infractions.

The severity of fines and additional sanctions under Law No 7/2024 is determined by key factors, including: the gravity of the offence, the harm caused, offender's level of fault and financial capacity, any benefits gained from the violation, and offender's prior conduct.

Administrative sanctions in all legal instances are imposed under the Administrative Procedure Code, which establishes the legal standards for handling these offences. Regulatory authorities such as DICJ follow this code's structured procedures for investigating infractions, issuing fines, suspending licences, and applying other penalties, with adherence to due process and appeal rights. DICJ serves as the primary enforcement body in the gaming industry, imposing sanctions for violations such as breaches of concession contracts or regulatory non-compliance.

Contractual Sanctions

Casino gaming concession contracts include penalty clauses that impose sanctions in cases of assignment, transfer, disposal, or encumbrance of the operation of a casino or gaming area.

These penalties range from MOP600 million to 2 billion.

Further sanctions may include sequestration, redemption, or termination of the concession.

- Sequestration – this allows the government to temporarily assume control of a concession if there are serious operational issues, such as unjustified interruptions or severe organisational deficiencies.
- Redemption – Macau reserves the unilateral right to reclaim a concession through redemption, with compensation to the concessionaire, as determined by the government.
- Termination (legal basis above, being this part stated in the concession contracts) – the government can also terminate a concession based on public interest or non-compliance. In cases of termination for public interest, the concessionaire is entitled to fair compensation, reflecting investments made and the remaining duration of the concession.

11.3 Financial Penalties

See 11.2 Sanctions.

11.4 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes, 3.7 Recent or Forthcoming Legislative Changes, 4.3 Recent or Forthcoming Changes, 6.6 Recent or Forthcoming Changes and 8.3 Recent or Forthcoming Changes.

12. Tax

12.1 Tax Rate by Sector

Games of Chance

Under Article 27 of the Macau Gaming Law, casino gaming concessionaires must pay a special gaming tax of 35% on gross gaming revenue, payable by the 10th day of each month. In addition, gaming operators are required to contribute 2% of their gross gaming revenue to public funds for cultural, scientific, social, economic, and educational development, as well as

an additional 3% for urban development, tourism promotion, and social security initiatives. A 5% tax is also applied to commissions paid to gaming promoters.

See also 4.10 Ongoing Annual Fees on annual premium and special premium.

Despite this taxation structure, the Macau Gaming Law grants the Chief Executive the authority to partially or fully exempt operators from the Income Complementary Tax if deemed in the public interest.

Operations Offered to the Public (Lotteries, Including Sports Lotteries)

The operator for instant lotteries, including the sports lottery, must pay a minimum annual rent of MOP1 million. The rent is determined based on sales revenue thresholds as follows:

- for sales revenue from MOP0 to 10 million, a rent of MOP1 million is due;
- for revenue between MOP10,000,001 and 30 million, 12% of the excess is due as rent;
- for revenue between MOP30,000,001 and 45 million, 13% of the excess is due;
- for revenue between MOP45,000,001 and 60 million, 14% of the excess is due; and
- for revenue between MOP60,000,001 and 80 million, 16% of the excess is due.

Pari-mutuel

This is not in operation and it is not foreseeable that it will be in the future.

12.2 Recent or Forthcoming Changes

No changes to the taxation of Macau's gaming industry are expected in the near future.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There are no personal licences in Macau's gaming industry; however, in line with one of the points of the public policy statement stated in Article 1-A.1.6) of the Macau Gaming Law, which states that the individuals involved in the supervision, exploitation, management, and operation of games of chance in casinos must be suitable possess to carry out those functions, certain individuals involved in the industry are subject to suitability verification and or authorisation by DICJ.

Directors

Directors of the concessionaires, manufacturers of gaming machines, gaming promoters and management companies are subject to suitability verification.

Key Employees

Under Macau gaming laws and regulations key employees are those who, with the concessionaire's authorisation and on its behalf, enter into legal transactions and perform acts related to personnel management, financial matters, or business operations, and comprise those who hold the highest positions in the following areas:

- operation of games;
- administration;
- finance;
- human resources;
- compliance;
- legal; and
- IT.

These key employees are subject to suitability verification by DICJ.

Collaborators

Macau Gaming Law defines collaborators as individuals selected by gaming promoters, who are not their employees, to assist in gaming promotion activities with authorisation from DICJ.

Law 16/2022 establishes the requisites to act as a collaborator.

13.2 Application Process

Suitability

Applicable to all individuals mentioned in **13.1 Types of Authorisations and Licences**, with the assessment relying on specific forms that closely follow the multi-jurisdictional personal history disclosure form of the International Association of Gaming Regulators. Suitability and financial capacity must be upheld throughout the concession term or authorisation period.

The process initiates with an application to the DICJ, accompanied by documents such as personal identification, residency proof, and professional qualifications.

DICJ will then conduct a background check to assess individual's integrity, financial stability, and experience. If the assessment is satisfactory, the DICJ will grant authorisation, which is contingent on ongoing compliance with relevant laws and regulations.

13.3 Ongoing Annual Fees

Directors and Key Employees

The concessionaires, gaming promoters and gaming machine manufacturers are responsible for covering the costs associated with the suitability verification process for directors and key employees with DICJ. The payment method is established in the respective concession contract or through an agreement between the government and the concessionaire. According to

the concession contracts, concessionaires must bear these verification costs within the timeline set by DICJ; for this purpose, DICJ will issue a document stating such costs, which will constitute sufficient proof thereof.

Collaborators

The issuance and renewal of the authorisation entails a fee of MOP1,500.

13.4 Ongoing Requirements

See 13.2 Application Process.

13.5 Personal Sanctions

Although there are no directly imposed personal sanctions, individuals deemed unsuitable can indirectly face consequences. Their unsuitability may jeopardise the licences and operating permissions of their associated concessionaires, gaming promoters, or manufacturers, leading to potential revocation or suspension of those entities' approvals. This indirect approach ensures accountability without explicitly targeting individuals.

13.6 Recent or Forthcoming Changes

No changes are expected in the near future with respect to personal approvals and licensing in Macau.

Trends and Developments

Contributed by:

Pedro Cortés

Lektou

Lektou was founded in 1985 and was formerly known as Rato, Ling, Lei & Cortés – Advogados e Notários. It has established itself as a leading full business law firm in Macau, with additional offices in Hengqin and Shenzhen (China), and Lisbon and Oporto (Portugal). Lektou is dedicated to excellence in legal services, emphasising professionalism, integrity, multiculturalism and innovation to create value for clients while striving to find the best solutions. In the dy-

namic field of gaming law, Lektou stands out as a trusted adviser with extensive experience in gaming-related transactions, regulatory compliance, licensing for operators and suppliers, and all facets of the gaming industry. Over the years, the firm has honed its specialisation, ensuring that clients benefit from insights and strategies that reflect the unique challenges and opportunities in both Macau and Portugal.

Author



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The Latest in Gaming Law in Macau in 2024

Introduction

The Macau gaming industry continues to be the key economic driver and cultural landmark, and it has been on a recovery journey post-pandemic. Since the full lifting of entry restrictions in early 2023, Macau's casino operators have capitalised on renewed demand, seeing Gross Gaming Revenue (GGR) rebound to nearly pre-pandemic levels, with total GGR for 2023 reaching MOP183 billion (USD22.8 billion), reflecting a 333.8% increase compared to 2022. Despite this significant rebound, the 2023 GGR was approximately 62.5% of the pre-pandemic levels seen in 2019, when Macau's GGR stood at MOP292.46 billion (USD36.5 billion).

October 2024's GGR – with the influence of the National Day (Golden Week) – alone reached MOP20.79 billion (approximately USD2.60 billion), marking the highest monthly revenue since January 2020 and a clear signal of Macau's resurgence. For the first ten months of 2024, GGR has amounted to MOP190.14 billion (USD23.7 billion), a 28.1% increase from 2023.

The election of the new Chief Executive, Mr Sam Hou Fai, former President of the Last Instance Court, in 2024 may bring further momentum to Macau's economic and regulatory landscape, particularly for the gaming sector. In his political manifesto, he emphasised the importance of gaming to the economy and highlighted a renewed focus on diversifying Macau's economy while promoting sustainable tourism. This may indicate potential policy shifts that could further support the gaming industry in its efforts to transform into a diversified and globally competitive ecosystem.

Recent legislative trends

New laws, including Law No 7/2024 and Law No 20/2024, enacted already during 2024, bring substantial shifts to credit policies and gambling-related offences.

Credit for gaming law

Enacted in August 2024, Law No 7/2024 brought a comprehensive restructuring of Macau's credit framework within the casino gaming industry. This legislation replaced the previous regime (Law 5/2004) and system by granting exclusive authority to casino concessionaires to extend credit directly to patrons, fundamentally changing the relationship between high-stakes players, gaming promoters, and operators.

In the past, gaming promoters were instrumental in facilitating credit, working closely with high-rollers to offer customised credit arrangements. Now, however, promoters are limited to acting solely as agents for concessionaires, reducing their influence and potentially restricting high-stakes players' access to personalised credit options.

This regulatory shift marks a challenging change for the industry, prompting operators to re-evaluate their strategies for engaging high-roller patrons and managing credit offerings. Concessionaires must now develop innovative approaches to attract and retain this essential customer base under more stringent credit controls. Successfully adapting to these changes will require operators to balance regulatory compliance with the high expectations of the competitive gaming environment. In doing so, they will need to explore new methods to meet VIP clients' evolving demands, despite the reduced flexibility in credit terms that was previously facilitated by gaming promoters.

Unlawful gambling law

On 28 October 2024, Macau introduced Law No 20/2024, which strengthens the regulatory framework for penalising unlawful gambling activities. This law raises fines and penalties across six categories, including unauthorised games of chance, pari-mutuel betting, online gaming, and illegal lotteries. It also targets illegal loans linked to gambling and provides for the administrative dissolution of entities involved in gambling-related crimes. The law introduces enhanced enforcement capabilities, such as nighttime residential searches and extended pre-trial detention, giving law enforcement stronger tools to combat illegal activities.

Another significant addition is the law's treatment of illegal money exchanges related to gambling. The new law criminalises the unauthorised currency exchanges that flourished within and around the casino premises.

- Engaging in unauthorised money exchanges for gambling purposes, including currency exchanges within casino premises, is punishable by up to five years in prison.
- Similar to illegal loans, the law presumes that any currency exchange within a casino is linked to gambling unless proven otherwise.

Last, but not the least, this law criminalises the unauthorised operation of online gaming, covering games of chance and pari-mutuel betting. Under this law, individuals who operate, promote, or organise online gaming without appropriate legal authorisation – regardless of whether the systems, devices, or servers are located in Macau – face prison sentences ranging from one to eight years, with negligent involvement in such activities also subject to legal penalties.

The unlawful gambling law demonstrates Macau's commitment to preserving the integrity of its gaming industry by shortening illicit activities and enhancing the legal consequences for violations, with a clear message of zero tolerance for illegal gambling.

As an example of this approach, in was announced that within the first two days of enforcement, authorities identified two cases of illegal currency exchange for gambling in the Cotai region, leading to the detention of three suspects, all from mainland China, and the seizure of gaming chips valued at a total of HKD98,000.

Market trends

Shifting focus from VIP to premium mass market and mass market

The growth of Macau's mass-market segment reflects a shift from its traditional pre-COVID-19 dependence on the VIP sector, with operators now focusing on attracting a broader, more diverse group of international tourists, as mandated by the concession contract.

Historically, Macau's gaming industry was predominantly driven by VIP players, many of whom came from mainland China. This model was supported by gaming promoters, or "junkets", who facilitated high-stakes gambling by providing credit and personalised services to wealthy patrons. However, recent economic shifts and regulatory changes – both in Macau and across mainland China – have contributed to a declining reliance on junket-driven VIP clientele. Challenges such as increased scrutiny on cross-border gambling, tighter credit regulations, and the COVID-19 pandemic's disruption of travel have further weakened the VIP segment.

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As a result, Macau's operators have increasingly redirected their resources to premium mass-market and mass-market segments, aiming to create a more inclusive tourism appeal that caters to both high-end and middle-market consumers. This transition has also been influenced by Macau's goal to diversify its visitor base, attracting international tourists from regions like Southeast Asia, Europe, and the Middle East.

The ability of casino gaming concessionaires to attract international tourists is a key factor in determining eligibility for a reduction or exemption of the 5% GGR contributions, as outlined in Macau's gaming laws and regulations. According to these provisions, concessionaires who successfully expand their reach to foreign markets – thereby drawing a larger share of non-local visitors – may qualify for financial relief on this mandatory contribution. This incentive is designed to encourage operators to diversify Macau's tourism base, lessen reliance on local and regional players, and enhance the city's appeal as a world class tourism destination.

During the presentation of the 2025 budget – that marks the final one presented by Chief Executive Ho Iat Seng – the Macau SAR government projected gross gaming revenues (GGR) of MOP240 billion (USD29.9 billion), averaging MOP20 billion (USD2.5 billion) per month.

The government expressed confidence in the continued recovery of Macau's integrated tourism and leisure industry throughout 2025, citing a steady increase in visitor arrivals. The optimistic GGR projection also reflects anticipated changes in tourist travel and spending patterns.

In their detailed analysis of the Macau gaming market released on Wednesday, Citi analysts George Choi and Timothy Chau forecast a 7%

year-on-year increase in GGR to USD30.4 billion and a 13% rise in EBITDA to USD9 billion for 2025. This growth is expected to be driven by an increase in visitation, the introduction of smart gaming tables, and the growing popularity of new side bets.

While Citi's estimates are not much more than the government's own forecast, the analysts suggest revenues could be considerably higher given the government's track record of underestimating GGR. Specifically, they noted that the government has underestimated GGR in nine of the past ten years (2011–2019 and 2023) by between 10% and 60%.

Large-scale investments

Macau's integrated resorts (IRs), run by the six casino gaming concessionaires, continue to be the centrepiece of its tourism and economic strategy, with 2024 seeing significant progress in the expansion of these venues.

The government's policy framework has encouraged – and obliged under the casino gaming concession contracts – operators to invest in non-gaming infrastructure. This is intended to result in an ecosystem of world-class amenities that includes luxury shopping centres, Michelin-starred dining options, and cultural exhibition spaces in line with the concession commitments of the casino gaming operators to invest in non-gaming projects targeting international visitors, conventions and exhibitions, entertainment shows, sporting events, culture and arts, health and wellness, thematic attractions, gastronomy city, community tourism, maritime tourism and other similar areas.

Casino gaming concessionaires have pledged MOP108.7 billion (USD13.6 billion) towards the aforesaid non-gaming projects, over 90% of

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total planned investment under the new ten-year concessions. This focus on non-gaming aligns with Macau's vision to establish itself as a cultural and tourism hub. The investments also extend to business tourism, with the expansion of MICE (Meetings, Incentives, Conferences, and Exhibitions) facilities. Dedicated convention centres and state-of-the-art meeting spaces within IRs are already drawing a few international business conferences, offering an additional revenue stream that boosts Macau's status as a diversified tourism destination.

Casino gaming concessionaires have launched initiatives such as exclusive art galleries, family-friendly attractions, and wellbeing programmes.

Responsible gaming and environmental sustainability

Operators are required to submit annual reports on their responsible gaming measures, including self-exclusion data, player education initiatives, and compliance with DICJ standards. Macau's shift to a proactive stance on responsible gaming is part of its broader strategy to enhance its reputation as a safe and regulated gaming destination. These measures are particularly important for international investors, who view responsible gaming as a critical factor in assessing the industry's long-term stability and viability.

Beyond responsible gaming, Macau's operators are advancing their sustainability agendas. IRs have made substantial progress in areas like energy efficiency, water conservation, and waste management. Notably, new IR expansions incorporate eco-friendly designs that include renewable energy sources, smart building technologies, and green landscaping.

Developments

Support for SMEs and social responsibility

Aligned with their concession contracts, casino gaming concessionaires are expected to actively contribute to Macau's local economy by supporting small and medium-sized enterprises (SMEs) and engaging in socially responsible projects. Under these agreements, concessionaires are encouraged to channel resources into local development initiatives, labour rights protections, and community-centred projects. This approach reinforces their commitment to Macau's broader economic and social objectives, helping to foster sustainable growth and community wellbeing.

RFID tracking for international markets

In a continued effort to attract and better understand foreign gamblers in designated areas, the government has advocated for the implementation of RFID technology to monitor betting activity among international visitors. The necessary infrastructure for RFID tracking is progressively being installed, allowing concessionaires to analyse betting patterns and turnover specific to international patrons. This technology aims to provide operators with valuable insights, enabling them to enhance engagement strategies for foreign markets. However, the success of these initiatives will depend largely on international players' responses to the tracking measures and on how well casinos integrate the data into a responsive, data-driven business framework.

Satellite casinos

The 2022 legislative reforms introduced a transition period for "satellite casinos" – casinos operated by concessionaires on properties owned by third parties – allowing them time to meet new ownership requirements. During this three-year grace period, from 1 January 2023 to 31

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December 2025, satellite casinos can continue operations while they adjust property ownership structures or make other necessary changes to comply with the updated regulations. It remains to be seen whether concessionaires will acquire these properties outright or if satellite casino operations will conclude at the end of the transition period.

Enhanced regulatory oversight

The Gaming Inspection and Coordination Bureau (DICJ) has strengthened regulatory oversight within Macau's gaming industry, supported by recent legislative updates. The DICJ now enforces stricter controls over various concessionaire activities, including credit issuance practices, anti-money laundering measures, and the conduct of gaming promoters. This increased oversight includes more frequent audits and thorough background checks on key industry players to ensure that all operations align with Macau's high standards for transparency and integrity. These measures are intended to establish a more robust framework for accountability, reinforcing Macau's commitment to a secure, sustainable, and reputable gaming industry.

Conclusion

The evolution of Macau's gaming industry reflects its resilience and adaptability in the face of a changing global landscape. Following the re-opening of its borders in 2023, Macau has experienced a robust recovery, with GGR figures nearly reaching pre-pandemic levels, driven by both pent-up demand and strategic shifts within the sector. The introduction of comprehensive legislative reforms and a new Chief Executive focused on economic diversification and sustainable tourism underscore Macau's commitment to transforming its gaming and tourism ecosystem.

The transition from a VIP-dominated model to one emphasising premium mass-market and mass-market players marks a key shift in Macau's growth strategy. Macau is reshaping its appeal beyond high-stakes gaming and establishing itself as a globally competitive destination for a wide range of cultural, luxury, and leisure experiences.

Recent legislative developments, such as Law No 7/2024 and Law No 20/2024, have introduced stricter regulations around credit issuance and unlawful gambling activities, enhancing the transparency and security of the gaming industry. These laws empower authorities to combat illegal activities and ensure that operators comply with Macau's high standards of integrity. The use of RFID tracking to monitor international betting activity and the transition period for satellite casinos further highlight Macau's dedication to a secure and transparent gaming environment.

Large-scale investments in non-gaming infrastructure, supported by the concessionaires' commitment of MOP108.7 billion (USD13.6 billion), are aligned with Macau's vision of becoming a cultural and tourism hub. The focus on MICE, wellness, gastronomy, and cultural tourism helps position Macau as a diversified destination, attracting visitors beyond the gaming sector and creating sustainable growth opportunities. Responsible gaming measures and sustainability initiatives further contribute to Macau's reputation as a responsible and forward-looking tourism destination.

Looking forward, Macau's gaming industry appears well-positioned to continue its recovery and transformation under the guidance of the newly elected Chief Executive and strengthened regulatory oversight. By fostering a balanced tourism model that integrates gaming

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with broader leisure, cultural, and social offerings, Macau is setting a course toward a resilient, sustainable, and internationally respected future. Through these combined efforts, Macau aims to solidify its place as not only Asia's leading gaming hub but also a world-class tourism destination known for its comprehensive tourism experience and commitment to community wellbeing.



Law and Practice

Contributed by:

Andrew J Zammit, James Bartolo and Karla Galea
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GVZH Advocates is a prominent Maltese law firm with a team of over 30 lawyers and legal professionals. Headquartered in Valletta, Malta, the firm operates within a wider international network, providing expert legal services across various jurisdictions. GVZH is renowned for its expertise in the gaming industry, advising clients on regulatory compliance, licensing and legal matters with the Malta Gaming Authority

(MGA). The firm regularly assists clients with compliance notifications, submission of legal opinions on regulatory challenges, and assisting clients in navigating complex regulatory landscapes within the gaming industry. In addition to its gaming practice, GVZH offers legal services in corporate law, intellectual property, data protection and fintech, supporting sectors that intersect with gaming.

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1. Introduction

1.1 Current Outlook and Recent Changes

The regulatory framework applicable to online and land-based gaming in Malta is consolidated under the Gaming Act (Chapter 583 of the Laws of Malta) and Subsidiary Legislation (SL) 583.01 to 583.12, adopted under that Law. The SL addresses various aspects of gaming operations, including:

- the establishment of the Malta Gaming Authority (MGA or the “Authority”), its functions and powers;
- the protection of players, minors and vulnerable persons;
- the establishment of a vulnerable gaming fund;
- gaming licence fees;
- the requirement of a licence or authorisation for certain gaming activities;
- key functions;
- compliance and enforcement;
- regulations relating to gaming premises;
- regulations relating to advertisement;
- regulations governing gaming tax;
- the establishment of a social causes fund; and
- data retention.

The MGA issued several directives between 2018 and 2020, which are binding on licensees, providing additional guidance in relation to the interpretation and implementation of the laws and regulations. Additionally, the MGA has issued several guidance notes that provide guidelines on certain provisions, procedures, standards and methods, with the aim to improve proportionality, participation, openness, accountability, effectiveness and coherence.

2. Jurisdictional Overview

2.1 Online

Since the early 2000s, Malta has secured its position as a leading and well-regulated European remote gaming jurisdiction and is estimated to host around 10% of the world’s online gaming companies by trading volume.

The Gaming Authorisations Regulations provide that operators in both the online and land-based sectors require a licence when providing or carrying out a gaming service, or providing a critical gaming supply from Malta or to a person in Malta, or through a Maltese legal entity, unless exempt. A licence is required to provide or supply any of the following games, with the exception of social gaming:

- online betting;
- bingo;
- casino;
- lotteries;
- fantasy sports;
- poker; and
- social gaming.

A licence is not required for games that the MGA classifies as low-risk games. In such cases, a low-risk permit would be required. Such permit is only issued for a single event, expires as soon as the event is concluded, is non-transferable unless the MGA’s prior approval is obtained, and is non-renewable. Examples of low-risk games include non-profit games in which the stake does not exceed EUR5 per player and more than 90% of the net proceeds go to a good cause (charity, sports, education, etc).

2.2 Land-Based

With the adoption of the 2018 regulatory framework, online and land-based gaming activities

are now regulated by the same legislation on a horizontal basis, except that applicants applying for a land-based gaming licence are required to seek and obtain an additional approval for both the gaming devices they offer to consumers as well as the premises from which the licensed gaming devices are operated. Land-based betting, bingo, casino, lotteries and poker are thus also permissible and regulated in the same manner as online games.

3. Legislative Framework

3.1 Key Legislation

The key legislation that applies to the gambling sector is as follows:

- the Gaming Act – Chapter 583 of the Laws of Malta;
- the Gaming Malta Fund Regulations – SL 583.02;
- the Gaming Licence Fees Regulations – SL 583.03;
- the Gaming Definitions Regulations – SL 583.04;
- the Gaming Authorisations Regulations – SL 583.05;
- the Gaming Compliance and Enforcement Regulations – SL 583.06;
- the Gaming Premises Regulations – SL 583.07;
- the Gaming Player Protection Regulations – SL 583.08;
- the Gaming Commercial Communications Regulations – SL 583.09;
- the Gaming Tax Regulations – SL 583.10;
- the Social Causes Fund Regulations – SL 583.11; and
- the Retention of Data (MGA) Regulations – SL 583.12.

Other supporting legislation and directives that apply to the gambling sector are as follows:

- the Prevention of Money Laundering Act – Chapter 373 of the Laws of Malta;
- the Prevention of Money Laundering and Funding of Terrorism Regulations – SL 373.01;
- the Consumer Affairs Act – Chapter 378 of the Laws of Malta;
- the Electronic Communications (Regulation) Act – Chapter 399 of the Laws of Malta;
- the Data Protection Act – Chapter 586 of the Laws of Malta;
- the Prevention of Corruption in Sport Act – Chapter 593 of the Laws of Malta;
- the Requirements as to Advertisements, Methods of Advertising and Directions applicable to Gambling Advertisements – SL 350.25;
- the Social Causes Fund Regulations – SL 583.11; and
- the Retention of Data (MGA) Regulations – SL 583.12

3.2 Definition of Gambling

The term “gambling” is not specifically defined in the Gaming Act. However, the activity of gambling falls within the operative term “gaming”, which is used in Maltese legislation. “Gaming” is defined as “an activity consisting in participating in a game, offering a gaming service, or making a gaming supply”.

A “game” is defined as “a game of chance or a game of skill”. In light of this, a “game of chance” means “an activity the outcome of which is determined by chance alone or predominantly by chance and includes but is not limited to activities the outcome of which is determined depending on the occurrence or outcome of one or more future events”. On the other hand,

a “game of skill” means “an activity the outcome of which is determined by the use of skill alone or predominantly by the use of skill, but excludes a sport event, unless otherwise established by or under this Act”.

3.3 Definition of Land-Based Gambling

The general definition of “gaming” applies to all gambling/gaming, regardless of the channel of distribution adopted by the operator to reach its consumers. There is no distinction between online and land-based gaming, and thus the general definition covers both types of gaming.

3.4 Definition of Online Gambling

See 3.3 Definition of Land-Based Gambling.

3.5 Key Offences

The major offences under the Gaming Act are outlined in the Third Schedule of the Act and include the provision of a service or supply without the necessary authorisation, aiding or abetting such provision, and failing to effect payments to the MGA. Other key offences arising under other applicable laws include money laundering offences and data protection offences, both of which are directly relevant for gaming operators.

Sanctions also apply to lesser offences, such as the breach of, or non-compliance with, other areas of applicable legislation, including a breach of advertising regulations or compliance breaches.

3.6 Penalties for Unlawful Gambling

Any person found guilty of undertaking unlawful gaming activity as per the Third Schedule of the Gaming Act is liable to a fine of between EUR10,000 and EUR500,000, or to imprisonment for up to five years, or to both a fine and imprisonment. As an alternative to criminal court

proceedings, the MGA may, by way of agreement with the offender, and subject to the rectification of the breach, impose a penalty of EUR500,000 for each infringement, or a sum of EUR5,000 for each day of infringement or non-compliance, or any other administrative sanctions. Once such agreement is concluded, the offender’s criminal liability under the Gaming Act will be extinguished. The agreement will only be effective if it is accompanied by the payment of the sum due or the provision of sufficient security for its payment.

Any machine or other device, and any money used in the commission of the offence, will be seized and forfeited in favour of the MGA and may be appropriated in favour of the Malta Gaming Fund. In the case of a breach of any other regulatory instrument that is not outlined in the Third Schedule, the MGA may impose an administrative penalty of up to EUR25,000 for every breach or non-compliance, or an administrative penalty of up to EUR500 for each day on which such breach persists. The MGA may impose fines for non-compliance in the following three main scenarios:

- to ensure that the licensee rectifies any default;
- to deter future non-compliance and thus ensure that Maltese licensees uphold high standards of behaviour consistent with regulatory requirements; and
- for the purpose of ensuring that any financial gain that the licensee may have made through non-compliance is eliminated.

On 26 November 2019, the MGA published an explanatory note on “Guiding Principles for the Application of Enforcement Measures”, setting out the principles that should guide the MGA in its application of enforcement measures when a

breach occurs. This explanatory note lays down the aims that the MGA should be guided by in deciding the appropriate form of enforcement action, ie, in determining whether it should offer regulatory settlement or proceed with the commencement of criminal proceedings. It also lays down principles for the quantification of penalties.

3.7 Recent or Forthcoming Legislative Changes

There is no recent or forthcoming legislation in Malta.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gaming Act established the main regulatory body responsible for the governance of all gaming activities (including land-based and remote gaming sectors) in Malta, the MGA.

The MGA's main functions include the issuance of licences, approvals, certificates and recognition notices, as well as the monitoring of the conduct of operators in the field. The MGA is also responsible for preventing, detecting and combating criminal activity in the gaming sector, and for ensuring that games are operated and advertised fairly and responsibly.

4.2 Regulatory Approach

The regulatory approach adopted by the MGA is risk-based and prescriptive. In August 2018, the Gaming Act and various subsidiary legislation came into force. This framework broadened the regulatory scope and increased the MGA's oversight. It moved towards an objective-based regulatory approach, allowing for innovation

and ensuring that the regulatory objectives are attained.

4.3 Recent or Forthcoming Changes

In October 2021, the MGA invited stakeholders from the gaming industry, service providers, and other interest groups to express their views and provide feedback on the Revised Audit Service Provider Guidelines. After the consultation closed on 17 December 2021, the MGA began analysing the feedback to finalise the Guidelines, with plans to publish the final version by the end of Q2 2022. On 11 November 2022, the MGA released a revised version of the System Audit Checklist, refining policies such as the AML Policy for B2C operators.

On 30 January 2023, the MGA issued the Policy on the use of Distributed Ledger Technology by Authorised Persons, providing guidelines on the acceptance of Virtual Financial Assets, Virtual Tokens, and Innovative Technology Arrangements. Subsequently, on 9 October 2023, the MGA released a new guidance note on changes in direct or indirect shareholding, and published amendments to the Player Protection Directive (Directive 2 of 2018) on 12 December 2023.

This year the MGA continued to update its regulatory framework, including providing guidance and procedures for submitting an Incident Report through the updated Technical – Information Security Incident reporting instrument. On 15 April, the MGA published updated documents on the application process and requirements for Non-Profit Tombola and Lotteries, including a revised list of necessary enclosures for these applications. Updates to the Systems Audits/Reviews Processes followed on 27 May. On 4 June, the MGA introduced a new guidance manual for reporting Alternative Dispute Resolution (ADR) proceedings, outlining the procedures

for submitting monthly ADR reports through the Licensee Portal. The following day, the MGA updated its guidance pages for the new Recognition Notice application and the Annual Maintenance Application. Further updates came on 25 June, with the publication of Revised Shared Conduct Requirements, and on 30 June, when the MGA streamlined the Change in Personal Details application process. Lastly, on 30 July, the MGA published a Notice concerning regulations for the exhibition of gaming devices.

4.4 Types of Licences

A gaming service is defined as the availability for participation by players as an economic activity, whether directly or indirectly, and whether alone or with others. The MGA may issue the following licences.

- A gaming services licence – a business-to-consumer (B2C) licence to offer or carry out a gaming service. A B2C licence may constitute any one or more of the following game types:
 - (a) Type 1 gaming services – games of chance played against the house, the outcome of which is determined by a random number generator, and which includes casino-type games;
 - (b) Type 2 gaming services – games of chance played against the house, the outcome of which is not generated randomly, but is determined by the result of an event or competition extraneous to a game of chance, and whereby the operator manages its risk by managing the odds offered to the player;
 - (c) Type 3 gaming services – games of chance not played against the house and wherein the operator is not exposed to gaming risk, but generates revenue by taking a commission or other charge based on the stakes or the prize, and

shall include player versus player games such as poker, bingo, a betting exchange and other commission-based games; and
(d) Type 4 gaming services – controlled skill games.

- A critical gaming supply licence – a business-to-business (B2B) licence to provide or carry out a critical gaming supply that is indispensable in determining the outcome of a game or games forming part of a gaming service, and/or is an indispensable component in the processing and/or management of essential regulatory data.
- A corporate group licence – B2B or B2C corporate group licences may be issued to a corporate group that includes more than one company within its structure. This may be availed of where the entities concerned provide critical gaming supplies solely to other entities within the same group. In such instances, an additional B2B licence will not be required. However, if entities within the B2C corporate group licence provide critical gaming supplies in or from Malta to entities outside of the group, a separate B2B licence would be required. The entities that can be covered by the corporate group licence must be established in Malta or another EU/EEA jurisdiction.

In instances where a game may be categorised under one or more of the game types, the MGA has complete discretion to categorise the game under the specific type it believes closest reflects the nature of the game.

4.5 Availability of Licences

A standard licence term, whether original or renewed, is ten years, whilst a recognition notice is valid for one year. A recognition notice is a notice issued by the MGA whereby an authorisation issued by another member state of the EU

or EEA, or a state that is deemed by the MGA to offer safeguards largely equivalent to those offered by Maltese law, is recognised as having the same effect as an authorisation issued by the MGA for the purpose of providing a gaming service or gaming supply in or from Malta. Licences that require government concessions, such as for the operation of land-based casinos and the island's national lottery, would be granted for ten years or such shorter period for which the concession is valid.

Where a gaming service or a gaming supply is by its very nature temporary, consists of a singular event, or a number of game instances linked to the same event, such service or supply shall be eligible to apply for a limited duration licence.

4.6 Duration of Licences

Licences can only be purchased between entities that form part of the same corporate group.

4.7 Application Requirements

Application requirements are similar in scope for remote and land-based operators. Prospective licensees must demonstrate that they are financially sound and capable of meeting the MGA's requirements, and that they will comply with the applicable legislation. In this respect, all directors and persons performing key roles in the gaming company must be vetted by the MGA to ensure that they are fit and proper, based on a detailed disclosure set out in a prescribed form (Personal Declaration Form), which must be submitted through the MGA's portal together with all supporting documentation. Direct and indirect shareholders holding more than 10% in the applicant company are subject to the same strict vetting process.

The MGA issued a Directive on Start-Up Undertakings in which any undertaking that qualifies

as a start-up would be subject to less stringent compliance obligations for a certain amount of time. The qualifications to be deemed a start-up have recently been amended as per Legal Notice 266 of 2019, wherein an undertaking must not have generated more than EUR10 million of revenue in the 36 months prior to the application. These amendments came into effect on 1 January 2020.

4.8 Application Timing

Although no timeframes are officially issued by the MGA, a new remote gaming licence application review generally takes between three to six months from the date of submission. There are five application stages where the MGA will assess whether the applicant and its key function holders are fit and proper to conduct gaming business in accordance with Maltese laws and regulations, whether the applicant is correctly organised and prepared to undertake its proposed business strategy, and whether the applicant satisfies all key operational and statutory requirements. The MGA will also consider whether the applicant has correctly implemented its technical infrastructure in accordance with its approved business plan and systems documentation. The five application stages are the following.

- A fit and proper exercise conducted on the applicant by assessing all information related to persons involved in financing and management, and on the business viability of the operation.
- Business planning – an in-depth financial analysis of the applicant's business plan is conducted by the MGA.
- Operational and statutory requirements – the applicant is examined on the instruments required to conduct the business, including incorporation documents, the games, the

rules, terms, conditions, policies and technical documentation of the gaming and control system. Applicants must also meet the established minimum issued and paid-up share capital requirements.

- System review – the MGA informs the applicant of the outcome of the application. Should the application be successful, the applicant will be invited to implement the operation on to a technical environment, in preparation to go live. A 60-day time limit is allowed for this technical roll-out. Once the process of certification is completed successfully, the Authority will issue a ten-year licence.
- Compliance review – after going live, a licensee must undergo compliance audits of its operations, which must be completed by an approved service provider within 90 days from the MGA's notice.

4.9 Application Fees

Licence application fees vary according to the licence/authorisation being applied for. A one-time, non-refundable administrative fee of EUR5,000 is payable to the MGA upon the submission of any application for a B2C or a B2B licence, for the renewal of such a licence or for a recognition notice. Gaming licence applications also include individual applications for directors, beneficial owners and key function role holders, at EUR50 per person, per role. An application for a material supply certificate and requests for the addition of a new gaming vertical, the addition of a new delivery channel or major changes to an operator's software and infrastructure involve a fee of EUR1,000. These specifications are found in the Gaming Licence Fees Regulations.

4.10 Ongoing Annual Fees

Any person in possession of a gaming services licence issued by the MGA must pay a licence

fee of between EUR10,000 and EUR35,000, depending on the class of licence held and the annual revenue levels. The fees are established in the Gaming Licence Fees Regulations.

5. Land-Based Gambling

5.1 Premises Licensing

Gaming premises must be licensed, and any person renting out or allowing another person to use the premises as a gaming premises must ensure that the lessee is in possession of a valid approval or licence. The Gaming Premises Regulations, which were published in July 2018, are applicable in this regard. The Gaming Premises Directive, which was published by the MGA and came into force on 1 February 2019, delineates further requirements to which gaming premises must adhere. The MGA has carried out several amendments to the 2019 Gaming Premises Directive to guarantee the proper functioning of the regulatory mechanisms applicable to gaming premises and controlled gaming premises. The amendments relate to different aspects of the Directive, including the provisions pertaining to the conversion of regular players into junket players, the identification of employees, the count procedure and the "No Objection Procedure" relating to the approval of controlled gaming premises.

Gaming premises operators are obliged to register all players upon entry into the gaming premises. These activities must be licensed and approved by the MGA and are not subject to any prescribed limitation in their number, although their physical location is subject to several rules. Any person renting out or allowing another person to use the premises as a gambling premises must ensure that the lessee is in possession of a valid approval or licence. Gaming premises

operators are expected to make the possibility of self-exclusion readily available to every person and must provide assistance and guidance to any person who wishes to exclude themselves. More stringent regulations apply in relation to the self-exclusion of pathological gamblers. Casino licences are issued by the MGA but would be dependent on the applicant holding a concession from the government for such operation.

There is no limit on the total number of gaming premises for the Maltese islands. However, gaming premises are subject to several criteria obliging them to be located at a pre-set minimum distance away from schools, places of worship, and other gambling premises. There are also restrictions regulating the number of gaming devices within the licensed gaming premises to one gaming device per two square metres, and a maximum of ten gaming devices in any gaming premises. In terms of lottery ticket and sale venues, a valid permit is required to sell tickets for the national lottery. An application for this permit is to be made to the MGA by the proposed seller. There are currently approximately 240 “Maltco Lottery” points of sale across the Maltese islands.

5.2 Recent or Forthcoming Changes

A new policy paper was published on 28 May 2021 relating to the amending of the return to player minimum percentage (RTP). This proposed change was based upon the MGA’s consideration of eliminating the differences between the requirements applicable to land-based gaming premises operators and remote gaming operators. This elimination aids in establishing uniformity between both sectors. In order for this to be done, the amendment deals with the lowering of the existing minimum RTP percentage from 92% to 85%.

The MGA will also be publishing changes to the Player Protection Directive (Directive 2 of 2018) in light of committing to the protection of consumers, particularly minors and vulnerable individuals.

6. Online Gambling

6.1 B2C Licences

See 4.4. Types of Licences.

6.2 B2B Licences (Suppliers, Software, Etc)

See 4.4 Types of Licences.

6.3 Affiliates

There are currently no measures in place to regulate the use of affiliates. In accordance with Directive 3 of 2018 (the Gaming Authorisations and Compliance Directive), outsourcing service providers such as affiliates shall be deemed to be acting for, and on behalf of, the licensee. In such cases, the licensee is responsible for the affiliate’s actions in so far as the activities concerned are covered by the licence issued by the MGA.

Notably, the Authority holds that when the service of the outsourcing service provider is constrained only to marketing and advertising activities, the regulatory framework that shall be adhered to is that of advertising. In light of this, the liability lies on the licensee to comply with such laws. However, when the outsourcing service provider conducts other activities that are related to the gaming service, this may differ. In fact, where the outsourcing service provider processes payments and handles player registration, the service provider shall itself be deemed to require a B2C licence, unless such services are only being completed on behalf of

the licensee; in that case, they shall be considered to be enclosed within the authorisation of the licensee. In the latter case, the service provider would require approval of the service as a material supply.

6.4 White Labels

There are currently no measures regulating requirements that apply to the use of white-label providers. Similar to affiliates, white-label providers are deemed to be intermediaries. In accordance with Directive 3 of 2018, outsourcing service providers such as white-label providers are deemed to be acting for, and on behalf of, the licensee. In such cases, the licensee is responsible for the actions of the white-label providers in so far as the activities concerned are covered by a licence issued by the MGA in favour of that white-label service provider.

6.5 Technical Measures

There are currently no technical measures, such as IP blocking, in place to protect consumers from unlicensed operators.

6.6 Recent or Forthcoming Changes

A survey was conducted in April 2020 by the MGA, among its licensed operators, in the light of assessing the impact that the COVID-19 pandemic has had on the gaming sector. This survey revealed that the B2C sector, especially the operators handling Type 2 games, was affected the most. Due to this, considerations arose with respect to plans in investing in this sector; in fact, some even thought about postponing such plans.

In July 2020, the Financial Intelligence Analysis Unit (FIAU) and the MGA published a revised version of the Implementing Procedures Part II for the Remote Gaming Sector. The changes carried out addressed amendments to the

Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR) and to the Implementing Procedures Part I, as well as reflecting the realities that FIAU and MGA officers have been encountering in the course of supervisory activities. The most salient revisions made to the Implementing Procedures Part II are the following:

- providing further guidance on customer due diligence (CDD), such as on the verification of customers' identity, the carrying out of ongoing monitoring, dealing with customers who are politically exposed persons (PEPs), and the requirements that persons acting as money laundering reporting officers (MLROs) are expected to meet;
- clarification on the obligations of subject persons when the customer is not willing to provide the same with the necessary information and/or documentation required as part of CDD;
- further elaboration on risk factors that are to be taken into account by subject persons, such as on the involvement of affiliates;
- the extension of the licensees' own anti-money laundering and countering the funding of terrorism (AML/CFT) obligations to physical establishments used to extend licensees' customer reach;
- the provision of targeted guidance on corporate licensees; and
- the inclusion of case studies based on actual cases analysed by the FIAU's Intelligence Analysis Section.

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

7.1 RG Requirements

Maltese gaming legislation and regulations provide for a number of responsible gaming requirements, aimed at protecting minors and vulnerable persons from unscrupulous operators. The Responsible Gaming Foundation was set up in Malta in 2014, which has launched several projects and initiatives in this regard. A National Gambling Helpline (1777) was launched by this Foundation in 2015. Furthermore, in addition to Directive 2 of 2018 (the Player Protection Directive), the MGA imposes requirements ranging from strict advertising and marketing regimes to the possibility of self-exclusion.

In May 2020, the MGA published a consultation paper to gather feedback on the “Suspicious Betting Reporting Requirements and Other Sports Integrity Matters”, aimed at safeguarding the integrity of sports and sports betting. A guidance paper was subsequently issued in this regard, advising all MGA licensees on matters relating to sports betting integrity.

7.2 Gambling Management Tools

Gambling management tools adopted by the MGA are focused principally on obligations placed on operators to assist players with determining whether or not they are problem gamblers, making leaflets or other material regarding organisations that assist problem gamblers readily available to players, and ensuring that there are procedures in place to enable players to exclude themselves from playing for a definite or indefinite period of time.

In March 2019, the MGA issued a preliminary market consultation (PMC) document to request

information pertaining to the possibility of implementing a unified self-exclusion system to be applied to the regulated gaming industry in Malta, across gambling operators, irrespective of the channel.

7.3 Recent or Forthcoming Changes

The MGA introduced changes on 1 October 2021 to strengthen sports betting integrity. These changes updated the Suspicious Betting Reporting Requirements, extending the obligation to report suspicious betting to licensees offering critical gaming supplies related to sports betting. The Authority also began directly alerting operators about suspicious betting activity. This alerting process helps operators by raising awareness, enabling them to review their systems, and ensuring they stay informed about betting risks. For the MGA, the changes enhance monitoring and provide a more comprehensive view of sports betting risks, supporting efforts to combat match-fixing and corruption.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The Prevention of Money Laundering and Funding of Terrorism Regulations oblige online gaming operators to conduct high levels of CDD, with the risk of steep penalties for non-compliance.

The MGA has issued a new directive dealing with the Key Function of the Prevention of Money Laundering and the Financing of Terrorism. Directive 3 of 2020, which came into force on 20 July 2020, obliges B2C licensees to have at least one of the key function holders vested with the key function of the prevention of money laundering and the financing of terrorism. This key function holder must also be an FIAU-registered MLRO

in accordance with the procedures laid down in the directive.

The FIAU is the Maltese government agency responsible for the combating of money laundering and financing of terrorism. It has published two sets of implementing procedures in terms of the PMLFTR, applicable to land-based casinos and the remote gaming sector. These implementing procedures focus on specific areas of the PMLFTR and their application at an industry-specific level, in order to highlight those aspects of money laundering prevention that are of most relevance to the industry, and to ensure they are understood and interpreted consistently by all Maltese licensees or other licensed operators based in Malta.

8.2 AML Requirements

As an EU member state, Malta has implemented all EU directives regulating the prevention of money laundering. Malta is part of MONEYVAL (the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism), which was established in September 1997 by the Committee of Ministers of the Council of Europe to conduct self, and mutual, assessment exercises of the anti-money laundering measures implemented. The principal sources of Maltese law on money laundering are two statutory instruments, namely the Prevention of Money Laundering Act (Chapter 373 of the Laws of Malta) augmenting other provisions found in the Criminal Code (Chapter 9 of the Laws of Malta) and the PMLFTR (SL 373.01).

The EU's Fourth Anti-Money Laundering Directive (4AMLD) classifies gambling operators as "subject persons", which means that gaming operators are required to comply with stringent reporting and procedural obligations. The 4AMLD was transposed into Maltese law, and

gaming operators became subject to risk-based AML obligations as from 1 August 2018.

The 4AMLD takes the form of a minimum harmonisation directive and sets out minimum standards that must be met by transposing national legislation, while affording member states the option to exceed this standard and vary in the implementation thereof. Whilst the 4AMLD lays down an obligation for B2C operators to apply CDD measures for single transactions amounting to EUR2,000 or more, Malta applies this threshold on the basis of a rolling period of 180 days.

Further to the transposition of the 4AMLD, an Anti-Money Laundering Unit was set up within the MGA, with the purpose of conducting AML/CFT supervisory assessments of licensed operators through inspections carried out both on-site and off-site. Reports of findings are subsequently forwarded to the FIAU.

Any operator found guilty of the offence of money laundering could be exposed, on conviction, to a fine not exceeding EUR2.5 million, and its officers could be exposed to imprisonment for a period not exceeding 18 years, or to both a fine and imprisonment. The court may, *inter alia*, also order the forfeiture to the government of the proceeds or of property with a value that corresponds to the value of such proceeds, whether such proceeds have been received by the person found guilty or by the company.

8.3 Recent or Forthcoming Changes

On 6 April 2022, the FIAU published a new Guidance Note on Common Issues related to the MLRO. Such issues include the following.

- Independence and autonomy: MLROs must be independent and free from conflicting

duties, ensuring they can perform their role without external influence.

- Conflicts of interest: MLROs should avoid roles that could compromise their objectivity, such as holding other senior roles like CEO.
- Outsourcing and employment: some functions cannot be outsourced, and MLROs must ensure they understand which activities can be delegated.
- Knowledge and expertise: MLROs must possess sufficient AML/CFT knowledge and meet specific qualifications or experience criteria.
- Personal liability: MLROs are personally accountable for AML compliance, facing potential legal risks if they fail in their duties.
- Record keeping: proper documentation is essential, ensuring that all AML processes and decisions are traceable.

These clarifications guide MLROs in ensuring compliance with AML/CFT obligations.

9. Advertising

9.1 Regulatory/Supervisory Agency

See 4.1 Regulatory Authority.

9.2 Definition of Advertising

Advertising is defined as text, images, sound or any other medium transmitting information that is designed to promote, directly or indirectly, the goods, services, image or brand of a person pursuing a licensable gaming activity. For the avoidance of doubt, this also includes product placement and any emerging advertising techniques.

9.3 Key Legal, Regulatory and Licensing Provisions

The key provisions can be found in the Gaming Commercial Communications Regulations, 2018; Legal Notice 247 of 2018; and SL 350.25,

entitled “Requirements as to Advertising, Methods of Advertising and Directions applicable to Gambling Advertisements”. The MGA issued the Commercial Communications Guidelines as part of its mission to prioritise player protection and responsible gaming. These legal instruments lay down the basis for acceptable advertising practices in respect of gaming services. The MGA also set up a Commercial Communications Committee, the role of which is to review commercial communications issued by gaming operators in Malta and assess any possible breaches.

9.4 Restrictions on Advertising

The prohibitions and restrictions on advertising generally provide those advertisements must not portray, condone or encourage behaviour that is criminal or socially irresponsible or that could lead to financial, social or emotional harm, or directly or indirectly encourage antisocial or violent behaviour.

Authorised gaming operators are permitted to advertise and market their products and/or services, subject to various restrictions aimed at protecting minors and vulnerable persons. The same restrictions apply to persons providing any service to, or acting in collaboration with, licensed and authorised persons offering a licensable game. The regulations and guidelines detailed at 9.3 Key Legal, Regulatory and Licensing Provisions also prohibit the portrayal of gaming as socially attractive, or suggestive of enhancing personal or professional qualities, or a way of gaining control, superiority, recognition or admiration. The portrayal of gaming in the context of toughness/resilience, or as being indispensable or taking priority in life is also illegal. Furthermore, advertisements must not suggest that solitary gaming is preferable to social gaming, nor that skill can influence the outcome

of a game that is purely a game of chance and cannot provide false information about the chances of winning or exploit cultural beliefs or traditions about gaming or luck. Operators cannot make reference to instantly available consumer credit services, or other ways of providing credit to players.

The sending of unsolicited communications is prohibited, as is the sending of solicited communications to persons who have requested to stop receiving such communications, or who are undergoing a period of self-exclusion.

Advertisements must clearly display the name of the relevant gaming company responsible for that advertisement, and a reference must be made in the advertisement to the fact that the company holds a valid licence issued by the MGA or another licensing authority duly recognised in Malta. Advertisements made via social media account portals held by the gaming company itself or third parties are subject to the same restrictions.

Gaming advertisements cannot be issued or distributed in any public places or on any means of public transport in Malta, but this does not apply to advertisements displayed or broadcast within authorised gaming premises, locations frequented mainly by tourists (including airports, seaports, hotels and holiday complexes, excluding bars and restaurants), conferences/events specifically organised by the gaming sector, the premises of operators, or newspapers or magazines, amongst others.

The regulations also provide that responsible gaming messages are to be prominently displayed within all advertisements, and that advertisements must not be directed towards minors or vulnerable persons, must not encour-

age these persons to play a game, must not feature minors or appeal to these persons in any way, nor exploit the susceptibilities, aspirations, credibility, inexperience or lack of knowledge of these persons, nor present gaming as a sign of maturity or move to adulthood.

9.5 Sanctions/Penalties

If the MGA determines that a particular advertisement is in breach of legislation, it may order its modification, retraction or termination. The MGA may also take any administrative action it deems necessary, including the issuance of sanctions. Furthermore, where the MGA deems it necessary, it may also instruct the licensee to suspend the advertisement until it reaches a final decision. The Court of Magistrates, in its criminal jurisdiction, is competent to take cognisance of any offences committed in this respect. However, criminal proceedings cannot be undertaken without the sanction of the MGA. The prescriptive period in relation to actions in breach of advertising regulations is six years.

Advertising Recommendations by the MGA in the Light of the COVID-19 Pandemic

With regard to the COVID-19 pandemic, the MGA has taken into consideration all relevant developments and is constantly proposing adequate and proportionate measures, also bearing in mind the distress the pandemic has caused among players and operators. The MGA has reiterated the fact that operators are bound by their obligations pursuant to the Commercial Communications Regulations to ensure that all commercial communications are socially responsible. Any direct or indirect reference to COVID-19, or any related circumstance, would be considered to amount to a breach of this regulation.

9.6 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to advertising requirements in Malta.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Article 37(2) of the Gaming Authorisations and Compliance Directive (Directive 3 of 2018) requires operators licensed by the MGA to notify the Authority of any change in direct or indirect qualifying shareholding within the licensee, no later than three working days after the change. All the documentation required by the MGA as part of the notification process for the approval of the new qualifying shareholder must be submitted to the Authority within 30 days of the change in shareholding taking effect. Changes in shareholdings in a licensee representing less than 10% of the operator's issued share capital, either directly or indirectly, will not require the Authority's approval.

If the MGA takes the view that the change in direct or indirect shareholding has the effect of prejudicing the fitness and propriety of the licensee, or otherwise hinders its suitability for a licence, it may order the licensee to reverse the transaction, reverting to the status quo ante within a timeframe established by the MGA.

10.2 Change of Corporate Control Triggers

Gaming licences are not transferable, unless between entities forming part of the same corporate group. However, in the case of a change of corporate control, the continuance of the licence will be subject to the MGA's vetting and approval of the new owners, and of any incoming directors and/or key function holders.

10.3 Passive Investor Requirements

Passive investors are caught by the general change of control rules outlined at **10.1 Disclosure Requirements**.

10.4 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to the laws and regulations concerning acquisitions and changes of control of gaming companies in Malta.

11. Enforcement

11.1 Powers

The enforcement measures that the MGA can adopt are as follows:

- an order directing the authorised person to do something, or to refrain from doing something, or to otherwise correct its conduct and/or operations;
- a warning, directing the authorised person to do, or refrain from doing, something in the future;
- adding, removing or amending conditions attached to the authorisation held by the relevant authorised person;
- in the case of a breach that does not constitute an offence under the Gaming Act, imposing an administrative penalty in terms of Article 25(3) of the Gaming Act;
- in the case of a breach that does constitute an offence under the Gaming Act, filing a report to the Executive Police for the commencement of criminal proceedings; and
- suspending or cancelling a licence.

11.2 Sanctions

The MGA has, in various situations, also suspended and cancelled a licence in cases of a breach. In fact, pursuant to Article 7(1) of the

Gaming Compliance and Enforcement Regulations (SL 583.06), the Authority has the right to commence a formal investigation when it suspects that there is a breach of any applicable regulatory instrument or if it believes that such authorised person is no longer fitted to hold such authorisation. In these circumstances, a notice of suspension or cancellation is to be served on the authorised person.

Further to this, suspension or cancellation of the authorisation is not to affect any obligation(s) of the authorisation holder for anything done or omitted to be done, or for any amounts due that may have already been accumulated, prior to the date of suspension or cancellation.

11.3 Financial Penalties

Financial penalties are enforced as certain, liquid and due money claims against the licensee, through the normal enforcement procedures available under Maltese law. These generally consist of the filing of a claim by way of special summary proceedings in the Maltese courts, and the issuance of the relevant precautionary warrants against the assets of the licensee to secure the sum due pending the outcome of the judgment. Once a favourable judgment is obtained by the MGA, an executive warrant is issued against the licensee to recover the sum due, together with any relevant interest and eligible legal costs.

11.4 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to sanctions for violations of gaming laws and regulations of Malta.

12. Tax

12.1 Tax Rate by Sector

Any gaming service subject to the requirement of a licence, carried out from Malta or to any person in Malta, is subject to a gaming tax calculated at the rate of 5% on the gross gaming revenue (GGR) generated from said gaming services during the relevant tax period. This tax is levied on the gaming revenue, as defined in the Gaming Tax Regulations, 2018, Legal Notice 248 of 2018, generated by operators from end customers located in Malta.

There is also a gaming levy imposed on gaming devices, calculated on the aggregate gaming revenue generated during the relevant tax period. The rates of this gaming levy depend on the type of gaming service offered. The gaming levy imposed in relation to gaming devices deployed within gaming premises in the provision of Type 1 and/or Type 2 gaming services is 30%, while that imposed on gaming devices deployed within gaming premises in the provision of Type 3 and/or Type 4 gaming services is 12.5%. The levy on gaming devices deployed within controlled gaming premises in the provision of Type 1, Type 2, Type 3 and/or Type 4 gaming services is 15%.

Operators are obliged to pay a compliance contribution to the MGA, as well as other applicable licence fees. The compliance contribution is determined by the gaming revenue generated by the licensee under its MGA licence and is calculated in accordance with the Gaming Licence Fees Regulation based on the type of gaming service or critical gaming supply offered. A Maltese company holding licences in several jurisdictions would not account for the compliance contribution imposed by the MGA for those activities conducted under its non-Malta

licences. Player winnings are generally exempt from taxation in Malta, provided that the gaming activities are not undertaken with such frequency by the player as to be deemed to constitute a trade, business, profession or vocation.

Maltese resident and domiciled companies are subject to tax on their worldwide income, minus permitted deductions, at the standard corporate tax rate of 35%. However, based on Malta's full-imputation system, upon the receipt of a dividend, shareholders of a Maltese company may claim a refund of all, or part, of the tax paid in Malta at the level of the company, depending on the type and source of the income from which such dividend was paid. Specific tax advice should be obtained in each case.

Value Added Tax (VAT)

VAT is applied at the standard rate of 18% on every taxable supply of goods, services or importation, with lower rates applicable to certain sectors.

Two sets of guidelines have been published by the Maltese government in relation to the previous gambling VAT exemption. These guidelines became effective on 1 January 2018 and provide a specific list of exemptions applicable to particular gaming activities. Therefore, in contrast to the previous regime (where a blanket exemption was applicable to all gaming activities), VAT will apply under the current framework, unless the particular gaming activity is specifically exempt. The VAT exemptions applicable to the respective gaming activities are exemptions without credit.

12.2 Recent or Forthcoming Changes

There are no recent or forthcoming changes to gambling tax in Malta.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

In accordance with the gaming rules, key function certificates are issued for individuals holding key roles within the company. These roles are in accordance with Part II of the Gaming Authorisations and Compliance Directive.

13.2 Application Process

The key application requirements are as follows.

- Directors, owners and senior management: any individuals applying for directorship and/or key function roles are required to submit a Change in Personal Details Application through the personal timeline of the Licensee Relationship Management System (LRMS).
- Disclosure thresholds: such applications are required for shareholding individuals/beneficial owners holding 10% or more, whether directly or indirectly, in the licensed entity.
- Timeframes: MGA does not issue timescales for any type of application. The duration of an application review depends on the completeness of the Personal Declaration Form, and accuracy of the documentation.
- Fees: for key function roles, there is an administrative fee of EUR50 per person, per role. For a beneficial owner application, no additional fees are required (other than the EUR1,500 application fee for the Change in Structure Notification).

13.3 Ongoing Annual Fees

A Key Function Certificate is renewed every three years, at an administrative fee of EUR50 per person, per role.

13.4 Ongoing Requirements

The key function role holders need to accumulate certain Continuous Professional Development (CPD) hours, in line with the MGA Policy on the Eligibility and Ongoing Competency Criteria for Key Persons.

13.5 Personal Sanctions

In accordance with the Guiding Principles for the Application of Enforcement Measures, the enforcement measures which the Authority may take consist of issuing an order or a warrant, or adding, removing, or amending conditions attached to the authorisation held by the relevant authorised person. In the case of a breach which is not an offence against the Gaming

Compliance and Enforcement Regulations (SL 583.06), the Authority can impose an administrative penalty in terms of Article 25(3) of the Act. In the case of a breach which is an offence against the Act, and without prejudice to the possibility of offering a regulatory settlement in lieu of criminal proceedings in line with Article 25(1) of the Act, the Authority can file a report to the Executive Police for the commencement of criminal proceedings. The Authority may also suspend or cancel a licence, as the case may be.

13.6 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to personal approvals and licensing in Malta.

MEXICO



Law and Practice

Contributed by:

Carlos Fernando Portilla Robertson and Ricardo Valdivia González
Portilla Ruy-Díaz y Aguilar

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Portilla Ruy-Díaz y Aguilar (PR&A) was founded by a group of experienced lawyers, from Mexico and the United States, who were motivated to create a new law firm specialising in a variety of areas and were aware of the needs of an increasingly demanding market. PR&A provides legal services and advice relating to gaming law, compliance, corporate, IP, real estate, tax, contract, foreign investments, mergers and acquisitions, litigation, consumer protection, arbitration, preventive risk consulting, criminal

litigation, labour law, immigration law and international trade. The expertise, experience and development of each department of the firm; co-ordination and support between the different departments; and deep knowledge of the reality and trends of the market and the industry grant its customers innovative, comprehensive and timely solutions through a proactive and strategic approach. PR&A's law team works from offices in Mexico City, Querétaro and Los Cabos, with a partner located in the USA.

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1. Introduction

1.1 Current Outlook and Recent Changes

The cornerstone of the Mexican gambling regulatory framework is the Federal Gaming and Raffles Law (the “Gaming Law”), which was published in 1947 with only 17 articles. This minimal content reflects the historical context of 1947, which was long before the advent of the internet and social media, making it insufficient to address modern-day realities.

For 57 years, the Gaming Law remained the sole legal framework governing gambling in Mexico. The lack of comprehensive regulation led to uncertainty and allowed the continuous opening of land-based establishments, often protected by constitutional court rulings. To address these regulatory gaps, on 17 September 2004, the Mexican government issued the Regulations of the Federal Gaming and Raffles Law (the “Gaming Regulations”) to supplement the original 1947 law.

The Gaming Regulations were reformed in 2012 and 2013, but despite these updates, technological advancements in the gaming industry

have outpaced the existing legal framework. For example, the Gaming Regulations include only three articles addressing online, telephone or electronic betting, while the online gaming industry in Mexico has expanded significantly, with increasing numbers of operators, service providers and participants. This demonstrates the need for further reforms to adapt to the current technological landscape.

2. Jurisdictional Overview

2.1 Online

As mentioned in **1. Introduction**, the Gaming Regulations in Mexico do not provide a clear reference to online gaming activities. The current regulatory framework contains only three articles that address the placing of bets electronically or via the internet.

Under the Gaming Regulations, online gambling is closely linked to land-based casinos. Specifically, Article 85, which pertains to sports books, stipulates that authorised casinos are permitted to take bets via the internet, telephone or electronic means. However, to operate in this manner,

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permit holders must implement a robust internal control system for transactions. This system must include procedures and rules designed to ensure the inviolability and integrity of their betting systems, as well as compliance with other regulatory requirements. These safeguards are critical to maintaining the legality and reliability of online betting tied to land-based operations.

Additionally, Article 104 mandates that participants who are attracted or registered through the internet or a telephone network must be identified through a registration system. These provisions highlight a significant legal gap, reinforcing the need for a reform of the law to introduce a dedicated chapter that clearly and expressly regulates online gambling in Mexico.

2.2 Land-Based

According to Mexican law, all games involving betting must obtain authorisation and are subject to control and supervision by the Ministry of the Interior (*Secretaría de Gobernación* or SEGOB), including the list of games with bets outlined in Article 2 of the Gaming Law. These games include chess, draughts and similar games; dominoes; dice; blackjack; bowling; billiards; football; and, in all their variations, races involving people, cars and animals, along with a broad category encompassing all types of sports.

Therefore, land-based casinos and online gaming are permitted. In Mexico, there are 36 land-based permit holders that are, or could be, allowed to operate online gaming.

A land-based casino in Mexico typically covers activities such as bingo, raffles and slot machines, but not always online gaming or live gaming (such as poker and roulette). Permit holders must request special authorisation from

SEGOB to offer these additional services if the original permit granted does not refer to or allow such activities. This ensures that any expansion of gaming activities beyond the standard offerings is closely regulated and supervised.

Notwithstanding that certain games – such as live gaming, poker and roulette – are not expressly described in Mexican law, the government has authorised some permit holders to offer these games in Mexico. This indicates that, while not explicitly outlined in the Gaming Law or the Gaming Regulations, these games can still be permitted under the regulatory oversight of SEGOB, allowing for broader gaming activities within the country.

With regard to social gaming activities, the Gaming Regulations exclude certain games from requiring authorisation. Specifically, games involving betting that are played without profit, within a private home, solely for fun or as an occasional pastime are exempt from regulation. These games must not be conducted regularly and should involve only individuals who are associated with – or the owners or residents of – the location where the games take place, with participants being admitted by these individuals. This exemption creates a distinction between casual social gaming and regulated gambling activities.

3. Legislative Framework

3.1 Key Legislation

In Mexico, any gambling or gaming matters are governed by the Gaming Law and the Gaming Regulations.

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The Gaming Law and the Gaming Regulations are federal legislation and therefore apply all over Mexico.

According to Article 1 of the Gaming Law, gambling is generally forbidden in Mexico. The only exceptions are games and raffles in Article 2 of the Gaming Law explicitly authorised by the Gambling and Raffles Bureau (*Dirección General de Juegos y Sorteos*, or the “Bureau”), which is the sole authority empowered to grant gambling and raffle permits.

Article 7 of the Gaming Regulations stipulates that games involving betting and raffles may only be conducted, operated or organised with prior written permission from the Bureau.

While the Gaming Regulations have expanded upon the restrictive vision of the Gaming Law to include gaming, betting, and lotteries, they still lack comprehensive updates and details. For instance, “online gaming activities” are not fully described or regulated, leaving much of the related oversight to the Bureau’s discretion.

Additionally, although gaming activities are under federal jurisdiction, local governments and their legislation play a significant role in casino gaming, particularly through property law. Local authorisation is required to open casino establishments. In some states, such as Baja California Sur, restrictions are placed on the opening of new land-based casinos, often due to local constitutional provisions. Other states, including Coahuila, Guanajuato, Nuevo Leon and Tlaxcala, have enacted similar (non-retroactive) restrictions or prohibitions regarding the establishment of new casinos.

3.2 Definition of Gambling

Under the Gaming Regulations, there is no distinction between gambling and betting. The Regulations define a “bet” as the amount, in local currency, risked in a game permitted under Article 2 of the Gambling Law and regulated by the Regulations. The total prize amount, when added to the amount risked, must exceed the initial amount risked.

3.3 Definition of Land-Based Gambling

Land-based gambling is defined as any open or closed place in which games involving betting or raffles are carried out with the permission of the Bureau in accordance with the Gaming Law and the Gaming Regulations.

3.4 Definition of Online Gambling

As mentioned in 2.2 **Land-Based**, the Gaming Regulations do not refer specifically to online gaming; therefore, the law does not have a formal definition.

3.5 Key Offences

According to Article 151 of the Gaming Regulations, the following – among others – are classified as serious offences:

- failure by the permit holder to comply with any term or condition established in the permit or in law;
- the information or documentation provided to the Bureau to obtain a permit is false;
- the permit holder or any of its shareholders or beneficiaries is convicted of fraudulent crimes, whether patrimonial, fiscal or related to organised crime or operations involving illicit resources;
- the permit holder or any of its shareholders or beneficiaries is declared bankrupt;
- the operation or services provided to the public are interrupted, either totally or partially,

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- for a second time within a 12-month period without just cause; and
- the permit holder modifies or substantially alters the nature or conditions of games including betting or authorised draws.

In accordance with Article 147 of the Gaming Regulations, any infringement of the law, or of the permits issued by the Bureau, will be sanctioned with:

- a fine;
- arrest;
- the suspension of activities; and/or
- revocation of the permit and closure of the establishment(s).

3.6 Penalties for Unlawful Gambling

Conducting games of chance involving betting without a permit issued by the regulatory authority is considered illegal and is punishable by imprisonment.

According to Article 12 of the Gaming Law, individuals involved in unauthorised gambling and betting – including owners, organisers, managers, administrators and players – are subject to a prison term of between three months and three years and a fine ranging from MXN500 to MXN10,000. This applies to all participants in the illegal activity.

3.7 Recent or Forthcoming Legislative Changes

On 16 November 2023, the Decree that amends, adds and repeals several provisions of the Federal Gaming and Raffles Law (the “Decree”) was published in the Federal Official Gazette (the “Official Gazette”), significantly impacting the gaming industry in Mexico. The Decree effectively prohibits slot machines, eliminates the sub-licensor structure from the Gaming Regula-

tions and imposes limitations on the acquired rights of permit holders for operating new land-based and online casinos.

Although the legality of said reform is at least questionable, the support of the political party currently in power was enough to pass it. In response, all sectors of the gaming industry have filed *amparo* lawsuits (constitutional protection) against the Decree. An *amparo* lawsuit allows individuals to challenge governmental actions that infringe upon their fundamental rights. These lawsuits argue that various violations, including restrictions on human rights, lack legal authority and disregard acquired rights.

Almost all *amparo* lawsuits have been successful, and there is a reasonable expectation that many others will have similar outcomes. However, the government retains the option to appeal these rulings, and it is likely that the Supreme Court will ultimately address and resolve these constitutional challenges.

In the authors’ opinion, the Court will definitively declare the above-mentioned reform unconstitutional, given that on 18 January 2017, the Constitutional Controversy 114/2013, filed by the Chamber of Deputies of the Congress of the Union, was definitely resolved by the Supreme Court, declaring the legality and therefore the constitutionality of the regulations affected by the reform, especially those related to the operation of machines for the drawing of numbers and symbols (slot machines).

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

According to Article 3 of the Gaming Law, SEGOB, through the Bureau, is the federal executive authority responsible for the regulation, authorisation, supervision and enforcement of gambling and raffle activities, including betting.

This authority oversees all gambling operations in Mexico, with the exception of the National Lottery for Public Assistance (*Lotería Nacional para la Asistencia Pública* or LOTENAL), which operates under its own law and is owned and managed by the government.

4.2 Regulatory Approach

The Gaming Regulations effectively provide for the organisation of games of chance in Mexico, and their promulgation ended several disputes and conflicts arising from the deficiencies of the federal law. Mexico's approach in terms of regulation is therefore based on acquired rights.

4.3 Recent or Forthcoming Changes

The reform mentioned in 3.7 **Recent or Forthcoming Legislative Changes** revokes or changes the following articles of the Gaming Regulations, among others:

- the reform removes section XXVIII BIS of Article 3 of the Regulations, which defines the drawing of numbers or symbols through machines as an activity in which the participant, through a device of any kind, subject to chance, places a bet by inserting a ticket, coin, token or any electronic payment device or similar object with the purpose of obtaining a prize;

- Section VI of Article 91 of the Regulations, which establishes that sweepstakes be conducted through machines, is eliminated;
- a paragraph is added to Article 91 of the Regulations, stating that “For the purposes of this article, betting games with cards or similar in all their modalities, dice, roulette and slot machines shall not be construed as raffles”; and
- Articles 137 Bis, 137 Ter and 137 Quater of the Regulations are removed.

4.4 Types of Licences

The Gaming Law establishes four types of licences:

- licences for opening and operating horse and greyhound race tracks, *jai alai fronton* arenas, remote betting centres (sports books) and betting centres or rooms for drawing numbers (land-based casinos, under which live gaming, slot machines and online gaming activities are classified) – these are granted only to Mexican commercial companies duly constituted under Mexican laws;
- a licence for opening and operating facilities for gambling at national fairs (eg, the *Feria Nacional de San Marcos*);
- a licence for the opening and operation of horse race tracks in temporary scenarios and cockfighting betting; and
- a licence for draws.

The operation of sports books and land-based casinos requires the specific approval of the local municipality, stating its consent to the installation and operation of such establishment. There is no standard procedure for obtaining this authorisation, nor a standard document that local authorities use for this purpose, so the documents and wording differ from one administration to another.

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4.5 Availability of Licences

As previously mentioned, any person or business entity wishing to operate a gambling establishment must obtain a land-based licence before commencing operations. Only Mexican legal entities – ie, commercial companies duly formed and registered under the Business Entities Act – are eligible to apply for sports book and land-based casino licences.

The Bureau will assess various factors, particularly for sports book and land-based casino licences. It will evaluate the integrity and probity of the applicant's shareholders and key personnel, the applicant's experience in operating the relevant product, and the incorporation of good corporate governance principles in the applicant's by-laws. The application must also disclose the ultimate beneficial owner.

However, the current reality in Mexico is that the regulatory authority seldom grants new permits for land-based casinos. As a result, any organisation interested in establishing a land-based casino or offering online gambling must partner with one of the 36 authorised licensees.

4.6 Duration of Licences

The Gaming Regulations stipulate that land-based casino licences have a minimum duration of one year and a maximum of 25 years, with the possibility of being extended for additional 15-year periods. The specific duration of the licence within these limits is determined at the discretion of the gambling authority.

Licences for operating fairs, as well as temporary off-site horse races and cockfighting betting, are granted for a maximum of 28 days or the authorised event period, whichever applies.

4.7 Application Requirements

Applications, along with the required information and documentation, must be submitted to the Bureau at its central offices in Mexico City. All documents must be original and in Spanish, with public documents from other jurisdictions requiring an apostille and official translation. In general, the following information and documentation are required:

- name, nationality and address;
- property and financial statements;
- a curriculum vitae;
- professional or patrimonial links with other licence holders, shareholders, advisers, beneficiaries or staff members;
- an affidavit stating they have no criminal record or history of bankruptcy; and
- a credit report from a credit information company.

In addition, legal entities must file:

- a copy of the incorporation deed, as well as all modifications; and
- balance sheets and statements of income.

4.8 Application Timing

No specific timeline is provided in the Gaming Law or Gaming Regulations. However, according to Article 17 of the Federal Law of Administrative Procedure, unless a legal or administrative provision specifies otherwise, the regulator must resolve any application within a maximum of three months. If no resolution is issued within this period, it is deemed a rejection of the petitioner's request. This rejection can be challenged through a judicial procedure.

In practice, the regulator has the authority to request additional documents or information as deemed necessary, which often results in the

authorisation process exceeding the initial three-month timeframe set by law.

4.9 Application Fees

The Gaming Regulations do not impose any fees for applying for a land-based licence or obtaining special authorisation for online gaming.

4.10 Ongoing Annual Fees

According to Article 5 of the Gaming Law, licence holders are required to pay annual fees, referred to as “participation”, ranging from 1–2% of net gaming revenue, in addition to any other taxes imposed by applicable tax laws.

5. Land-Based Gambling

5.1 Premises Licensing

Applications and associated information and documentation must be filed with the Bureau at its central offices in Mexico City. See 4.7 Application Requirements for more details.

5.2 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes regarding sub-licences and slot machines.

An additional effort has been made by the current director of the Bureau to establish a registry of importers and manufacturers in order to better control who is legally introducing and distributing slot machines. However, no effective implementation has been achieved by the authority so far. It remains to be seen whether this effort will be resumed by the new administration, which is set to take office in October 2024.

6. Online Gambling

6.1 B2C Licences

It is important to note that Mexican gambling legislation does not explicitly mention the term “online gaming”. Instead, Mexican law states that establishments may accept bets through mobile phones, the internet or other electronic devices. Similarly, the regulations specify that participants in raffles may enter via the internet or telephone.

In other words, based on the permits allowed under Mexican law, operators of land-based casinos can request authorisation to offer online gambling, and both national and foreign entities may enter into agreements with authorised permit holders to conduct these activities.

For this purpose, permit holders or sub-licensors under Article 30 of the Gaming Regulations who wish to obtain a permit for online activities must meet additional requirements. These primarily concern technological and operational aspects, as outlined in Article 85 of the Gaming Regulations. These requirements include, among other things:

- a description of the control system for transactions carried out online, such as the measures needed to avoid the participation of minors and ensure responsible gaming; and
- a description of the procedures to be used to ensure the inviolability and prevent the manipulation of betting systems.

The aforementioned control system must have at least:

- the bettor’s account number and identity; and
- the date, time, transaction number, stake amount and requested selection.

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Last but not least, the mechanism for attracting bets must be approved by the Bureau.

6.2 B2B Licences (Suppliers, Software, Etc)

Mexican gambling legislation does not specifically regulate the use, registration or certification of software and suppliers. However, the government plans to establish an official standard for compliance by software providers and machine manufacturers. As of now, this has not been discussed or approved.

6.3 Affiliates

Mexican gambling legislation does not specifically regulate affiliates involved in gambling activities.

6.4 White Labels

Before the publication of the Decree, Article 30 of the Gaming Regulations stated that a permit holder could exploit its permit in conjunction with third parties through various arrangements, such as joint ventures, service provision or other agreements. This is still possible through sub-licensors who obtained such authorisation prior to such amendments to the Gaming Regulations in November 2023.

6.5 Technical Measures

See 3.7 Recent or Forthcoming Legislative Changes regarding sub-licences.

6.6 Recent or Forthcoming Changes

The primary tool for preventing unlicensed gambling activities is the prohibition against promoting unlicensed gambling websites. Furthermore, unlicensed gambling websites are not allowed to engage in marketing or publicity within Mexico.

Internet service providers, broadcasters, radio stations and certain suppliers in the gambling

industry, including payment processors, are prohibited from hiring or providing services to unlicensed websites. In fact, these companies typically refrain from entering into agreements with such websites.

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

7.1 RG Requirements

The gambling regulatory framework is centred on protecting minors and preventing them from accessing gambling, ensuring the integrity and transparency of gambling activities, and maintaining a fair gaming system that is continuously monitored. All entities involved in the gambling industry that hold a licence granted by the Bureau, including both land-based and online sub-licensors, are required to implement internal controls or measures to help prevent gambling addiction.

7.2 Gambling Management Tools

No recent or forthcoming changes have been made, or are expected to be made, regarding responsible gambling (also known as safer gambling) in the Bureau's policies and criteria.

7.3 Recent or Forthcoming Changes

Regarding online gambling, almost all permits granted by the Bureau specifically require that all authorised casinos implement an internal control system to prevent minors from placing bets and to safeguard against the manipulation of betting systems, among other requirements.

Additionally, the authority mandates that platforms be designed to incorporate responsible gambling features, such as allowing participants the right to self-exclude from gambling activities.

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Operators are also required to display warning messages on their platforms to help prevent gambling addiction, as well as information on how to access counselling and treatment services.

Furthermore, some permit holders make significant contributions to various NGOs focused on responsible gaming.

8. Anti-money Laundering (AML)

8.1 AML Legislation

In accordance with the Federal Law for the Prevention and Identification of Operations with Resources of Illicit Origin (the “Anti-money Laundering Law”), gambling activities are considered “vulnerable activities”. Permit holders and operators are therefore obliged to comply with the provisions of the following laws, among others:

- the Anti-money Laundering Law;
- the regulations of the Anti-money Laundering Law; and
- the general rules referred to in the Anti-money Laundering Law.

8.2 AML Requirements

No recent changes have been made regarding anti-money laundering (AML) legislation, and no forthcoming changes are expected.

8.3 Recent or Forthcoming Changes

Licence holders have certain obligations under the Anti-money Laundering Law, the most significant of which are:

- to register as “performers” of the vulnerable activity;
- to identify their clients, players or buyers, verifying their identity based on credentials or

official documentation and gathering copies of the documentation supporting such identification;

- to request information from their clients regarding whether they have knowledge of the existence of the owner or beneficiary and, in any case, to request them to exhibit the corresponding official documentation that allows them to identify them, should such information be in their possession; and
- to give notice to the applicable authority when any of the gambling activities exceeds approximately USD2,500.

9. Advertising

9.1 Regulatory/Supervisory Agency

The relevant regulatory/supervisory agencies are the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*), the Financial Intelligence Unit (*Unidad de Inteligencia Financiera*) and the Deputy General Directorate of Legal Processes (*Dirección General Adjunta de Procesos Legales*).

9.2 Definition of Advertising

The advertising and marketing of games involving betting and raffles – authorised in accordance with the Gaming Law and the Gaming Regulations – including such activities conducted in the establishments in which the games take place, will be performed in accordance with the terms of the applicable provisions in Article 9 of the Gaming Regulations.

9.3 Key Legal, Regulatory and Licensing Provisions

Relevant products may only be offered to persons of legal age. People under the influence of alcohol or drugs will not be allowed into the facilities. Bets will be made in the national currency,

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Mexican pesos (cryptocurrency is excluded). Permit holders cannot offer credit to the participants.

9.4 Restrictions on Advertising

Any advertising and/or marketing of gaming activities must be performed under the following terms and conditions:

- it cannot explicitly promote games that feature betting;
- it must be expressed clearly and precisely to avoid inducing error, deception or confusion among the public;
- it must indicate the relevant licence number;
- it must include warning messages indicating that games that feature betting are prohibited for minors; and
- it must include messages inviting people to play responsibly and with the main purpose of entertainment, fun and recreation.

9.5 Sanctions/Penalties

The sanctions or penalties that can be imposed for infringing advertising regulations include fines and, in cases where the breach is considered serious or significant, closure of the establishment. The severity of the punishment will depend on the criteria of the authority and the implications of the offence committed by the permit holder or operator.

These sanctions may be imposed by the regulatory authority or, in a few cases, the Federal Consumer Protection Agency.

9.6 Recent or Forthcoming Changes

No recent changes have been made, or are expected to be made, regarding the Bureau's advertising policies and criteria.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Permit holders have an obligation under the Gaming Regulations to inform the Bureau of any change of control of permit holders and their authorised operators. Although there is no definition of "control" within the gaming legal framework, permit holders are obliged to notify the authority of any change in shareholders up to the ultimate beneficiary owner in their corporate structure, as well as of any modification to their authorised operators.

10.2 Change of Corporate Control Triggers

A notice obligation is triggered whenever:

- a share purchase (or partnership interest) agreement is executed; or
- any modification is made to the percentage of participation of its partners or shareholders.

Such provision is applicable to any change in the shareholding composition of the permit holder, or in the shareholders or partners thereof, whether it is carried out through capitalisations, reduction of capital, spin-offs, mergers or other corporate practices in which other companies mediate between the permit holder, shareholders, partners and the ultimate beneficiary owner. The only exception is operations carried out through the stock exchange, in which the transaction does not imply a change of control in the permit holder and/or authorised operator.

10.3 Passive Investor Requirements

The Gaming Regulations do not provide any special rules in relation to passive investors in acquisitions or changes of control; the general rule mentioned in 10.2 Change of Corporate

Control Triggers is also applicable in this scenario.

10.4 Recent or Forthcoming Changes

No recent or forthcoming changes have been made, or are expected to be made, regarding acquisitions and changes in control.

11. Enforcement

11.1 Powers

In cases where the regulatory authority deems the violations committed by permit holders or operators to be serious, it proceeds to revoke the granted permits and/or close down the establishments operating under those permits. For less serious violations, fines will be imposed.

This process is conducted through the appropriate administrative sanctioning procedures, ensuring the right of defence for the parties involved. In instances of serious violations of the law or illegal gambling, the regulatory authority refers the matter to criminal authorities for intervention.

11.2 Sanctions

The authority carries out the execution of its resolutions, such as the closure of establishments, using public force. The establishments are sealed to prevent further activities.

Fines are collected through collaboration agreements with various authorities.

11.3 Financial Penalties

Financial penalties are enforced through the collection procedures outlined in the law, allowing for the seizure of goods or bank accounts if the permit holder or operator refuses to pay the fine.

11.4 Recent or Forthcoming Changes

No recent changes have been made, nor are any expected, regarding the Bureau's enforcement policies and criteria.

12. Tax

12.1 Tax Rate by Sector

The following federal taxes apply to gambling:

- permit contributions – contributions payable by the permit holder to SEGOB that are set out in the permit (1% or 2%);
- the special tax on products and services (*Impuesto Especial de Productos y Servicios* or IEPS) – for remote betting and gaming; and
- federal player withholding tax – a tax to be withheld by the operator or the permit holder, in accordance with Mexican federal law, on the revenue of the prizes obtained by players through their use of the website.

The following local taxes may or may not apply to gambling depending on the particular local regulation:

- state operator tax – a tax to be paid by the permit holder or the operator in accordance with Mexican state law; and
- state player withholding tax – a tax to be withheld by the operator or the permit holder, in accordance with Mexican state laws, on the revenue of the prizes obtained by players through their use of the website.

12.2 Recent or Forthcoming Changes

No recent or forthcoming changes have been made, or are expected to be made, regarding tax.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Under Mexican legislation, there are no personal authorisations or licences for gaming and gambling. Nonetheless, it is possible for individuals to obtain raffle authorisations, normally for fairs or for commercial or charity purposes (also known as lotteries).

A lottery is defined as an activity in which holders or bearers of a ticket, through the prior selection of a number, gain the right to participate – either free of charge or for a fee – in a procedure previously stipulated and approved by the Ministry of the Interior. In this process, a number, combination of numbers, symbol or symbols are randomly selected to determine one or more prize winners.

Similarly, a ticket is understood as the authorised document or electronic record that grants the bearer the right to participate in a lottery and guarantees their rights, as applicable. These rights must be printed on the document itself or otherwise recorded in the system where the records are maintained.

The Gaming Regulations establish a limited number of lottery modalities that individuals are permitted to conduct. Any mechanism that does not fall within these approved modalities is not allowed.

13.2 Application Process

Anyone conducting raffles in any form must request a permit from the Bureau at least 15 business days in advance, complying with all relevant requirements. The Bureau follows a systemised procedure for reviewing, processing and resolving applications, utilising pre-established

checklists to verify the required documentation. From the time of filing, the Bureau has ten business days to issue a decision. If additional information or documentation is required, the authority is granted an additional ten business days to resolve the matter.

There are no specific requirements for directors, owners, senior management or shareholders, including disclosure thresholds. If the prize value exceeds a certain threshold, a fee must be paid for the participation of a government official at the time of the raffles.

13.3 Ongoing Annual Fees

Fees are calculated based on the value of the product or service to be raffled.

13.4 Ongoing Requirements

Requirements for personal authorisations and licences include specification of the following:

- the period during which participants can enter raffles;
- the geographical area in which participants are eligible to take part in raffles;
- the total number of tickets to be issued;
- the number of folios to be generated, and the method used for their numbering;
- the number of prizes to be awarded, including their value (inclusive of VAT); and
- a description of the goods and/or services being promoted, among other details.

13.5 Personal Sanctions

Any infringement of the law, or of the permits issued by the Bureau, will be sanctioned with a fine and/or arrest.

13.6 Recent or Forthcoming Changes

No recent or forthcoming changes have been made, or are expected to be made, regarding raffles.

MONTENEGRO

Law and Practice

Contributed by:

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BDK Advokati



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BDK Advokati is a full-service law firm with offices in Belgrade (Serbia), Podgorica (Montenegro) and Banja Luka (Bosnia and Herzegovina). With three offices in the region, distinct practices and industry sectors, BDK is able to offer clients top expertise and premier service standards. BDK's gaming industry team provides legal support to gaming companies operating in the region, and to tech companies, advertisers and other third-party service suppliers connect-

ed with the gaming sector. The firm is currently advising one of the leading European casino operators, Merit Casinos, in its expansion in the Balkan area. As a member of the South East Europe Legal Group (SEE Legal), an organisation of leading independent law firms from 12 jurisdictions, BDK is able to quickly assemble regional teams for cross-border matters involving jurisdictions outside the firm's direct coverage.

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1. Introduction

1.1 Current Outlook and Recent Changes

Montenegro is a liberal jurisdiction with regard to gaming regulations. With a handful of restrictions, it generally permits all common types of games of chance in both land-based and online forms. Gaming concessions are issued on an operator's request for most of the game types, except for casino and lottery concessions, which are subject to a competitive tender procedure. The lottery concession is also restricted to a single operator.

The current legislation dates from 2004 and requires updates in several key areas. Most notably, a strategic decision must be made regarding the status of the lottery. While it is regulated, in practice there has been no lottery operator since the end of 2016, as no new concession has been awarded. The existing legislation allows for a single private operator, but uncertainty remains over whether to shift to a government-operated model or pursue a partnership between the government and a private provider. In addition, there are gaps in the area of problem gambling prevention, as the current framework lacks any specific rules or measures addressing this issue. This is an area where legislative reform is critical to align with best practices and ensure player protection. Concessions can be granted only to companies incorporated in Montenegro, organised in the form of a limited liability company or joint stock company – meaning that in Montenegro, games of chance cannot be organised by other types of companies, foreign companies or entrepreneurs. Once granted, a concession cannot be transferred to third parties.

Online gambling is permitted subject to a special licence that can only be given to operators which already hold concessions for land-based

games of chance. Offshore online operators are not permitted to operate in Montenegro, due to a ban on participation in foreign games of chance for which bets are placed within Montenegrin territory. In line with this, the competent authorities are responsible for preventing access to unauthorised online gaming websites. This is enforced through an independent regulatory body in the field of electronic communications, which blocks access to these sites. Additionally, banks and other service providers in Montenegro are prohibited from processing payments to such operators. The authorities also maintain and publish, ex officio, a list of unauthorised online gaming operators.

Games of chance are generally divided into two groups:

- lottery games of chance, which encompass the lottery, bingo, lotto, keno and other similar draw games; and
- special games of chance, which encompass casino games, betting and games on gaming machines.

There is no differentiation between gambling and gaming.

Recent Changes

In 2024, several regulatory changes were introduced, particularly concerning technical requirements for online gambling and taxation. More detailed rules now govern online gambling platforms, including new guidelines for communication between platforms and the regulator's IT system. Additionally, the flat-rate monthly concession fees for online gambling have been supplemented by a 10% variable fee on gross gaming revenue. Another novelty is that all payments for online games of chance must be processed

either via payment cards or at the operator's physical premises.

The rules for land-based casino games have also been amended, with a notable change being the increase in both the fixed and variable components of the concession fees for casino operations.

Moreover, Montenegro has adopted the new AML legislation, which provides for a series of obligations that operators of games of chance must comply with.

Social gaming

A game qualifies as a game of chance only if it has all three mandatory features, as follows:

- a consideration is paid;
- the outcome is determined by chance; and
- there is a prize of money, goods or services.

Hence, social gaming is not considered a game of chance and is not regulated; and, despite the trend of the rising concern of regulators in many jurisdictions over the potential risks this activity bears, it has not been under the spotlight of the Montenegrin regulator so far.

Esports

The current regulatory regime permits betting on esports, as the definition of betting is open enough to cover any type of uncertain event.

Fantasy sports

Betting on fantasy sports is permitted and is regularly offered in the market. The definition of betting is not restricted to real sports and can cover all sorts of virtual events, such as fantasy sports.

Skill gaming

Skill gaming, as such, is not regulated. When making a distinction between games of chance and games of skill, one should apply the “any chance” test. If the outcome of a game is, to any extent, determined by chance, it will fall within the games-of-chance category, on the condition that the other two elements – consideration and a prize in money, goods or services – are present as well.

Blockchain or cryptocurrency

To date, blockchain technology and cryptocurrencies in general, and their application in the games-of-chance sector, have not been under the scrutiny of the regulator, as the current legislation does not provide for any restrictions related to the underlying technology of online gambling platforms, or to the use of cryptocurrencies. That said, given the lack of regulations, Montenegrin banks are reluctant to co-operate with companies dealing with cryptocurrencies, which may be a practical obstacle for operators intending to include cryptocurrencies in their business model.

2. Jurisdictional Overview

2.1 Online

Montenegrin legislation permits online gaming; that is, the provision of games of chance via the internet or via other means of telecommunication. This right is subject to a special licence for online gaming. However, this licence can only be issued to an operator that already holds a concession in Montenegro for any type of land-based game of chance. As a result, the online licence serves more as an extension of an existing concession rather than a standalone licence. Furthermore, online gaming providers are allowed to operate only one website

An online gaming licence does not differentiate between types of online games, so it allows holders to organise any type of game of chance, irrespective of the underlying type of land-based concession. Therefore, a licence for online gaming issued to a holder of any kind of concession for land-based games entitles its holder to offer betting, virtual casinos and online slot games via the internet. The fixed part of the concession fee for organising online games of chance, which is paid monthly, amounts to EUR10,000, and a monthly variable fee of 10% of the gross gaming revenue.

Social Gaming

Social games are not regulated, as such, and may be freely organised. However, if a social game qualifies as a game of chance (ie, if players pay to participate in the social game, if the outcome of the game depends on chance, and if there is a prize in the form of money, goods or services), that social game would require a licence for online games of chance.

2.2 Land-Based

Betting

Betting is permitted in Montenegro, with a few restrictions. Namely, it is not permitted to organise betting on the results of political elections, and owners or shareholders of sports clubs cannot simultaneously be providers of sports betting on the results of the sport their club is playing or on results in the league in which their club is competing. The concession term is three years, but it can be extended through a simple procedure for an additional two years. After expiry of the (extended) term, the operator may apply for the concession anew. Operators must hold a separate concession for each betting shop they have. All betting shops must be connected over the internet to the regulator's system.

Poker

Montenegrin law does not regulate poker as a separate type of game of chance, but rather considers it to be a type of casino game; thus, it can be played only in casinos.

Bingo

Bingo is a permitted game of chance, and requires a concession. The concession is issued for a three-year term and may be extended for an additional two years.

Casinos

Casinos are permitted in Montenegro, but the total number of casinos is currently limited to eight. Operating a casino requires a concession, which can only be obtained through a public competitive tender launched by the government (launching a tender requires a prior initiative with the government). The concession is granted for ten years and may be extended for an additional five years. A casino concession includes the right to offer gaming machines.

Gaming Machines

It is permitted to offer games of chance on gaming machines, subject to a special concession. However, a separate concession for gaming machines is not required when they are offered in casinos, because the casino licence covers gaming machines as well. The concession is granted for three years and is extendable for an additional two years.

Lotteries

The offering of lottery games is permitted, but the right is restricted to a single lottery operator. The concession is granted for ten years and can be extended for an additional five years.

3. Legislative Framework

3.1 Key Legislation

The key piece of legislation that regulates the gambling sector in Montenegro is the Games of Chance Act (Zakon o igrama na sreću, “Official Gazette of Montenegro”, Nos 052/04, 013/07, 073/10, 040/11, 061/13, 037/17, 003/23 and 125/23).

3.2 Definition of Gambling

A game of chance is defined as a game in which the participants have an equal opportunity to win a prize (in money, goods or services) against an indirect or direct payment of consideration, while the result of the game depends on chance or some uncertain event in the game. The notion of games of chance does not encompass:

- quizzes, where the outcome depends on one’s knowledge;
- entertainment games on computers, simulators, video game machines, and pinball and similar machines; or
- billiards, darts and similar games, where the only prize can be one or more free games of the same kind.

There are no guidelines regarding to what extent the outcome of a game must depend on chance in order to be considered a game of chance, provided that it also encompasses the other two mandatory elements (the consideration and the prize).

3.3 Definition of Land-Based Gambling

Montenegrin legislation does not provide for a special definition of land-based gambling. The general definition of games of chance applies to any type of game and covers both online and land-based products.

3.4 Definition of Online Gambling

A game of chance provided via the internet or other telecommunication means is defined as one in which the player can participate independently by interacting with the system, without the need for direct involvement from the operator.

3.5 Key Offences

The key offences stipulated under the Games of Chance Act are as follows:

- organising games of chance without obtaining a licence in advance, meaning that a concession agreement needs to be signed prior to starting a gambling business;
- organising games of chance in contravention of the Games of Chance Act or the concession agreement;
- collecting stakes in Montenegro for participation in games of chance organised abroad;
- selling, holding, issuing, marketing or otherwise presenting foreign lottery tickets and other foreign tickets for gambling in the territory of Montenegro;
- organising games of chance in free zones;
- organising games where participants pay a certain amount of money to participants who have already joined the game and expect payment of a certain amount of money from participants who will join the game later on, as well as any other payments and promises of gains contrary to the aleatory nature of games of chance;
- organising betting that is:
 - (a) contrary to the Games of Chance Act, good business practices, and ethics;
 - (b) related to political elections; and
 - (c) run by the owners or shareholders of sports clubs, based on the results of the sport their club is playing or on results in the league in which their club is competing;

- providing credit to players;
- keeping facilities where games of chance are organised less than 250 metres from educational institutions such as primary and secondary schools;
- allowing minors under the age of 18 to enter casinos, betting shops or gaming-machine shops, or to be registered as players on online gambling platforms;
- failing to calculate and pay concession duties;
- failing to display game rules at casinos, betting shops or gaming-machine shops;
- failing to ensure the real-time monitoring of received stakes and disbursements by the gaming authority, and to establish direct connection with the monitoring system of the authority;
- failing to ensure the storage of player data in a prescribed manner;
- not allowing the immediate electronic access to the data stored in the operator's surveillance system at any time to the competent authorities;
- failing to accurately record, preserve, and maintain data in real time, and/or failing to ensure the immutability of the received data for the purpose of enabling supervision;
- failing to issue a confirmation on winnings at the player's request;
- not maintaining records of one or more linked transactions totalling at least EUR2,000;
- failing to identify individuals who carry out one or more linked transactions totalling at least EUR2,000;
- having more than one initial website in the case of organising online games of chance;
- registering a player of online games of chance based on the incorrect data;
- failing to report to the gaming authority all types of online games of chance that the operator is offering; and

- failing to accept payments for organising online games of chance exclusively through credit cards or at the physical premises where the games are organised.

3.6 Penalties for Unlawful Gambling

Organising games of chance without entering into a concession agreement with the Games of Chance Administration is a criminal offence punishable by a monetary fine or imprisonment for up to three years. In addition, if in such a case the provider of games of chance or the player uses deception, they can be punished by imprisonment for between three months and five years. Furthermore, a monetary fine or a penalty of imprisonment for up to two years can be imposed for the unauthorised sale of gambling tickets or collection of payments for games organised abroad.

Additionally, licensed organisers of games of chance that breach various requirements of the Montenegrin Games of Chance Act can be fined for misdemeanour with a monetary fine of up to EUR20,000.

Furthermore, licences may be revoked in one of the following cases:

- where the concession was granted on the basis of incorrect data;
- where the operator did not start operations within the commencement deadline set out under the concession agreement;
- where the operator stopped the operations in violation of the Games of Chance Act;
- where the operator no longer complies with the prescribed technical, IT and other requirements;
- where the operator breaches the rules of games of chance;

- where the operator fails to pay duties under the Games of Chance Act or fails to pay winnings to players;
- where the operator does not allow, or otherwise prevents, supervision to be performed in accordance with the Games of Chance Act, or makes the supervision difficult;
- where the operator incorrectly reports the realised turnover;
- where the operator lends money to players;
- where the operator breaches the concession agreement;
- where subsequent events occur, in light of which the concession would not have been granted;
- where the operator violates the provisions of the Act on Prevention of Money-Laundering and Financing of Terrorism;
- when the supervision process reveals that an operator, previously fined for a violation related to ensuring supervision, has repeated the same violation; or
- where the founder, beneficial owner, or member of the management body of the operator has been convicted for a criminal offence for which a prison sentence of more than one year is prescribed.

3.7 Recent or Forthcoming Legislative Changes

The New Games of Chance Act

The Ministry of Finance has been working for the past couple of years on the new Games of Chance Act, and the deadline for its completion has been regularly extended. The process is still pending, but in August 2024, Montenegro's government adopted the Fiscal Strategy for 2024-2027, announcing changes to the gambling framework, including the completely new legislation, which is expected to be enacted by the end of 2024. The draft of the new Games of Chance Act has not yet been made public.

Concession fees

With the amendments of the Games of Chance Act at the beginning of 2024, the fixed annual fee for casinos has increased from EUR50,000 to EUR100,000. Additionally, the monthly concession fee for organising casino games has risen from 10% to 15% of the gross gaming revenue. A new monthly variable fee of 10% of gross gaming revenue has also been introduced for online games of chance. For organising slot machine games in a casino, a fixed concession fee of EUR50 per machine is charged monthly, along with a monthly concession fee of 10% of the gross gaming revenue.

Effective 1 January 2025, winnings exceeding EUR300 will be subject to a 15% personal income tax, which will be withheld and paid by the operator.

Share capital requirements

The share capital requirements for operators are to be increased to a certain extent, and those operators with multiple licences (eg, for betting and gaming machines) will have to cumulatively satisfy the capital requirement for each licence held.

Lottery

There has been no lottery operator in Montenegro since December 2016, when the concession of the last lottery operator expired, and a new lottery concession is expected to be granted only after the new legislation is adopted. There is a high probability that the new legislation will move toward establishing a state-owned monopolistic lottery.

Casino concession award fee

The current casino concession award fee is set at EUR2 million per single casino, which has proved to be a dissuading factor for potential

new participants in the sector. The new legislation is expected to abandon the concession award fee, but this will most probably be compensated to some extent through an increase in the annual licence fees.

Other possible regulation changes

The current legislation does not address the prevention of problem gambling, so it is expected that the new legislation will regulate this area as well. It is anticipated that provisions regarding the advertising of games of chance will be established for the first time, and that regulations concerning the distance of gaming facilities from educational institutions will be defined more precisely.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The primary regulatory authority for the gambling industry in Montenegro is the Games of Chance Administration, which is under the supervision of the Ministry of Finance. Additionally, the government of Montenegro is the body that awards concessions for lottery and casino games.

4.2 Regulatory Approach

The Montenegrin jurisdiction applies a traditional prescriptive approach to regulation of the gambling sector. In combination with infrequent legislative updates, this regulatory approach does not seem to be the best option for keeping up with changes in the industry.

4.3 Recent or Forthcoming Changes

The licensing regime is generally not expected to change under the new regulations for betting licences and for slot machines. On the other hand, the one-off fee of EUR2 million for a casino

licence is likely to be abandoned, and the lottery licence is likely to be restricted to a single state-owned operator.

4.4 Types of Licences

The current legislation provides for the following types of concessions/licences applicable to the provision of games of chance:

- a concession for lottery games;
- a concession for bingo, TV tombola and tombola;
- a concession for casino games;
- a concession for gaming machines;
- a concession for betting; and
- a licence for online gambling.

It is important to point out that a licence for online gambling can only be issued to an entity that already holds a concession for land-based special games of chance, and cannot be granted as a standalone licence.

4.5 Availability of Licences

The availability of concessions depends on the type of concession sought. In this sense, concessions for betting, gaming machines, and bingo, TV tombola and tombola are available on request. The licence for online gambling is also available on request but can only be granted to holders of a concession for land-based special games of chance. On the other hand, the concessions for casinos and the lottery can only be granted through a public competitive procedure launched by the government of Montenegro.

4.6 Duration of Licences

Every type of games of chance concession or licence is granted for a fixed time period and can be extended. The duration of individual concessions/licences is as follows:

- lottery games – ten years, extendable for up to five years;
- bingo, TV tombola and tombola – three years, extendable for up to two years;
- casino games – ten years, extendable for up to five years;
- gaming machines – three years, extendable for up to two years;
- betting – three years, extendable for up to two years; and
- online gambling – under the Games of Chance Act, no provision is given regarding the duration of the term for online gambling licences, but in practice they are commonly granted for a term of three years, with an option of unrestricted extension, so they can match the duration of the underlying land-based concession.

4.7 Application Requirements

A general condition for any operator is that it be incorporated in Montenegro in the form of either a limited liability company or a joint stock company. Additional specific requirements – such as the minimum share capital, the amount of the mandatory bank guarantee for the payment of duties and winnings, and staffing requirements – are prescribed separately for each concession type.

The conditions a potential operator must meet, the documents that must be provided with the application, and the criteria for the award of the lottery concession are determined in the public call for the award of the concession, and are not prescribed by the Games of Chance Act.

Documents/Information Required

Licences for bingo, TV tombola and tombola

Applications for licences for bingo, TV tombola and tombola must be submitted to the Games of

Chance Administration along with the following documents/information:

- name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- a three-year business plan;
- proof of ownership of, or the right to use, business premises;
- game rules;
- proof that the minimum share capital requirement of EUR75,000 is met;
- proof of bank deposit or bank guarantee of EUR10,000 (as security for the payment of duties and winnings); and
- proof of payment of the administrative fee.

Casino concessions

The conditions that the interested party must meet, the documents that must be provided with the application, and the criteria for the award of the casino concession are determined in the public call for the award of the licence. Also, the Games of Chance Act prescribes multiple documents/information to be delivered with the application for a casino licence (following the public call), as follows:

- the name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- proof of the minimum share capital of EUR300,000;
- a three-year business plan;
- information on the games that will be provided in the casino (type and scope);
- game rules;
- information on the proposed casino managers and proof of their education and qualification for managing the casino;
- casino rules;

- information on the type and number of gaming machines, with detailed data for their identification;
- proof that the founder, beneficial owner, or a member of the management board, have not been convicted of a criminal offence for which a prison sentence of more than one year is prescribed;
- proof of ownership of, or right to use, the premises for the casino;
- proof of a bank deposit or bank guarantee of EUR90,000 (as security for the payment of duties and winnings); and
- information about each beneficial owner in accordance with the Act on Prevention of Money-Laundering and Financing of Terrorism.

Betting concessions

An application for a betting concession must be submitted to the Games of Chance Administration along with the following documents/information:

- name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- a three-year business plan;
- proof of ownership of, or the right to use, business premises;
- the rules of betting;
- proof of the minimum share capital of EUR75,000;
- proof of fulfilment of spatial and technical conditions;
- proof of a bank deposit or bank guarantee of EUR30,000 (as security for the payment of duties and winnings);
- proof of payment of the administrative fee;
- proof that the founder, beneficial owner, or a member of the management board, have not been convicted of a criminal offence for

which a prison sentence of more than one year is prescribed; and

- information about each beneficial owner in accordance with the Act on Prevention of Money-Laundering and Financing of Terrorism.

Gaming-machine concessions

An application for a gaming-machine concession must be submitted to the Games of Chance Administration along with the following documents/information:

- the name and seat of the company;
- proof of registration of the company;
- memorandum of association;
- proof of the minimum share capital requirement of EUR75,000;
- a three-year business plan;
- information on the games that will be provided in the gaming-machine shop;
- game rules;
- data on the planned slot-machine shop managers, and proof of their education and qualification for managing the slot-machine shop;
- rules of the gaming-machine shop;
- data on the type and number of gaming machines, with a detailed description for their identification;
- proof that the founder, beneficial owner, or a member of the management board, have not been convicted of a criminal offence for which a prison sentence of more than one year is prescribed;
- proof of ownership of, or right to use, the premises for the gaming-machine shop;
- proof of a bank deposit or bank guarantee of EUR25,000 (as security for payment of duties and winnings); and
- information about each beneficial owner in accordance with the Act on Prevention of

Money-Laundering and Financing of Terrorism.

Online gambling licences

The main requirement for obtaining a licence for online gaming is that the operator already holds a concession for land-based special games of chance. An application for an online gambling licence must be submitted to the Games of Chance Administration along with the following documents/information:

- name, tax identification number and seat of the company;
- information about each beneficial owner in accordance with the Act on Prevention of Money-Laundering and Financing of Terrorism;
- proof that the founder, beneficial owner, authorised person, or member of the management body of the operator has not been convicted of a criminal offence for which a prison sentence of more than one year is prescribed – ie, proof that no criminal proceedings are being conducted against them for criminal offences for which prosecution is initiated ex officio;
- proof of registration in the Central Registry of Commercial Entities;
- a three-year business plan;
- proof of ownership or right of use for the premises where the central server of the operator is located; and
- list and rules of the games that will be organised.

4.8 Application Timing

Where the concessions are readily available – which will be the case with concessions for betting, gaming machines, and bingo, TV tombola and tombola – the administrative decision-making process must be completed within a gen-

eral deadline of 30 days from submission of the application. Prospective applicants also have to take into account that the preparation of the application may take some time, as they have to engage a licensed company to inspect the premises and confirm that the relevant technical requirements are satisfied, since this confirmation is one of the documents that must be submitted with the application.

The duration of the concession award procedures for casinos or the lottery is not predetermined, and will depend on the particulars of the public tender invitation.

4.9 Application Fees

The Games of Chance Act does not provide for any specific application fees; thus, the applications for concessions are subject only to an administrative fee of EUR2, applicable to administrative procedures in general.

The awarded casino operator is obliged to pay a one-off fee of EUR2 million. There is no similar award fee for other types of concessions for games of chance.

4.10 Ongoing Annual Fees

The regime of ongoing fees for operators is a combination of fixed and variable fees, payable monthly or annually. The fees are different for each concession type, as follows.

- Casino games: There is an annual fixed fee of EUR100,000, and a monthly variable fee of 15% of the gross gaming revenue. For gaming machines in a casino, a fixed concession fee of EUR 50 per machine is payable monthly, plus a monthly variable fee of 10% of the gross gaming revenue.

- Lottery games: There is no fixed fee. There is a monthly variable fee of 10% of the sold lottery tickets minus the prize fund.
 - Bingo, TV tombola and tombola: There is no fixed fee. There is a monthly variable fee of 10% of the tickets sold minus the prize fund.
 - Betting: There is a monthly fixed fee of EUR500 per betting shop, as well as a monthly variable fee of 10% of the gross gaming revenue.
 - Gaming machines: There is a monthly fixed fee of EUR50 per gaming machine, as well as a monthly variable fee of 10% of the gross gaming revenue.
 - Online gambling: There is a monthly fixed fee of EUR10,000, along with a monthly variable fee of 10% of the gross gaming revenue.
- These fees are charged separately for betting games, virtual casino games, and virtual slot games.

5. Land-Based Gambling

5.1 Premises Licensing

Premises where games of chance are organised must satisfy various technical and spatial requirements, and compliance with these conditions must be checked before applying for a concession, as a technical compliance certificate is one of the mandatory application documents. Technical compliance must be maintained for the duration of the concession and regular inspections may be carried out by the gaming authority.

Casinos

A casino must be arranged in such a way that both the gaming areas and the guest and casino staff areas are integrated in a single space, where the minimum size of the casino is 250 square metres. In addition, the casino must have at least

five gaming tables. It is prohibited to organise casino games in mixed-use (residential/commercial) buildings. A special label, issued by the Ministry of Finance and displaying the main data on the operator and the concession, must be displayed at the entrance to the casino. Within the casino, there must be a:

- cash register;
- a separate and secured area to store money and other valuables; and
- an exchange office.

There must also be a catering area, except when the casino is located inside a hospitality facility that has at least a three-star rating.

Audio-video surveillance must be installed inside the casino, so that it can cover:

- the entrance and exit;
- the reception;
- any place where gaming chips can be purchased (cash register and exchange office);
- live game tables;
- roulette tables and gaming machines;
- the calculation process – whether it is performed at the table or in a separate calculation room; and
- the movement of money or gaming chips in general.

Video surveillance cameras and monitors must be in colour, and the recordings must always show the date and time of recording. Access to the control room in which the equipment for audio-video surveillance is stored must be strictly guarded, and only authorised security personnel may gain access.

Betting Shops

The minimum permitted size of a betting shop is ten square metres. The premises must be equipped with an IT system for receiving payments that is connected to the central database of the regulatory authority, and there must be a metal safe in the premises for keeping the winning, non-winning and cancelled betting tickets, as well as the fire protection device. Betting rules, the options on offer and the results of the betting must be displayed in a dedicated notice space.

A special label, issued by the Ministry of Finance and indicating the main data on the operator and the concession, must be displayed at the entrance to the betting shop.

Payments for bets can only be made at payment points of betting shops or at betting terminals for which a concession has been granted, while the area dedicated to betting terminals cannot be less than three square metres per terminal. Betting via betting terminals can be organised not only in betting shops, but also in casinos and slot-machine clubs. The premises for receiving bets on betting terminals cannot be less than three square metres.

Gaming-Machine Venues

A gaming-machine venue must have at least ten gaming machines, and the gaming and guest areas must have a total combined area of at least 35 square metres.

A gaming-machine venue must have a cash register and a separate secured area for storing money and other valuables, and it may also have a hospitality section in which drinks and beverages may be served, or a hospitality section for preparing and serving food.

The operator is obliged to have a control IT system in place that allows the gaming machines to be connected to the IT system of the gaming regulator.

Also, a special label, issued by the Ministry of Finance and indicating the main data on the operator and the concession, must be displayed at the entrance to the gaming-machine venue.

The operator is obliged to display the following inside the premises:

- the games rules;
- a warning that gambling is prohibited to persons under the age of 18; and
- the minimum return rate percentage of the gaming machines.

In the case of multi-player gaming machines, the operator is obliged to provide at least three square metres of space per possible player.

Also, the gaming machines must support the SAS (Slot Accounting System) protocol.

Tombola

The premises used for tombola must be organised and must meet certain hygienic-technical conditions. The area must not be under 100 square metres.

The tombola operator must use the following equipment:

- a transparent drum with an automatic ball ejection system;
- an electronic counter of drawn play balls with lights;
- an electronic display with illuminated numbers or a computer system for monitoring the

draw, with an appropriate device for displaying results;

- a TV camera with a monitor; and
- an appropriate sound system.

There must be a special label, issued by the Ministry of Finance, indicating the main data on the operator and the concession, displayed at the entrance to the tombola venue.

Bingo and TV Tombola

The premises (TV studio) inside which bingo or TV tombola is being organised, cannot have an area of less than 30 square metres, excluding the audience sector.

The organiser of bingo and TV tombola is obliged to ensure the monitoring of the draw of numbers and the entire course of the game through a live TV broadcast.

5.2 Recent or Forthcoming Changes

The detailed technical requirements for connecting audio-video surveillance systems in casinos with the information surveillance system of the Games of Chance Administration have been prescribed by the Regulation on closer technical requirements for connecting audio-video surveillance systems in casinos with the information surveillance system (*Pravilnik o bližim tehničkim uslovima za povezivanje sistema audio-video nadzora kazina sa informacionim nadzornim sistemom*, “Official Gazette of Montenegro”, No 042/24).

The EUR2 million fee for the awarding of a casino concession has been criticised by the industry for being too high and is generally seen as a discouraging factor for new players wishing to enter the Montenegrin casino sector. It is therefore expected that the upcoming new gambling legislation will reduce this award fee for casinos.

There are also expectations of change in the lottery sector, as there has been a five-year period without a lottery operator, and the current legislation does not regulate the lottery concession award procedure sufficiently.

6. Online Gambling

6.1 B2C Licences

Any operator holding a land-based gambling concession of any type can apply for an online licence. Due to insufficient regulation in this area, the interpretation is that the online licence, once granted, gives its holder a right to organise any type of gambling online. Practically, that means that the online games provided by the operator are not tied to the types of games for which the operator holds a land-based concession. To illustrate the situation, a company with a concession for land-based gaming machines can obtain a licence for online gambling and offer betting on its website. There is an obligation for the operator to report to the competent authority on all games that they organise online and to submit rules for each online game of chance. The operator can have one initial website (IP address, website, internet domain) for organising online games of chance.

6.2 B2B Licences (Suppliers, Software, Etc)

Business-to-business provision of services in the gambling sector is not a regulated activity in Montenegro. No licence is required for providers of software or services to a licensed operator as long as the provider itself is not offering the games to customers.

6.3 Affiliates

The use of affiliates has not been under the spotlight of the regulator and there are no particular statutory rules or restrictions in this respect.

6.4 White Labels

There are no particular licensing or regulatory requirements for white-label providers. The regulator's approach is generally neutral in this respect, and any type of arrangement for the supply of online gambling platforms or services to operators is permitted.

6.5 Technical Measures

Under the current legislation, it is forbidden to participate in games of chance organised abroad when the stakes are paid in Montenegro, or to collect stakes in Montenegro for games of chance organised abroad. These restrictions, in the context of online gambling, refer to legal entities that do not have authorisation to organise online games of chance, so the online offering of offshore operators unlicensed in Montenegro is not permitted. The competent authorities have the obligation to prevent access to websites of unauthorised online gaming operators, through blocking access to their website by an independent regulatory body in the field of electronic communications, as well as prohibiting payment transactions by banks or other service providers in Montenegro to these operators. The competent authority maintains and publishes a list of unauthorised online gaming operators ex officio.

6.6 Recent or Forthcoming Changes

In early 2024, amendments to the Games of Chance Act introduced a new set of provisions for online games of chance, addressing the following matters:

- the documentation and requirements for obtaining the licence for online games of chance;
- the technical conditions related to online platforms;
- conditions and data required for the registration of players for online games of chance;
- manner of calculation and payment of concession fees for online games of chance;
- method of payments to user accounts; and
- new misdemeanours and fines related to online games of chance.

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

7.1 RG Requirements

Although the Games of Chance Act emphasises public interest in the prevention of the negative effects of gambling, the provisions regulating responsible gambling are scarce and in practice limited to the restriction of underage gambling. In this regard, minors under the age of 18 are not permitted to enter gambling venues of any type. Online platforms fall under the restriction of underage gambling as well. Minors under the age of 18 are not permitted to be registered as players and the funds that have been deposited or paid to a minor as winnings will be seized by the competent authority. Surprisingly, the prevention of problem gambling is still not regulated, and there are currently no obligations imposed on operators in this respect.

7.2 Gambling Management Tools

Operators are not obliged to make any gambling management tools (such as betting limits, time-outs, etc) available to players.

7.3 Recent or Forthcoming Changes

Possible novelties of the planned new legislation may be related to temporary self-exclusion rights for players, and rights to set betting or loss limits. Furthermore, operators may be obliged to display a notice on responsible gambling in physical premises.

To reduce the negative impact of gambling, it is anticipated that provisions related to the advertising of games of chance will be defined for the first time. Additionally, regulations concerning the distance of gaming facilities from educational institutions are expected to be specified more precisely.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML regulation, which also applies to the gambling sector, is the Act on Prevention of Money Laundering and Financing of Terrorism. Providers of gambling services (gambling operators) are regulated as obliged entities under this piece of legislation and hence are required to have in place policies, controls and procedures for mitigating and effectively managing the risks of money laundering and terrorism financing.

When assessing the risk of money laundering and the financing of terrorism, gambling operators are obliged to observe the list of indicators of suspicious transactions prescribed under the Rulebook on the List of Indicators for Recognition of Suspicious Clients and Transactions (*Pravilnik o listi indikatora za prepoznavanje sumnjivih klijenata i transakcija*, “Official Gazette of Montenegro”, No 29/24).

8.2 AML Requirements

Gambling operators (providers of lottery games, special games of chance, online games, etc) are obliged to establish the identity of the customer, upon the collection of winnings or the wagering of a stake, or when carrying out transactions amounting to at least EUR2,000, whether the transaction is carried out in a single operation or in several linked operations.

The operator must collect information on the name, residential address and date of birth of the customer, among other things, and must verify the customer's identity on the basis of documents, data or information obtained from a reliable and independent source. This obligation also applies to online gambling operators when opening customers' accounts, and to casino operators when the customer enters the casino.

8.3 Recent or Forthcoming Changes

The new Act on Prevention of Money Laundering and Financing of Terrorism provides for the option of carrying out online video identification of customers through an automated software process, and online electronic identification using a qualified electronic certificate. These methods may be used for registration of players on online gaming platforms.

9. Advertising

9.1 Regulatory/Supervisory Agency

Advertising activity is not regulated in Montenegro in a general manner, and current regulations are limited to the prevention of illicit advertising in the context of the protection of consumers or traders. There is no special regulatory authority established for advertising.

9.2 Definition of Advertising

The Illicit Advertising Act (*Zakon o nedozvoljenom oglašavanju*, “Official Gazette of Montenegro”, No 30/17) defines advertising as a communication that recommends an advertiser, or its professional or business activity, to encourage the sale of goods, services or real estate.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising is not a regulated activity in Montenegro and gambling operators are free to advertise their offering without any special licence or permission.

9.4 Restrictions on Advertising

General restrictions on advertising imposed under the Consumer Protection Act (*Zakon o zaštiti potrošača*, “Official Gazette of Montenegro” Nos 02/14, 06/14, 43/15, 70/17, 67/19, 146/21, 84/24) apply to gambling operators as well. In this sense, Article 29 (1) prohibits any advertising of products and services that:

- misleads or may mislead the consumer;
- discriminates against consumers on the basis of race, gender or nationality;
- offends dignity, religious or political beliefs; or
- incites violence or behaviour that is detrimental to security and consumer health or the environment.

Article 29 (2) prohibits advertising that threatens the health, psychological or moral development of minors. Also, Article 29 (3) provides that it is forbidden to use comparative, fraudulent and false propaganda and advertising messages that deceptively promote a product or service, overstating its effects or results.

The Illicit Advertising Act prohibits misleading advertising and sets out conditions under which

comparative advertising may be permitted (Article 5).

Finally, the Games of Chance Act forbids the advertising of foreign betting tickets in Montenegro (Article 7).

9.5 Sanctions/Penalties

An infringement of advertising restrictions prescribed by the Consumer Protection Act can trigger a fine of between EUR1,500 and EUR20,000, while a breach of the restriction under the Gaming Act can trigger a fine of between EUR1,100 and EUR20,000. The Illicit Advertising Act does not prescribe fines for illicit advertising, but rather introduces the possibility of class action lawsuits against infringers.

9.6 Recent or Forthcoming Changes

The anticipated gambling legislation is expected to explicitly prohibit any advertising related to games of chance in the media intended for children or young people (including radio or TV shows, print media, online media, or in any events directed at children or young people).

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosure requirements in the case of the acquisition of companies, where applicable, are not sector-specific, in that there are no special requirements applicable to gambling companies only – there are general requirements that apply to any type of business.

However, disclosure is required only in the case of a mandatory or voluntary takeover of joint stock companies (which are subject to capital market and securities regulations), and not in the

case of the acquisition of, or change of control in, limited liability companies. A limited liability company is the corporate form of choice for most businesses in Montenegro, and the vehicle type currently utilised by all operators in the games-of-chance sector.

10.2 Change of Corporate Control Triggers

If the operator is registered as a joint stock company, the acquisition of direct or indirect control of at least 30% of the shares would trigger the obligation to launch a mandatory takeover bid by the acquirer.

10.3 Passive Investor Requirements

There are no particular passive investor requirements in Montenegro in the case of acquisitions or changes of control of companies in general.

10.4 Recent or Forthcoming Changes

No response has been provided in this jurisdiction.

11. Enforcement

11.1 Powers

The Games of Chance Administration, as the regulatory body, has broad power to control the compliance of operators with the Games of Chance Act. This is exercised through the regulator's authorised officers and inspectors, who are entitled, among other things, to:

- enter the premises of operators and perform inspections, issue orders or impose specific measures to cure non-compliance;
- prohibit the disposal of funds at bank accounts;
- temporarily stop the operations; or
- prohibit use of the premises or equipment.

They are also authorised to fine the company and issue a so-called “misdemeanour order”, which is a decision on a fine that becomes effective only if the fined entity does not challenge it and requests the court's decision on the misdemeanour. The authorised officers and inspectors can also file a motion for starting misdemeanour proceedings before the competent courts.

11.2 Sanctions

Most infringements of the Games of Chance Act are considered to be misdemeanours and trigger monetary fines. The monetary fines are regularly imposed by inspectors, through issuing misdemeanour orders, or by the courts in misdemeanour proceedings. The latter will be the case if the fined company opts to challenge the misdemeanour order and have the case heard before the court, or if the inspector files the motion for starting misdemeanour proceedings instead of issuing the misdemeanour order.

The most severe infringements are penalised with criminal sanctions. Providing games of chance without a proper concession or licence is punishable by a monetary fine or imprisonment for up to three years, while selling betting tickets or accepting payment for games organised abroad can trigger a monetary fine or imprisonment for up to two years.

11.3 Financial Penalties

When a financial penalty is imposed on a company and not paid within the provided deadline, it will be enforced by the competent authority that imposed the fine, which will be the regulatory body or the court.

The primary means of enforcement against companies is blocking their bank accounts and seizing any available funds. If the funds in those bank accounts are not sufficient, the fines will

regularly be enforced against other assets of the company, through their seizure and public sale.

11.4 Recent or Forthcoming Changes

No response has been provided in this jurisdiction.

12. Tax

12.1 Tax Rate by Sector

Gambling winnings in Montenegro are currently not taxable, regardless of the type of game or the amount won, but the taxation of gambling winnings is introduced in the adopted amendments to the Personal Income Tax Act (*Zakon o porezu na dohodak fizičkih lica*, “Official Gazette of Montenegro”, Nos br. 065/01, 012/02, 037/04, 029/05, 078/06, 004/07, 086/09, 073/10, 040/11, 014/12, 006/13, 062/13, 060/14, 079/15, 083/16, 067/, 059/21, 146/21, 152/22 and 088/24), which will come into effect on 1 January 2025.

Gambling revenues are taxed through the system of fixed and variable concession fees (see 4.10 Ongoing Annual Fees).

12.2 Recent or Forthcoming Changes

From 1 January 2025, gambling winnings will be subject to personal income tax of 15%. Winnings up to EUR300 will be non-taxable. The tax is paid on the amount of the winnings reduced by the amount of the individual stake.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Employees of land-based casinos who are directly involved in organising games of chance are required to hold a certificate of professional qualification for casino work. While the government is responsible for prescribing the process and conditions for obtaining and issuing this certificate, no such regulations have been enacted to date. There are no similar requirements for other types of games of chance. The only such requirement is related to employees in land-based casinos, who are required to possess a certificate of professional qualification for casino work.

13.2 Application Process

There is no procedure prescribed for obtaining the certificate. It is common practice for training to be organised internally.

13.3 Ongoing Annual Fees

There are no associated fees.

13.4 Ongoing Requirements

There are no specific ongoing requirements.

13.5 Personal Sanctions

There are no personal sanctions. A casino may be fined if its employees are not qualified to work in a casino, and the fines range from between EUR1,000 and EUR20,000.

13.6 Recent or Forthcoming Changes

For the time being, there are no initiatives to regulate personal licensing more extensively.

NETHERLANDS



Law and Practice

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Kalff Katz & Franssen is the only law firm in the Netherlands with a dedicated practice that specifically focuses on the national and international gaming and gambling sector, and on related areas. The firm serves a wide range of clients, including listed B2C and B2B operators, software developers, inspection bodies, financial institutions, payment service providers, private equity investors, media companies, hosting companies and public authorities. The gaming and gambling practice group consists of seven

members, and adopts a multidisciplinary approach towards advising clients on a range of subjects, including licensing, compliance, litigation, contracts, public affairs, and privacy and data protection. Various members are affiliated with the International Masters of Gaming Law and the International Association of Gaming Advisors. Furthermore, the practice group often provides speakers and moderators for conferences and events around the world, as well as regularly writes for sector-specific publications.

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ATTORNEYS AT LAW

1. Introduction

1.1 Current Outlook and Recent Changes

In 2024, further addiction-prevention requirements were introduced by the Netherlands Gambling Authority (NGA) concerning RG interventions, such as: i) net deposit thresholds; ii) additional requirements regarding profile limits; and iii) tightened policy (see **7.3 Recent or Forthcoming Changes**). Additionally, a third version of the AML Guidelines was released by the NGA (see **8.3 Recent or Forthcoming Changes**).

On 1 July 2025, the current transitional regime for sponsoring sport will end. This means that, as of this date, a complete prohibition will apply (see **9.4 Restrictions on Advertising**).

By the end of 2024, the State Secretary responsible for gambling legislation and policy is expected to submit a letter to Parliament with a policy position on several amendments for the regulatory regime, some of which were spurred by Parliamentary motions, with others to stem from the Ministry's evaluation of the Remote Gambling Act (RGA). It was anticipated that the outcome of the evaluation would be released on 31 October 2024, but delays have arisen. The aforementioned letter will discuss the State Secretary's position regarding the following possible restrictions: complete advertisement ban, prohibition on online slots, and cross-operator limits. The letter is only expected to include an outline of the possibilities concerning cross-operator limits. The discussion concerning the feasibility and desirability of the more far-reaching restrictions (advertisement ban and prohibition online slots) is still in its early stages (see **3.7 Recent or Forthcoming Legislative Changes**).

2. Jurisdictional Overview

2.1 Online

Remote gambling offers without a Dutch licence are prohibited. This prohibition applies to all locally unlicensed offers, regardless of the licence an operator may have in another (EU/EEA) jurisdiction.

Licensed operators are permitted to offer various forms of remote gambling, as per the four categories explained in **4.4 Types of Licences**. This section addresses how the regulatory regime shapes gambling offers pursuant to different product verticals.

Betting (in General)

Licensed operators are allowed to offer bets on:

- the outcome of horse racing and harness racing;
- the outcome of sporting contests; or
- events that occur during sporting contests.

However, bets on negative events or events that can be easily manipulated (eg, yellow/red cards) are prohibited. Betting on events other than those occurring during sporting contests is prohibited. Spread betting is also prohibited.

Bingo

Short-odds, high-tempo bingo games are licensable as casino games.

Casinos

Operators are also allowed to offer casino games in which:

- the players play against the licence holder (eg, blackjack), including live casino games; and

- the players play against one another, including live casino games (poker games fall within this category).

Esports, Fantasy Sports and Virtual Sports

Esports betting is allowed, in principle. However, this is subject to the condition that the underlying sporting contest be organised under the auspices of a recognised (inter)national sports organisation. Until such time when esports governance reaches this stage, licensed operators must refrain from offering bets on such competitions. This remains unchanged in 2024.

Fantasy sports betting is classed as sports betting and is thus permitted. At the same time, fantasy sports betting is only allowed if it is based on (elements from) sporting contests that fit the definition of a sporting contest. Furthermore, the underlying sporting contests must be organised in accordance with the safeguards against match fixing.

Bets on virtual sports are allowed when the outcome is determined by a random number generator. These bets are regulated as casino games, not as sports betting.

Lotteries

Holders of a remote gambling licence are not permitted to offer lotteries remotely. Charity lotteries may be offered online, without having an offline offer, but they are not regulated as remote gambling.

Social Gaming

Social games that do not include prizes or premiums are not considered to be games of chance and thus fall outside the scope of the Betting and Gambling Act (BGA).

2.2 Land-Based

The land-based gambling market in the Netherlands consists of a mix of state-owned incumbents and private entities, and a multitude of licensing requirements. This section provides a general overview of licensable land-based games of chance. The individual licensing systems are explained further in 4.4 **Types of Licences**.

Readily Available Licences

An unlimited number of licences are available for slot machines. Slot machines can be located in cafés or restaurants targeted towards people over 18 years of age, and in slot-machine arcades. Municipalities determine whether slot machines are permitted within their area and, if so, which other restrictions apply (eg, zoning, maximum number and opening times).

An unlimited number of licences are also available for charity lotteries; however, these licences are subject to conditions, including a prohibition on generating private profits. Furthermore, all such offers must be for the public good, with 40% of revenue going to good causes.

Semi-permanent Licences

Single licences exist in the field of horse-race betting, sports betting, the instant lottery, and the Lotto. The Lotto is a game in which participants predict a given number of symbols from a predefined range and, subsequently, a draw is made. The instant lottery is offered in the form of scratch cards (krasloten), whereby prizes are allocated to tickets before sales commence.

Licences for these sectors are referred to as semi-permanent because they are valid for a period of five years and have been reallocated to incumbent licence holders in 2022.

Permanent Monopolies

Casino gambling (including poker) is offered by the state-owned Holland Casino, which enjoys a permanent monopoly. Furthermore, the state lottery licence was granted to the Staatsloterij BV in 2022 for an indefinite period. The latter effectively perpetuates the permanent monopoly that has long been enjoyed for offering what is essentially “the national lottery”.

Games That Are Exempt From the Licence Requirements

Several forms of gambling are exempt from the “prohibited unless licensed” approach, including small-scale gambling and promotional games of chance. Land-based bingo games can only be offered when they fall within one of these categories.

3. Legislative Framework

3.1 Key Legislation

The BGA and the Betting and Gambling Tax Act (BGTA) are the primary laws that specifically regulate gambling in the Netherlands.

3.2 Definition of Gambling

According to the BGA, “games of chance” consist of two elements:

- an opportunity to compete for prizes or premiums; and
- the designation of winners by a means over which the participants are generally unable to exercise a dominant influence.

A prize or premium is defined broadly. The definition includes monetary prizes and in-kind prizes. Payment of a stake is not required for a game to be considered a game of chance under the BGA, which increases the prospect of individual

games being found to constitute gambling in the Netherlands when contrasted with other jurisdictions.

3.3 Definition of Land-Based Gambling

Land-based gambling is not defined separately in legislation. The BGA only mentions those games of chance for which one or more licences can be awarded.

3.4 Definition of Online Gambling

Remote games of chance are defined by reference to the general definition of “game of chance”, as provided in 3.2 Definition of Gambling. Additionally, according to the BGA, the following two elements must be present:

- the game of chance is offered remotely, using electronic means; and
- participation must be without any physical contact with the operator.

3.5 Key Offences

Under the BGA, it is prohibited to:

- offer unlicensed games of chance;
- promote/facilitate unlicensed games of chance; and
- knowingly participate in unlicensed games of chance.

Enforcement of these prohibitions takes place primarily by administrative measures, although there are no known cases of players being subject to enforcement measures for participating in unlicensed offers. There is an option to enforce via criminal law under specific circumstances, as detailed in the enforcement protocol between the NGA and the public prosecutor.

Following the amended BGA's entry into force, the scope of the prohibition on promoting

games of chance has been expanded to include the facilitation of such unlicensed offers. The expanded scope thus applies to providers of intermediary services, alongside those advertising unlicensed offers.

3.6 Penalties for Unlawful Gambling

Breaches of the prohibitions against offering or promoting/facilitating unlicensed games of chance (as discussed in **3.5 Key Offences**) can be sanctioned by an administrative fine, or by a cease-and-desist order that is subject to a penalty for non-compliance. The NGA may also impose a binding instruction. The maximum administrative fine currently stands at EUR1,030,000 (or 10% of the turnover during the previous year if this exceeds EUR1,030,000).

Administrative fines regarding illegal operators are awarded in accordance with the NGA's fining policy, under which the base fine is EUR600,000. However, if the offender's turnover in the Netherlands exceeds EUR15 million, the fine is 4% of turnover. The fine will be increased in certain circumstances – for example, in cases where illegal offerings are aimed at minors or where no information is provided on addiction prevention.

Criminal sanctions can consist of a fine (up to EUR1,030,000 for legal entities), imprisonment and community service. Please note that, as indicated, administrative law is the primary enforcement route.

It has been noticed in 2023 and 2024 that the NGA generally imposes cease-and-desist orders (with a penalty payment clause) and subsequently administrative fines on unlicensed operators. It is expected that the NGA will use this or another of its enforcement measures when dealing with intermediaries who support illegal operators. See **11. Enforcement**.

3.7 Recent or Forthcoming Legislative Changes

In 2021, the RGA was introduced in order to set up a licensing regime for remote gambling. Already during the legislative process, the objective was to evaluate the effects of the legislation after three years. At the time of writing, the evaluation is being finalised. Based on these results, the State Secretary responsible for gambling policy and legislation aims to submit policy proposals to Parliament for various amendments. The policy proposals are expected before the end of 2024, but a specific timeline for the legislative process in relation to those proposals is not yet known.

Some notable policy topics are the complete advertisement ban, prohibition on online slots, and cross-operator limits (also mentioned in **1.1 Current Outlook and Recent Changes**). The letter from the State Secretary at the end of 2024 is only expected to include an outline of the possibilities concerning cross-operator limits. The discussion concerning the feasibility and desirability of the more far-reaching restrictions (advertisement ban and prohibition online slots) is still in its early stages.

Other recent and forthcoming legislative changes are discussed in **9.6** and **12.2 Recent or Forthcoming Changes**.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The independent NGA (*Kansspelautoriteit*) is the regulatory authority concerned with the supervision and enforcement of the BGA. The NGA is also tasked with the awarding of gambling

licences. For slot machines, a licence is also required from the local municipality.

The Dutch Customs and Tax Administration (*Belastingdienst*) is the authority responsible for imposing and collecting taxes (including gambling tax) on behalf of the Dutch state.

4.2 Regulatory Approach

As stated in 3.1 Key Legislation, the BGA embodies a prohibited-unless-licensed approach. This means that all locally unlicensed gambling offers – apart from those forms that are exempt from licensing requirements (as referred to in 2.2 Land-based) – are unlawful.

Prioritisation

In performing its enforcement duties, the NGA has discretion with regard to the moment at which it launches enforcement investigations. Therefore, enforcement action by the NGA against locally unlicensed remote gambling offers revolves around a non-exhaustive list of triggers or questions. The answer to these questions determines the priority of an investigation into a possible violation of the BGA.

These triggers/questions are as follows.

- How many Dutch players make use of the illegal offer?
- How harmful is the illegal offer to the public objectives of the NGA?
- Are there any illegal offers or other circumstances that could draw players away from the legal market?
- To what extent does the illegal offer target Dutch consumers?

This new enforcement approach entered into effect on 1 November 2021 and affected some major operators that were (passively) available

on the Dutch market. Under the old enforcement approach, some operators sought to remain passively available on the Dutch market (eg, without targeting Dutch customers via advertising) up until the point that they obtained their Dutch licence. As of 1 November 2021, the old so-called prioritisation criteria no longer apply, and any fines levied under this regime are far higher than before.

Enforcement Against Intermediaries

As of 1 April 2021, intermediaries such as PSPs and software providers clearly fall within the scope of the ban on promoting/facilitating unlicensed games of chance (see 3.5 Key Offences). The Dutch legislature prescribes the use of enforcement measures against intermediaries as an effective weapon in driving unlicensed B2C operators from the market.

At the same time, the legislative history underpinning the remote gambling reforms of 2021 suggests that administrative fines will not be the first port of call against an intermediary. Nevertheless, the NGA will decide which enforcement measure it deems most appropriate, and in 2024 we may have seen the first signs of an increased focus on intermediaries (see 11.4 Recent or Forthcoming Changes). The measures available to the NGA are described in 11. Enforcement.

4.3 Recent or Forthcoming Changes

In December 2023, the NGA amended the information requirements for the reliability assessment – for licence holders and licence applicants. The amendments were designed to reduce the administrative burden for applicants and licence holders, especially when it involves those which belong to a large corporate structure. Although the amendments did help, the reliability assessment remains a labour-intensive process. For

information on the reliability assessment, see **4.7 Application Requirements**.

Other regulatory changes entered into force in 2024. These changes, concerning RG requirements and AML requirements, are discussed in the dedicated sections **7.3** and **8.3 Recent or Forthcoming Changes**.

Forthcoming legislative changes are discussed in **3.7 Recent or Forthcoming Legislative Changes**. At the time of writing, there are no explicit indications of additional regulatory changes. However, there is a possibility that some changes concerning this topic will be seen following the aforementioned evaluation of the RGA.

4.4 Types of Licences

The licensing systems for land-based gambling services are set out in **2.2 Land-based**. Given the nature of the semi-permanent and permanent licensing regimes, only slot machines and charity lotteries are explained further in this section.

Firstly, slot-machine operators can only operate machines for which a valid type approval has been granted. Secondly, operators must possess an exploitation licence from the NGA. Thirdly, slot-machine operators must obtain two licences from the relevant local municipality in relation to operating the machines and the premises in which the slot machines are to be located (exploitation licence and premises licence).

Charity lottery licences can be divided into two categories: non-incidental and incidental. Non-incidental lotteries are awarded for a period of more than six months and a maximum of five years. Incidental lotteries are awarded for a period of six months and are allowed a maximum of 13 draws within that period.

For both incidental and non-incidental charity lotteries, 40% of revenue must go to good causes and operators are prohibited from generating private profit. Licences issued by the NGA are intended for lotteries with prizes amounting to a total of more than EUR4,500. Licences for lotteries with prizes totalling an amount of EUR4,500 or less are awarded by local municipalities.

Remote Gambling

In accordance with the BGA, an applicant can apply for four categories:

- casino games in which the players play against the licence holder (eg, blackjack, slots);
- casino games in which the players play against one another (eg, poker);
- bets on events occurring during a sporting contest or on the outcome of a sporting contest; and
- bets on the outcome of horse racing and harness racing.

The permitted remote gambling services outlined in **2.1 Online** fall into one of the above categories.

4.5 Availability of Licences Land-Based Gambling

As explained in **2. Jurisdictional Overview**, there is no cap on licences for charity lotteries and slot machines and, in reality, these are the only licences that can be considered “readily available” in the land-based sphere. However, in terms of slot machines, practice will be determined by the policies of local municipalities.

Remote Gambling

The number of remote gambling licences is unlimited, but applicants will have to fulfil strict requirements on subjects such as:

- the reliability of the applicant;
- separation of player funds;
- consumer protection (responsible gambling, advertising);
- digital communication (a control database located in the Netherlands);
- AML; and
- payment transactions.

4.6 Duration of Licences

The offering of slot machines requires three separate documents, with different durations.

Firstly, the slot-machine type approval will – in theory – remain valid unless the model has to undergo changes. Secondly, the exploitation licence is awarded by the NGA for a period of ten years. Finally, the local licences are awarded by the relevant local municipality.

For cafés and restaurants that target those over 18, these licences are usually valid for between one and five years. Different premises licensing regimes apply for gaming arcades at the local level (with licensing periods of between one and 15 years, and in ever decreasing numbers, indefinite licences).

As mentioned in 4.4 **Types of Licences**, charity lotteries are in practice awarded for a period of five years.

Remote gambling licences are awarded for a maximum period of five years.

4.7 Application Requirements

Given that licences are effectively only available for charity lotteries, slot machines and remote gambling, this section focuses solely on applications for these types of licences.

Reliability Assessment for Remote Gambling Applicants

One of the key requirements for remote gambling licence applicants is the reliability assessment.

This reliability assessment consists of a two-step approach: a reliability test and probity screening.

Reliability Test

The first step in the overall reliability assessment is the reliability test based on the BGA and secondary legislation. The NGA will investigate whether the reliability of the applicant is “beyond any doubt”.

The reliability test includes relevant legal and natural persons, such as shareholders, directors, subsidiaries and entities that are ancillary to the applicant. The Dutch legislature takes the view that the acts and omissions of persons involved in, or surrounding, the applicant entity can affect the reliability of the applicant itself.

Practice shows that the scope of the reliability test is broader than most applicants expect. In itself, this broad scope need not be a barrier to an applicant’s chances of success. Nevertheless, during the process of preparing a licence application, it can take some time to identify every person and entity that is considered relevant by the NGA (and then collect the necessary information).

Locally Unlicensed Presence

For applications made before 1 April 2022, an important element of the reliability test was the (previous) presence of the applicant on the Dutch market. For those applications, an unlicensed presence on the Dutch market would not – in and of itself – automatically render an applicant as lacking a sufficient degree of reliability.

Operators with an unlicensed presence that submit their licence application after 31 March 2022 cannot make use of this exception to the default position. As such, the applications of operators with a (previous) presence on the Dutch market submitted after 31 March 2022 will – in principle – be rejected. The reliability of these operators will not be considered “beyond any doubt”.

The NGA will also take into account the unlicensed presence of persons and entities surrounding the licence applicant. Whether an unlicensed presence of these persons will lead to rejection is something that cannot be answered in general terms.

Probity Screening

The second step consists of a test based on the Public Administration (Probity Screening) Act (De Wet Bibob, or the “Bibob Act”). This test allows the NGA to assess:

- whether there is a danger that the licence will be used to utilise monetary benefits obtained or obtainable from criminal acts; and
- whether a criminal act has been committed in order to obtain the licence.

Where the NGA deems necessary, and in specific situations, it will ask for advice from the Bibob Agency (Landelijk Bureau Bibob), which specialises in integrity assessments and in providing advice to government authorities.

Reliability Assessment for Land-Based Slot-Machine and Charity Lottery Licences

The above-mentioned reliability assessment for remote gambling applicants does not apply to land-based slot-machine (exploitation) licence applications and charity lottery licence applications.

However, applicants for these licences will have to fulfil requirements regarding integrity and reliability. The NGA’s investigation will include an assessment of the applicant’s:

- finances;
- antecedents;
- organisational structure; and
- business relationships with other natural or legal persons.

Furthermore, applicants for land-based slot-machine and charity lottery licences could also be subject to a test based on the Public Administration (Probity Screening) Act. On 3 October 2022, the NGA published its policy rules on probity screening for land-based slot-machine applicants.

4.8 Application Timing

The NGA has six months to assess a remote gambling licence application. This period can be extended by another six months. Internally, the NGA divided the licensing process into two phases:

- information gathering; and
- decision-making.

Licence applications for slot machines, incidental lotteries and charity lotteries must be completed within eight weeks. This period can be extended depending on the (additional) information required from the applicant.

4.9 Application Fees

Fees for slot machines consist of the fees for premises and for exploitation licences. In accordance with applicable legislation, premises licences are set by individual municipalities at a maximum of EUR22.50 (plus EUR34 per slot machine) per year. The exploitation licence

awarded by the NGA is subject to a one-off fee of EUR1,815.12 and an annual gambling levy per player seat. In 2024, this annual fee was EUR136 per player seat.

Fees for incidental charity lottery licences depend on the total amount of the prizes that can be won:

- prizes totalling an amount of more than EUR4,500 and up to EUR50,000 are subject to a fee of EUR500;
- prizes totalling an amount of more than EUR50,000 and up to EUR500,000 are subject to a fee of EUR4,100; and
- prizes totalling an amount of more than EUR500,000 are subject to a fee of EUR24,000.

The fee for non-incidental charity lottery licences, with prizes totalling more than EUR4,500, stands at EUR28,000.

Remote gambling licences are subject to a non-refundable licence application fee of EUR48,000.

4.10 Ongoing Annual Fees

As described in 4.9 **Application Fees**, the exploitation licence for slot machines is subject to an annual gambling levy of EUR136 per player seat.

Remote gambling licence holders must pay a levy of 1.95% of gross gaming revenue (GGR) and entry fee/commission in order to cover two things:

- a designated 1.7% of GGR/entry fee/commission covers the annual costs associated with the NGA's performance of its tasks; and
- the remaining 0.25% covers costs associated with the addiction prevention fund.

A similar levy applies to lotteries (both incidental and non-incidental) with GGR above EUR1 million. The levy is applied progressively, in four brackets, on the basis of the lottery's GGR.

5. Land-Based Gambling

5.1 Premises Licensing

As explained in 4.4 **Types of Licences**, a premises licence is required for slot-machine operators. These licences can be awarded by local municipalities. Specific requirements including opening hours, location and number of slot machines are determined by the relevant municipality in which the operator has its premises.

The existing 14 casinos within the Netherlands are all operated by the state-owned Holland Casino.

5.2 Recent or Forthcoming Changes

In May 2023, the Ministry of Finance and the Ministry of Justice and Security finalised their evaluation of the shareholding of the state-owned companies Holland Casino (land-based casino monopolist and remote gambling licence holder) and the Nederlandse Loterij (monopolist for land-based sports betting, monopolist for several land-based lotteries, and remote gambling licence holder).

The outcome of the initial evaluations is that state ownership of these companies is not necessarily required. Consequently, future options for both companies (including privatisation) were to be explored, and the outcome of the assessment discussed with the House of Representatives. However, further information on the next steps has not been published since December 2023.

In February 2024, a land-based gambling operator successfully challenged the licensing regimes for the instant lottery, the lotto, and land-based sports betting before a District Court. The District Court concluded that the nature of the three semi-permanent licensing regimes constituted an unjustified restriction of the freedom to provide services. Restrictions to the freedom to provide services can be justified, but one of the criteria is that the national policy in that regard has to be “horizontally consistent” and “proportionate”. According to the District Court, this is not the case with the Dutch gambling legislation. The three land-based licensing regimes each constitute a monopoly of their own, whereas the remote gambling licensing regime does not contain a ceiling for the number of licence holders. According to the District Court, the diverging approaches between the land-based regimes and the remote gambling regime cannot be justified considering several similarities in relation to the product offers and the legislator’s policy objectives.

The decision of the District Court is currently subject to a higher appeal. The outcome of this matter in higher appeal could impact the shelf life of all semi-permanent licensing regimes (instant lottery, the lotto, land-based sports betting, and land-based horse-race betting). Potentially, the final decisions could also impact the land-based casinos of Holland Casino. It is not yet clear when we can expect the decision in higher appeal.

6. Online Gambling

6.1 B2C Licences

As indicated in 2.1 Online, the remote gambling licensing regime allows the offering of most

gambling verticals. Subjects that are addressed during the licensing process include:

- the reliability of the applicant (including shareholders and directors);
- financial continuity;
- the separation of player funds;
- addiction prevention;
- consumer protection;
- AML and CFT;
- integrity; and
- outsourcing.

An important restriction on the use of remote gambling licences is the prohibition of anonymous payment instruments. Payment instruments can – in principle – be used if those instruments have been issued by a bank, payment institution or EMI that is licensed in accordance with EU regulations.

Furthermore, operators are not permitted to offer lottery services remotely on the basis of a remote gambling licence. Games in which players can lose more than their stake are also prohibited.

Licence holders are permitted to operate multiple brands and/or domain names under one licence. An .nl domain is not required. At the same time, this option is somewhat restrictive given the obligation that the licence holder can only have a single player account per person, per licence.

Position on Foreign Jurisdictions

The remote gambling licensing regime is aimed at players in the Netherlands. Remote gambling services licensed in the Netherlands are not to be exported to other jurisdictions on the basis of the operator’s Dutch licence.

Remote gambling licences obtained overseas are not, and will not be, recognised in the Netherlands. Locally unlicensed gambling offers available to Dutch customers remain illegal even if the operator in question is licensed abroad. The Dutch Supreme Court, in its 2005 Ladbroke's decision, adopted a very low threshold for a gambling offer to be considered "available in the Netherlands". There is no requirement in terms of specifically "targeting" the Dutch market, nor is it necessary for one or more Dutch residents to have actually participated in a particular offer.

6.2 B2B Licences (Suppliers, Software, Etc)

The BGA does not include a licensing system for B2B service providers. In principle, therefore, service providers such as software suppliers and affiliates are free to provide their services to locally licensed remote gambling operators. Licensed operators will be responsible for ensuring that all suppliers comply with regulatory requirements flowing from the Dutch regulatory regime.

As such, B2C operators are subject to requirements concerning outsourcing. Licence applicants are required to submit their outsourcing policy to the NGA, which will assess this policy during the application process and investigate the risks associated with the outsourcing of certain activities to third parties. The NGA will specifically assess safeguards within an applicant's policy to ensure that all relevant regulatory requirements will be upheld (and standards met), despite the fact that the applicant intends to rely on third parties for particular elements of their operation.

Ultimately, licence holders remain responsible for advertising activities performed by affiliates.

6.3 Affiliates

Prior to the opening of the market in 2021, the NGA performed periodic investigations into affiliate marketing for locally unlicensed gambling offers, and affiliates have been subject to cease-and-desist orders on the basis of Article 1(1)(b) of the BGA (ie, the ban on promoting/facilitating unlicensed games of chance). After the opening of the market, the NGA has intensified its enforcement against affiliates promoting locally unlicensed offers. In practice, the NGA provides affiliates 48 hours to discontinue all advertising activities for unlicensed operators.

Affiliate marketing for licensed offers is permitted. Affiliates servicing these operators are required to comply with advertising requirements under the BGA (and under secondary legislation) via the licensed operator. In light of the legislative requirements, the NGA published a Policy Rule on Responsible Gambling that also applies to affiliate marketing activities aimed at the Netherlands.

The ban on untargeted advertising, which entered into force on 1 July 2023, is having a significant impact on affiliates, as the scope of the ban includes untargeted advertisements via the Internet (see **9.6 Recent or Forthcoming Changes**).

6.4 White Labels

Neither the regulatory regime nor the NGA provide explicit guidance on the use of white labels. However, the requirements that are in place provide some information on whether white-label solutions can or cannot be offered under the Dutch gambling regime.

Although licence holders are permitted to operate multiple brands and/or domain names under one licence, some white-label solutions are

restricted by the “one player account” rule (see **6.1 B2C Licences**) – that is, a licence holder can only offer one player account to any individual player. Consequently, various actions (including responsible gambling measures) would, when taken in relation to one brand, apply to all brands that are supplied on the basis of the same single licence. In this scenario, the brands operating under the white-label licence will be unable to compete with each other.

The “one player account” rule, combined with the lack of a B2B licensing regime, makes life difficult for white-label providers that would ordinarily obtain a licence and offer turnkey solutions to numerous parties.

6.5 Technical Measures

In terms of locally unlicensed offers, the NGA takes the position that operators are in breach of the BGA by being available to Dutch customers, even when such offers are only passively available. This means that operators who neither use geo-blocking instruments nor prevent the registration of Dutch customers are at a greater risk of enforcement measures being taken.

The NGA has the ability to issue binding instructions to intermediaries, such as affiliates and PSPs, to hinder the ability of a B2C operator to reach consumers in the Netherlands. However, the NGA is not allowed to use a binding instruction in order to force a blackout of certain websites – for example, via an IP or domain name system (DNS) block. A change on the front is currently discussed (see **11.4 Recent or Forthcoming Changes**).

In relation to .nl domains, the NGA may contact the entity managing the registration of .nl domain names to ensure that unlicensed gambling content is no longer available in the Netherlands.

6.6 Recent or Forthcoming Changes

Forthcoming regulatory and legislative changes are discussed in **3.7 Recent or Forthcoming Legislative Changes** and **4.3 Recent or Forthcoming Changes**, respectively. At the moment of writing, there are no indications of additional changes for remote gambling. However, there is a possibility that some changes concerning this topic will be seen following the aforementioned evaluation of the RGA.

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

7.1 RG Requirements

All licensed operators are subject to an “active duty of care” to prevent gambling addiction. Furthermore, remote gambling licence holders are required to have at least one addiction prevention representative for the Dutch market. According to the Remote Gambling Decree (RGD), the representative does not need to be a resident of – nor be established in – the Netherlands. Instead, the representative must be sufficiently present in the Netherlands to carry out their duties. Further details are included in the Policy Rule on Responsible Gambling.

Furthermore, the BGA has introduced several tools to combat gambling addiction. One of these tools is the CRUKS (Centraal Register Uitsluiting Kansspelen) system. Land-based casinos, land-based slot-machine arcade operators and remote gambling operators must check whether a player is registered in CRUKS before admitting the player. Players who are registered in CRUKS, regardless of whether registration was voluntary or involuntary, must not be granted access to these games of chance. In June 2024, 75,334 individuals were registered in CRUKS.

There are other requirements designed to protect players from engaging in excessive participation. Remote gambling licence holders, for example, may not personalise bonuses based on the behaviour of an individual player. This includes offering a bonus, as well as tailoring the amount of the bonus, based on the player's behaviour – for example, offering a bonus when the player has incurred a significant loss or leaves the game.

Furthermore, licence holders will not be able to offer an individual player a bonus for a certain period of time after a responsible gambling intervention measure has been taken. The more severe the intervention measure, the greater the length of the period of time during which no bonuses can be offered.

7.2 Gambling Management Tools

On 1 October 2024, further addiction-prevention measures entered into force. The most notable changes required that:

- remote gambling licence holders ensure a neutral environment where players can set profile limits (deposit limit, account balance limit, and log-in time limit); licence holders are, for example, prohibited from providing pre-filled suggestions for deposit limits;
- remote gambling licence holders require players to take up contact with the licence holder if the player wants to set a deposit limit of more than EUR350 a month (players 24 years of age or older) or EUR150 a month (players 18 years of age up to and including 23);
- remote licence holders carry out affordability checks for players that reach a net deposit threshold; the threshold sits at EUR700 a month (players 24 years of age or older) or EUR300 a month (players 18 years of age up to and including 23) and deposits must

be blocked for the remainder of the calendar month or until players can prove that they can bear the financial consequences of their behaviour; and

- NGA policy rules be tightened with respect to the operator's duty of care; operators are required, for example, to be able to recognise, and act upon, problematic gambling behaviour within one hour.

In light of the evaluation of the RGA, Members of Parliament have asked the State Secretary to investigate other RG measures. Concrete measures are a prohibition on “max bet” and “turbo” buttons, and cross-operator limits. Both measures will be discussed in the State Secretary's letter at the end of 2024. Other measures may follow in parallel to the evaluation, but the discussion on the exact substance of those measures is too generic at the time of writing.

7.3 Recent or Forthcoming Changes

Knowledge of, and insight into, the current addiction prevention policy and the risk factors of specific games of chance are compulsory for managers and persons in key positions within the remote gambling licence holder's company. An operator's addiction prevention policy must also be developed, applied and maintained in co-operation with addiction care experts. The addiction prevention policy must include descriptions of:

- how the licence holder co-operates with addiction care experts; and
- how information on addiction is provided to players.

As briefly mentioned in **7.3 Recent or Forthcoming Changes**, a key requirement for remote gambling is the option for players to set limits for their gaming behaviour. These limits refer to:

- the maximum duration of access to the player interface;
- the maximum monetary amount in deposits; and
- the maximum credit in the player account.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Currently, casinos and all remote gambling licensees fall within the scope of the revised Dutch Anti-Money Laundering and Anti-Terrorist Financing Act (*Wet ter voorkoming van witwassen en financieren van terrorisme* (Wwft), or the “AML Act”). Other licensed operators (including arcades) are exempted from the AML Act requirements.

The NGA issued a non-binding guidance document on the AML Act for remote gambling licence holders and land-based casinos (the “AML Guidelines”).

8.2 AML Requirements

Relevant gambling operators will have to follow a risk-based approach with regard to drafting and implementing their AML policy.

An important consequence of AML obligations is the requirement for licence holders to obtain a (copy of the) player’s identity document during the registration process.

Furthermore, operators must demonstrate that they constantly monitor their business relationship with the customer and money transactions by means of customer due diligence (CDD) checks. CDD data on higher-risk players – for example, those from high-risk areas – must be updated more frequently.

Unusual transactions, whether conducted or intended, must be reported to the Financial Intelligence Unit (FIU Nederland). Whether a transaction is unusual must be assessed on the basis of objective (ie, transactions reported to the police) and subjective (ie, reason to assume a connection to money laundering) indicators.

8.3 Recent or Forthcoming Changes

In December 2023 the NGA published its third version of the AML Guideline. The third version contained additional information concerning the following.

- Verification of identity.
- When to start, and how to perform, a source of funds checks.
- Suspension of transactions with the player and terminating accounts. Whereas transactions should in principle be blocked at the deposit stage, AML concerns may sometimes arise following deposits having been made. The AML Guideline notably lacks information on how licence holders need to deal with those situations in which they ultimately cannot pay out to a player because of AML concerns.
- Unusual transaction reporting.

9. Advertising

9.1 Regulatory/Supervisory Agency

The NGA is also the regulatory authority concerning advertisements for gambling offers. As noted in 6.3 Affiliates, the NGA has taken action against advertisements for unlicensed gambling offers on the basis of the BGA.

The Advertising Code Committee (Stichting Rec-lame Code) is responsible for enforcement on the basis of the self-regulatory Dutch Advertis-

ing Code (Nederlandse Reclame Code) and the Advertising Code for Online Games of Chance (Reclame Code Online Kansspelen (ROK)). The former applies to the land-based operators, whereas the latter applies to remote gambling operators.

The Dutch Media Authority is the regulatory authority concerning advertisements on media services (ie, television, radio and video platform services).

9.2 Definition of Advertising

The Decree on Recruitment, Advertising and Addiction Prevention (*Besluit werving, reclame en verslavingspreventie kansspelen*) contains the following broad definition of recruitment and advertising activities:

“Any form of communication in which licence holders advocate their services or goods, directly or indirectly, whether or not with the aid of third parties”.

According to the NGA, such forms of communication include:

- “branded” content;
- sponsoring;
- advertising via social media channels;
- advertisements on search engines;
- banners;
- viral marketing; and
- email marketing.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertisements should improve responsible participation in gambling offers. Gambling advertisements must therefore include:

- the applicable responsible gambling slogan;

- the minimum age of participation; and
- reference to where further (responsible gambling) information can be obtained.

Applicants must submit an advertising policy to the NGA as part of the remote gambling licence application process. This document will describe the applicant’s approach to shaping advertisements and engaging with third parties such as affiliates. Furthermore, the advertising policy will detail how the marketing team of an applicant is organised.

9.4 Restrictions on Advertising

As explained in 3.5 Key Offences, advertisement activities for locally unlicensed gambling offers fall within the prohibition on promoting unlicensed games of chance (Article 1(1)(b) of the BGA).

Licensed offers are subject to a wide range of advertising restrictions. The offering of bonuses is permitted in principle and constitutes an advertising activity. This means that all advertising restrictions apply to bonuses and, in addition, specific bonus requirements apply.

Advertising must be prudent and balanced at all times, which means:

- it cannot be misleading, aggressive or irresponsible; and
- it must not incite excessive gambling.

For all readily available licences (except remote games of chance), the watershed period for gambling advertisements on television and radio is between 6am and 9pm. Advertising remote gambling on television and radio is prohibited given the ban on untargeted advertising (see below).

Furthermore, advertising activities may not be targeted at vulnerable groups of persons (eg, minors, young adults and persons suffering from gambling addiction).

Role models may not be used in advertisements for remote gambling, land-based casinos and slot machines. This ban includes the use of sportspersons and sports teams. Only the sponsoring of sportspersons and teams is permitted, albeit for a limited period (see **9.6 Recent or Forthcoming Changes**).

For remote gambling licence holders, there is an additional prohibition on untargeted advertising. This means that the following advertising channels are prohibited:

- television and radio;
- newspapers;
- magazines, or other printed, generally accessible means of communication; and
- public places (including public buildings).

Advertising via the internet is permitted for remote gambling licence holders, provided that three cumulative conditions are complied with, as follows.

- The licence holder must give persons the opportunity to indicate that they do not wish to be reached by advertising.
- The licence holder must take the best available measures to exclude the following from advertising:
 - (a) minors;
 - (b) persons displaying characteristics of risky gambling behaviour;
 - (c) young adults (18–23 years of age);
 - (d) persons that have excluded themselves from its remote gambling offer; and
 - (e) persons that have indicated that they do

not wish to receive advertising.

- The licence holder must demonstrate (retroactively), using the best available techniques, that at least 95% of those reached by an advertisement had reached the age of 24.

9.5 Sanctions/Penalties

Since the opening of the remote gambling market, the NGA has intensified its enforcement efforts against the advertising of locally unlicensed remote gambling offers. In 2022 and 2023, several cease-and-desist orders were imposed, involving penalties ranging from EUR2,500 to EUR5,000 for every day the affiliate failed to comply with the order, with a maximum penalty of EUR12,500 to EUR25,000.

In 2023, the NGA imposed an administrative fine of EUR675,000 upon an entity advertising locally unlicensed remote gambling offers. This entity was previously served with a cease-and-desist order, which was ignored.

The initial approach of the NGA regarding violations of advertising restrictions was to issue warnings to licence holders. However, in 2023 the NGA also intensified its enforcement against licence holders who it deemed to be in breach of advertising regulations. Several licence holders have been fined EUR400,000 for breaching the ban on targeting advertising activities at young adults.

9.6 Recent or Forthcoming Changes

As of 1 July 2025 all forms of sponsoring will be prohibited for remote gambling licence holders. Currently, only the sponsoring of individual professional sportspersons or a team consisting of professional sportspersons is allowed. This form of sport sponsoring is subject to a transitional regime. Sponsoring sports is allowed up until and including 30 June 2025 on condi-

tion that the underlying sponsorship agreement existed on 1 July 2023. This means that, as of 1 July 2025, remote gambling licence holders will effectively only be able to conduct targeted online advertising.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

All licence holders (both land-based licence holders and remote gambling licence holders) must inform the NGA without delay of:

- any relevant changes in the organisational structure of the company; and
- any relevant changes to the information provided in the context of the licence application.

10.2 Change of Corporate Control Triggers

The BGA, secondary legislation and the applicable licence award decision identify several changes that the NGA must be informed of by the relevant land-based or remote gambling licence holder. These triggers include:

- changes in shareholders and ultimate beneficial owners;
- the granting of suspension payments;
- changes in management positions;
- changes in the legal form of the licence holder;
- mergers and splits;
- the transfer of its seat; and
- corporate acquisitions.

Most corporate control changes trigger a notification procedure but do not require the NGA's pre-approval (except for mergers and splits).

However, the NGA will assess a notified change on the basis of the submitted documentation.

10.3 Passive Investor Requirements

Passive investors may need to be disclosed to the NGA during licence application or thereafter. For remote gambling licences and land-based licence holders, different thresholds apply. Notification requirements also depend on the specific rights passive investors obtain in relation to their investment (eg profit-sharing or interest).

10.4 Recent or Forthcoming Changes

There have been no changes in the past year with regards to Acquisitions and Changes of control. Furthermore, there are no indications of forthcoming changes in this regard at the time of writing. Nevertheless, there is a remote possibility that some changes could be seen concerning this topic following the aforementioned RGA evaluation.

11. Enforcement

11.1 Powers

As indicated in 3.6 Penalties for Unlawful Gambling, enforcement takes place primarily via administrative law. Prior to regulatory changes on 1 April 2021, the NGA generally issued administrative fines against operators and cease-and-desist orders against affiliates. The authors are also aware of instances in which the NGA has attempted to take action via the Netherlands Domain Registration Foundation (Stichting Internet Domeinregistratie Nederland (SIDN), which is the entity responsible for managing the registration of .nl domain names) to ensure that content relating to unlicensed remote gambling offers was no longer available in the Netherlands.

As noted in **3.5 Key Offences**, the scope of the ban on promoting games of chance was expanded following the entry into force of the amended BGA. Currently, the NGA is able to use its enforcement capabilities against PSPs and other intermediaries.

One of the relatively new enforcement measures for the NGA is the binding instruction. Binding instructions allow the NGA to demand that entities cease certain activities, including providing payment or advertising services to locally unlicensed operators. Following an amendment to the remote gambling bill in 2016, this binding instruction cannot be used against ISPs.

Another instrument is the public warning, which essentially boils down to naming and shaming. As of 1 April 2021, the NGA is able to undertake mystery shopping exercises, which was previously not the case.

11.2 Sanctions

Sanctions can effectively be enforced against:

- legal entities based in the Netherlands;
- foreign legal entities with assets in the Netherlands; and
- employees or contractors carrying out work in the Netherlands.

Enforcement of administrative sanctions can take place without a court order. Enforcement against operators and persons established abroad – or persons passing through the Netherlands – is more difficult, as no general international law instrument exists for the cross-border enforcement of administrative sanctions.

11.3 Financial Penalties

Financial penalties can be enforced by the NGA on the basis of administrative law, with-

out a court order. As noted in **11.2 Sanctions**, the cross-border enforcement of administrative sanctions (including financial penalties) is more difficult. If a foreign entity is unwilling to pay, the NGA will hand financial penalties over to a bailiff/debt collection agency in order to pressure operators to pay. The NGA will also publish the refusal to pay on its website.

11.4 Recent or Forthcoming Changes Focus on B2B Games Providers and, Possibly, Other B2B Service Providers

In September 2024, the first signs emerged of a potential shift in the NGA's enforcement approach towards B2B games providers, and, possibly, other B2B service providers servicing locally unlicensed operators.

For most of its existence, the NGA had primarily focused its enforcement efforts against B2C operators that were (passively or actively) available to Dutch customers without the requisite Dutch licence. Up until September 2024, the NGA had shown no interest in B2B games providers that serviced these locally unlicensed operators. If B2B suppliers were targeted in the battle against locally unlicensed remote games of chance, this mostly concerned affiliates; with the exception of a few warning letters to payment service providers in 2023. This tendency can be explained in part by uncertainty about the scope of the previous version of Article 1(1)(b) BGA. Only as of 1 April 2021 has the scope of Article 1(1)(b) BGA explicitly included B2B services beyond advertising (ie, facilitating, as discussed in **3.5 Key Offences**).

In September 2024, the NGA sent a letter to several B2B games providers. In the letter, the NGA strongly urged the games providers to stop their service towards locally unlicensed operators, as the NGA considers that the games providers act

in breach of the prohibition on facilitating unlicensed gambling offers (Article 1(1)(b) BGA). It is too early to tell whether this will prove to be a longer-term enforcement strategy, and whether a similar strategy will be applied to other B2B service providers.

Use of Fake IDs for Supervision

The State Secretary responsible for gambling legislation is considering whether to grant the NGA authority to use fake IDs for supervision purposes. This would allow the NGA to more effectively supervise remote gambling licence holders. The NGA is already allowed to register an account as a mystery guest, but this route is effectively useless as licence holders are required to obtain an identity document from all registering persons. A possible amendment to the BGA will be part of the changes following the evaluation of the RGA. However, at this point it is not clear whether the amendment can be sufficiently motivated.

Blocking Websites

The State Secretary and NGA are currently discussing additional legal routes to tackle illegal operators more quickly and effectively. The discussion includes the NGA's preferred option of blocking websites of illegal operators for Dutch IP addresses. The discussion is part of the evaluation of the RGA, and a policy proposal may be included in the State Secretary's letter at the end of 2024.

12. Tax

12.1 Tax Rate by Sector

Currently, licensed games of chance are taxed at a rate of 30.5%. The rate increased by 1% on 1 January 2024. It is the operator that is regard-

ed as the tax subject under the BGTA, not the player.

Gambling tax is based upon GGR and commission/entry fee for:

- land-based slot machines;
- land-based casino gambling;
- land-based sports betting and horse-race betting; and
- all licensable remote gambling categories.

For other licensed offers, prizes won constitute the tax base. However, gambling tax is only due on prizes greater than EUR449.

All remote gambling licensees, land-based licensees, and specific lotteries with a GGR above EUR1 million pay an additional annual levy as referred to in **4.10 Ongoing Annual Fees**.

A mandatory contribution to horse racing of 10% GGR from bets placed during each month on horse/harness races organised in the Netherlands also applies (should bets be taken on meets in the Netherlands).

12.2 Recent or Forthcoming Changes

In September 2024, the Dutch Cabinet presented a new Tax Plan. The Tax Plan includes an increase of the tax rate (for all sectors mentioned in **12.1 Tax Rate by Sector**) as follows:

- from 30.5% to 34.2% per 1 January 2025; and
- from 34.2% to 37.8% per 1 January 2026.

At the time of writing, the Tax Plan still needs to pass Parliament. However, indications are that the tax increases will find a majority in both chambers of Parliament.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

The Dutch regulatory framework does not require any type of personal licence or authorisation. As indicated in **4.7 Application Requirements** and **10. Acquisitions and Changes of Control**, the regulatory framework contains a strict reliability assessment during licence application and following changes of control. This assessment focuses on individual persons, such as directors, but the conclusion of the assessment does not constitute an authorisation. The NGA (merely) establishes it has, at that time, no objection to the individual connected to the licence holder.

13.2 Application Process

Not applicable, please see **13.1 Types of Authorisations and Licences**.

13.3 Ongoing Annual Fees

Not applicable, please see **13.1 Types of Authorisations and Licences**

13.4 Ongoing Requirements

Not applicable, please see **13.1 Types of Authorisations and Licences**.

13.5 Personal Sanctions

There are no penalties which are specifically targeted towards directors/others in key positions at licence holders.

13.6 Recent or Forthcoming Changes

There are no indications of forthcoming changes in this regard at the moment of writing. Nevertheless, there is a remote possibility that some changes concerning this topic could be seen following the aforementioned evaluation of the RGA.

PORTUGAL



Law and Practice

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MdME operates as a full-fledged law firm, advising both domestic and global clients in matters of Portuguese law. Its international and diverse team of more than 20 Portuguese-qualified lawyers is renowned for its technical skill, client-focused approach, and ability to get things done. MdME has brought to Portugal its unique gaming sector expertise, developed alongside the world's largest casino market, Macau. Over the past two decades, it has advised clients in developing some of the world's most iconic integrated resorts, in landmark financing and

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1. Introduction

1.1 Current Outlook and Recent Changes

In 2023, the market continued to experience an upward trend, with the combined gross gaming revenue generated by land-based casino gaming and online gaming reaching over EUR1.1 billion, with 75.5% of the total deriving from online gaming (EUR845 million) and 24.5% deriving from land-based casino gaming (EUR273.3 million).

The gross gaming revenue generated in 2023 by land-based casinos increased 7.55% year-on-year, although it still lags 14.3% from the 2019 total. There are currently 12 land-based casinos operating in nine different gaming areas in Portugal, with two main groups (Estoril-Sol and Grupo Solverde) controlling approximately 85% of the market by revenue. In 2022, the concession contracts for the operation of casinos in the Lisbon/Estoril and the Figueira da Foz gaming areas were re-tendered and awarded to the respective incumbent licensees for a 15-year period.

There are three concession contracts that will reach their term on 31 December 2025. Each of these contracts award the exclusive right to operate land-based casinos in the following gaming areas respectively: Algarve (three casi-

nos), Espinho and Póvoa de Varzim (one casino each). The Portuguese state will launch an international public tender to award new concession contracts for each such areas. The winning bidders will be granted the right to use the existing casino premises and equipment, throughout the term of the new contracts (expected to have a duration between 10 to 15 years). The tenders are likely to be opened between March and September 2025.

In the online gaming segment, there are currently 17 operators, and 30 licences issued (13 sports betting licences and 17 games-of-chance licences). In 2023 total gross gaming revenue reached a record-high of EUR845 million (a year-on-year increase of 28%). Of the total online revenue online, 61.6% is generated by casino games and 38.4 by sports betting. This upward tendency is continuing in 2024, with online gaming revenues increasing robustly in the first quarter and slightly in the second quarter, as compared in each case to the immediately preceding quarter.

As at the end of 2023, the number of registered players in the online gaming segment reached 4.1 million in total (of which 1.1 million are active players), with roughly 952,000 new players registered in 2023.

There have been no recent changes to the land-based or online gaming legal frameworks.

Social Gaming

There is no specific regulation on social gaming.

E-sports

There is no specific regulation on e-sports. In 2024, a bill to legislate e-sports was submitted to the Portuguese Parliament for the first time. The draft bill is currently under review.

Fantasy Sports

There is no specific regulation on fantasy sports.

Skill Gaming

There is no specific regulation on skill gaming.

Blockchain or Cryptocurrency

There is no specific regulation on blockchain/crypto-related gaming.

The following gaming products are allowed to be offered online:

- *baccarat punto banco*
- *baccarat punto banco/Macau*;
- *blackjack/21*;
- *craps*;
- *cussec (Sic Bo)*;
- *caribbean stud poker*;
- *american roulette*;
- *french roulette*;
- *baccarat chemin de fer*
- *bingo*;
- *poker (Omaha, Hold'em, Spanish)*;
- *slot machines*;
- *sports betting*; and
- *horse race wagering*.

The online offering of new types of games of chance is only allowed after being authorised by the competent authorities.

2. Jurisdictional Overview

2.1 Online

The commercial operation of online gaming is permitted and regulated. A private entity may offer online gaming products, subject to obtaining the relevant licence(s).

There are four types of licences available, for the following activities:

- *fixed-odds sports betting*;
- *pari-mutuel and fixed odds horse racing wagering*;
- *online bingo*; and
- *online games of chance*.

2.2 Land-Based Overview

The commercial operation of land-based casino gaming and bingo halls is permitted and regulated. A private entity may only operate a casino or bingo hall if it is awarded a concession contract from the Portuguese state, following a public tender process.

Land-Based Casinos

The commercial offering of games of chance is only permitted within an approved casino, located in one of the gaming areas pre-defined by statute. The Gaming Law establishes ten different gaming areas:

- *Açores*
- *Algarve*
- *Espinho*
- *Estoril*

- *Figueira da Foz*
- *Funchal*
- *Porto Santo* (currently dormant, ie, with no existing concession);
- *Póvoa de Varzim*
- *Tróia* and
- *Vidago-Pedras Salgadas*.

Currently, there are 12 casinos operating in Portugal:

- *Casino de São Miguel*
- *Casino de Vilamoura*
- *Casino de Monte Gordo*
- *Casino de Portimão*
- *Casino de Espinho*
- *Casino da Figueira da Foz*
- *Casino do Estoril*;
- *Casino de Lisboa*
- *Casino da Póvoa de Varzim*
- *Casino de Tróia*
- *Casino de Chaves* and
- *Casino da Madeira*.

The following types of games of chance are allowed to be offered in land-based casinos:

- *baccarat punto banco*
- *baccarat punto banco/Macau*;
- *blackjack/21*;
- *craps*;
- *cussec (Sic Bo)*;
- *caribbean stud poker*;
- *american roulette*;
- *french roulette*;
- *baccarat chemin de fer*
- *bingo*;
- *poker (Omaha, Hold'em, Spanish)*; and
- *slot machines*.

The land-based offering of new types of games of chance is only allowed after being authorised by the competent authorities.

Vessels or Aircraft Outside the National Territory, and Off-Site Casinos and Amusement Machines

The operation of casino games of chance on board aircrafts or vessels registered in Portugal may be permitted when outside the national territory. The operation of non-banked card games may also be temporarily permitted outside casinos in connection with certain events of significant touristic importance.

The permanent operation of slot halls in hotel properties located in touristic destinations may also be authorised. The permission to operate slot halls in such locations can only be granted to the casino concessionaire that operates the casino nearest to the proposed slot hall location.

Land-Based Bingo Halls

The commercial offering of land-based bingo is only permitted within an approved bingo hall. A bingo hall is only allowed to offer the game of bingo, in its traditional form or electronically.

Currently, there are 14 authorised bingo halls in Portugal:

- *Sala de jogo do Bingo “Boavista”*
- *Sala de jogo do Bingo do Porto*
- *Sala de jogo do Bingo de Coimbra*
- *Sala de jogo do Bingo da Nazaré*
- *Sala de jogo do Bingo de Lisboa “Belenenses”*
- *Sala de jogo do Bingo “Koala”*
- *Sala de jogo do Bingo de Lisboa “Panda”*
- *Sala de jogo do Bingo de Lisboa*
- *Sala de jogo do Bingo de Odivelas*
- *Sala de jogo do Bingo da Amadora*

- *Sala de jogo do Bingo de Almada*
- *Sala de jogo do Bingo de Setúbal*
- *Sala de jogo do Bingo da Amora* and
- *Sala de jogo do Bingo de Olhão*.

State-Run Games

The operation of the following games is granted on an exclusive basis to *Santa Casa da Misericórdia de Lisboa* (SCML), a charitable public entity funded by the Portuguese state:

- land-based fixed-odds sports betting;
- land-based horse racing wagering;
- national lottery;
- instant lottery;
- Joker;
- football pools (totogolo); and
- European lottery (EuroMillions).

3. Legislative Framework

3.1 Key Legislation

There are three key pieces of legislation regulating the commercial operation of gaming in Portugal:

- the “Gaming Law” (Decree-Law No 422/89 as subsequently amended), which establishes the legal framework for the operation of land-based casino gaming;
- the “Online Gaming Law” (Decree-Law No 66/2015, as subsequently amended), which establishes the legal framework for the operation of online gaming; and
- the “Bingo Law” (Decree-Law No 31/2011, as subsequently amended), which establishes the legal framework for the operation of bingo halls.

Other relevant legislation applicable to the gaming sector is as follows:

- Law No 83/2017, on anti-money laundering and counter-terrorism financing measures;
- Law No 8/2006, which regulates the hiring of casino croupiers/dealers; and
- Decree-Law No 330/1990, as amended, which approves the Advertisement Code.

Further regulations and regulatory instructions applicable to the operation of land-based and online gaming are issued by the [Gaming Regulation and Inspection Service](#).

In addition, there is a specific legal framework governing state-run games. Under Portuguese law, certain forms of gaming are operated exclusively by SCML, such as lotteries (including instant lotteries), land-based sports wagering, and horse racing. The legislation applicable to state-run games is as follows:

- Decree-Law No 40/397, as amended, governs the national lottery;
- Decree-Law No 84/85, as amended, governs pari-mutuel sports betting;
- Decree-Law No 412/93, as amended, governs the “Joker” game;
- Decree-Law No 314/94, as amended, governs the instant lottery;
- Decree-Law No 225/98, as amended, governs the football pools (totogolo);
- Decree-Law No 282/2003 governs the online acceptance of wagers and payment of prizes in state-run games;
- Decree-Law No 210/2004, as amended, governs the European lottery (EuroMillions).
- Decree-Law No 67/2015 governs land-based fixed-odds sports betting; and
- Decree-Law No 68/2015 governs land-based horse race betting.

3.2 Definition of Gambling

Gaming is generally defined by reference to the play of games of chance, which are defined as those games in which the outcome depends exclusively or predominantly on a player's luck.

3.3 Definition of Land-Based Gambling

The Gaming Law defines land-based gaming as the play of games and wagers carried out in casinos, bingo halls, or other places previously authorised for such purpose, and which require the physical presence of the player (at such locations).

3.4 Definition of Online Gambling

The Online Gaming Law defines online gaming as the play of games of chance, fixed-odds sports bets and horse racing bets, pari-mutuel, or fixed odds, carried out remotely, through electronic means, computer media, telematics, interactive media, or any other means through the usage of any devices, equipment or systems that enable the production, storage and transmission of documents, data, and information. Online games of chance are defined as those in which the outcome depends exclusively or predominantly on a player's luck, and in which the player will wage a certain amount in cash.

3.5 Key Offences

Key offences include:

- unlicensed supply of gaming;
- play in unlicensed venues;
- coercion to play;
- fraudulent play;
- extension of credit for gaming; and
- unlicensed manufacture or supply of gaming equipment.

3.6 Penalties for Unlawful Gambling

The operation of land-based gaming activities outside legally authorised areas is a criminal offence, punishable with imprisonment of up to two years and a monetary fine. The same punishment is applied to the individuals responsible for such operation, including directors, managers, employees, and agents of the offending entity.

The unauthorised operation, promotion or organisation of online gaming activities, as well as the facilitation of play in Portugal from a server located overseas, are criminal offences punishable with imprisonment of up to five years or a monetary fine.

The play of games of chance outside legally authorised areas is a criminal offence punishable with imprisonment of up to six months and a monetary fine. The presence in an unlawful gaming site (without playing) is also punishable with imprisonment of up to three months.

3.7 Recent or Forthcoming Legislative Changes

There is no relevant recent or forthcoming legislation.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The regulation of gaming in Portugal is conducted by:

- the Gaming Commission (*Comissão de Jogos*), which co-ordinates and oversees the activity of the Gaming Regulation and Inspection Service, and has control, supervisory, regulatory, and sanctioning powers; and

- the Gaming Regulation and Inspection Service (*Serviço de Regulação e Inspeção de Jogos* – the SRIJ), which is responsible for the control, inspection and regulation of gaming activities in casinos and bingo halls, and of online games of chance, sports betting, and horse racing wagering.

Both entities are departments of the National Tourism Authority.

SCML is empowered to monitor and operate state-run games, and is subject to the supervision of the Ministry of Labour, Solidarity, and Social Security.

4.2 Regulatory Approach

Portugal generally adopts a prescriptive approach to gaming regulation.

4.3 Recent or Forthcoming Changes

There have been no recent changes or forthcoming changes on the licensing and regulatory framework.

4.4 Types of Licences

Land-Based Gaming (Casinos and Bingo Halls)

There are two types of land-based licences:

- for the operation of games of chance in casinos; and
- for the operation of bingo halls.

These licences are granted to private entities in the form of a concession contract, awarded following a public tender process. A concession contract typically establishes an exclusive right to operate within a certain gaming area.

Online Gaming

The Online Gaming Law establishes gaming licences for the following types of games:

- fixed-odds sports betting;
- pari-mutuel and fixed odds horse racing wagering;
- online bingo; and
- online games of chance.

As of 30 June 2023, 17 entities were authorised to operate online gaming and wagering in Portugal, holding 30 licences in total – 13 for sports betting and 17 for games of chance.

4.5 Availability of Licences

Land-Based Casinos

The number of gaming areas in which casinos are allowed is pre-defined by statute (currently, ten). This is, in practice, the number of licences available, given that the state typically awards no more than one concession contract for each gaming area. Availability depends on the opening of a public tender to that effect. Public tenders have only been launched for concession contracts that are already in existence, and when the respective contracts are approaching their term. As a reference, public tenders for the casino concession contracts for the Estoril/Lisbon and Figueira da Foz gaming areas were launched and completed in 2022, with the winning bidder being in each case the incumbent operator, and with the new concession contracts entering into effect on 30 January 2023 and 17 March 2023, respectively.

In 2025 the Portuguese State is expected to launch international public tenders to award three concession contracts. Each contract will award the exclusive right to operate land-based casinos within the gaming areas of Algarve (three casinos), Espinho (one casino) and Póvoa de

Varzim (one casino). The current concession contracts for the operation of casinos in those areas will lapse at the end of 2025. The winners of the public tenders will be granted the right to use the existing casino premises and equipment, throughout the term of the new licences.

There will be only one more concession contract lapsing within this decade. That will be the contract to operate a casino in the Funchal gaming area (in the island of Madeira), that will reach its term at the end of 2026. It is expected that another international public tender be launched to award the operation of that casino.

Land-Based Bingo Halls

Similar to land-based casinos, there is no limit on the number of concessions to be granted; availability depends on the opening of a public tender to that effect. Public tenders are only launched for the concessions already in existence, and when the respective contracts are approaching their term. As a reference, a public tender for the Lisbon Bingo and the Nazaré Bingo were launched in 2022.

Online Gaming Licences

There is no limit to the number of online gaming licences available. Contrary to land-based gaming, an online licence is not subject to public tender and may be obtained by an entity that fulfils all legal requirements following an administrative application process with the SRIJ.

4.6 Duration of Licences

Land-Based Gaming

The public tender documents will determine the specific duration of the concession contracts and the terms of their extensions. As a reference, the term of the casino concession contract for the Estoril/Lisbon gaming area, tendered in

2022, was 15 years, extendable one time for five additional years.

Online Gaming

Online gaming licences are granted for a period of three years from the date of respective issuance. Licences are extendable for equal periods of three years, subject to the operator meeting the legal requirements for extension.

4.7 Application Requirements

Land-Based Casinos

The award of a land-based casino concession contract is carried out by public tender, which may be open or limited to pre-qualified entities. The government cabinet member with the tourism portfolio (normally the Ministry of Economy) is responsible for opening the tender and awarding a concession, and will also determine the tender process, timeline, and documentation, including the concession contract draft. The overview and implementation of the tender is typically delegated to the Gaming Commission, which will appoint a selection committee to analyse the proposals and prepare a report on their feasibility and merits.

The tender documents must define the following:

- the duration of the concession and the possibility of its extension;
- the applicants' qualification criteria and eligibility;
- the geographic location of the casino and the assets allocated to the concession;
- the criteria for awarding the concession;
- the minimum financial consideration, other non-financial consideration (if any), and respective payment terms; and
- the amount and form of the tender and performance bonds to be provided.

In order to participate in a public tender awarding a land-based casino concession, an entity must:

- be incorporated as a joint-stock company (*sociedade anónima*), or any equivalent, in an EU member state or any other signatory state to the European Economic Area Agreement under administrative co-operation in the fields of tax, combating fraud, and anti-money laundering – companies not incorporated in Portugal must form and register a local branch;
- have an equity to net assets ratio of no less than 30%; and
- have at least 60% of its share capital represented by shares that allow the issuer to identify the respective holders.

Online Gaming

The award of an online gaming licence is subject to a licensing process carried out before the SRIJ. A licence application is made through the filing of a pre-approved application form, together with all supporting documents required to demonstrate the fulfilment of eligibility requirements. Applications may be made electronically, and a determination typically takes between six and 12 months.

The main requirements for an applicant to be issued an online gaming licence are as follows:

- the applicant/bidder must be incorporated as a joint-stock company (*sociedade anónima*), or any equivalent, in an EU member state or any other state signatory to the European Economic Area Agreement under administrative co-operation in the fields of tax, combating fraud, and anti-money laundering – companies not incorporated in Portugal must form and register a local branch;

- the scope of business of the applicant must include the operation of gaming and wagering, and its equity to net assets ratio must be no less than 35%;
- the applicant must be in good standing in terms of tax and social security obligations;
- the applicant must demonstrate its suitability, financial soundness and technical capability; and
- the applicant must submit the technical plan for its gaming platform, according to best practices in terms of software architecture and technology, and incorporating all elements required by law.

Upon a positive determination being made, the issuance of a licence is conditioned to the following elements:

- certification of the gaming technical system;
- payment of the application fees;
- payment of the performance bonds and guarantees; and
- payment of any overdue penalties applied under the Online Gaming Law.

4.8 Application Timing

Land-Based Gaming

The timeline for each public tender is defined in the respective tender documents. As a reference, in the 2022 public tender for the award of the casino concession for the Estoril/Lisbon gaming area, a proposal application had to be filed within 60 days of the tender opening and be valid for a period of 180 days.

Online Gaming

A determination is typically made between six and 12 months after an application is filed.

4.9 Application Fees

Land-Based Gaming

There are typically no application fees. However, the winning bidder must pay the cost associated with the execution of the contract and the respective publication in the official gazette.

Online Gaming

The applicable licensing fees are as follows:

- certification of the technical gaming system – EUR18,000;
- licence issuance (for each licence) – EUR12,000;
- licence extension (for each licence extension) – EUR12,000; and
- authorisation for each new type of game of chance or wager category – EUR2,000.

Additionally, the bonds required to be given prior to the licence being issued are as follows:

- EUR500,000 to guarantee the applicant's compliance with ongoing legal obligations; and
- EUR100,000 to guarantee the payment of the special gaming tax.

4.10 Ongoing Annual Fees

Ongoing annual fees for land-based gaming operators are determined by the respective concession contracts. Typically, a casino concessionaire is required to pay a fixed annual fee and a variable annual fee throughout the duration of its contract.

5. Land-Based Gambling

5.1 Premises Licensing

Each public tender and concession contract will detail the requirements of the relevant casino

premises, namely its standards of functionality and comfort. They will also define the non-gaming facilities that must be offered and the development and maintenance obligations of the operator.

The key statutory requirements applicable to a land-based operator in respect of casino premises are as follows:

- the operation of land-based games of chance is only allowed in one of the statutorily defined gaming areas;
- the casino concessionaires are responsible for the functioning and maintenance of the casino property and of its facilities, particularly the ones that are the property of the state and the usage of which was assigned to the operator under the concession contract;
- the casino concessionaires must promote entertainment, cultural, and sporting activities, and co-operate in initiatives to promote tourism in the respective gaming areas; and
- the casino concessionaires can only use gaming equipment and utensils that are approved by the SRIJ.

Other requirements can be imposed under the tender documents, such as:

- the obligation to install and operate an electronic gaming machines system; and
- the obligation to purchase, install, and operate adequate CCTV equipment.

5.2 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

6. Online Gambling

6.1 B2C Licences

The key statutory requirements applicable to an online operator are as follows:

- to install and maintain a technical gaming system for the operation of online gaming and wagering, under the terms defined in the Online Gaming Law;
- to redirect to its Portuguese website all accesses that are established from locations within Portuguese territory or that make use of player accounts registered in Portugal;
- to create a registration and account for each player;
- to define a policy for awarding bonuses to players;
- to pay players their prizes in the agreed amount;
- to order the transfer to the payment account pre-indicated and held by the players of the balance of the player's account, following such request made by a player;
- to have a bank account in a credit institution licensed in a member state of the EU, through which all transactions related to online gaming and wagering activity are exclusively undertaken;
- to ensure the integrity, availability, confidentiality, and all other security attributes of online gaming and wagering, providing reliable and transparent play;
- to provide and make available information on the rules of online gaming and wagering in a clear, true, complete, and up-to-date manner, including the acceptable payment methods, the minimum and maximum bet values, and the rules for the calculation and payment of prizes;
- to define a privacy policy, which must be expressly accepted by the player, as well as

the purposes of collection and conditions under which it may be disclosed;

- to designate a manager responsible for the operation of online gaming and wagering, who will be the key contact for the SRIJ;
- to ensure compliance with the laws in force regarding the prevention of money laundering and the financing of terrorism;
- to develop and implement means to prevent minors and other socially vulnerable groups from registering as players;
- to co-operate in the combat against illegal gaming and associated illicit activities, namely by complying with the legal preventative provisions; and
- to notify the SRIJ of any change to its governing bodies within ten days.

6.2 B2B Licences (Suppliers, Software, Etc)

Only B2C operators are currently subject to licensing.

6.3 Affiliates

There is no specific regulation concerning the use of affiliates.

6.4 White Labels

There is no specific regulation concerning white labels.

6.5 Technical Measures

In July 2024, a bill of law entitled “Esports Law” was put forward in the Portuguese parliament. The Bill seeks to regulate the activity of esports and includes a variety of proposals in this domain. One of the proposals included in the Bill consists of an amendment to the Portuguese Online Gaming and Betting Law, with the purpose of allowing that online betting in esports competitions become legal and regulated, by deeming it equivalent to online sports betting.

According to the proposal, betting would only be allowed in esports competitions previously vetted by the regulator, similarly to sports betting. The Bill is currently at an early stage. It is uncertain whether it will be passed into law and in which terms.

6.6 Recent or Forthcoming Changes

The SRIJ may issue orders to ISPs to block access to websites that offer online gaming in Portugal without a licence. Typically, this action is preceded by a cease-and-desist letter with a 48-hour deadline.

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

7.1 RG Requirements

In respect of land-based gambling, responsible gambling requirements are mostly focused on access to the gambling floor being restricted for minors and other risk groups, and on exclusion and self-exclusion mechanisms.

Online gambling operators must adopt a responsible gambling programme and implement specific measures to promote responsible gaming, moderate play, and non-compulsive gaming behaviours.

7.2 Gambling Management Tools

There are no recent or forthcoming legislative changes.

7.3 Recent or Forthcoming Changes

Responsible gaming programmes must include and implement deposit limits, spending limits, and time limits. They must also implement self-exclusion mechanisms.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Gaming operators are subject to the Anti-Money Laundering Law (Law No 83/2017), which transposes European Union Directive 2015/849.

8.2 AML Requirements

There are no recent or forthcoming legislative changes.

8.3 Recent or Forthcoming Changes

The key AML requirements applicable to gaming operators are as follows:

- customer due diligence measures;
- record-keeping; and
- reporting of suspicious transactions.

9. Advertising

9.1 Regulatory/Supervisory Agency

The Portuguese Association for Consumer Protection (*Associação Portuguesa para a Defesa do Consumidor* – DECO) is the entity responsible for overseeing advertisement activities in Portugal, while the SRIJ and the Gaming Commission have special competence to supervise compliance with the rules concerning the advertising of gaming and wagering.

9.2 Definition of Advertising

Advertisement is defined as any form of communication made by a private or public entity in the context of a commercial, industrial, or professional activity, with the purpose of, directly or indirectly, promoting:

- goods or services with a view to their marketing or sale; or
- ideas, principles, initiatives, or institutions.

9.3 Key Legal, Regulatory and Licensing Provisions

Advertising of gaming is permitted if it complies with the following requirements:

- it is carried out in a socially responsible manner;
- it takes into consideration the need to protect minors, as well as other risk groups;
- it highlights the recreational aspect of the activity and does not diminish non-gamblers;
- it does not imply that gaming brings easy winnings, social advancement, or special skills; and
- it does not promote excessive gaming or wagering practices.

9.4 Restrictions on Advertising

There is a series of provisions aimed at protecting minors, such as prohibiting gaming advertisement addressed to minors or using minors. In addition, gaming advertisements cannot be placed inside or within 250 metres of schools or other facilities developed for the use of minors, nor in any events in which minors are the main participants.

The Gaming Commission has also published a best practices handbook for the advertisement of gaming products and services, which recommends that advertisement of gaming should not take place:

- between 07:00 and 22:30 on TV and radio; or
- through websites, social networks, or mobile applications designed to be used by minors.

9.5 Sanctions/Penalties

Sanctions resulting from infringement of advertisement laws include:

- monetary fines;

- seizure of objects;
- temporary bans on exercising advertising activities;
- temporary closure of premises or establishments where the advertising activity takes place; and
- the revocation of relevant licences or permits.

9.6 Recent or Forthcoming Changes

There are no recent or forthcoming legislative changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

A gaming concessionaire must disclose the transfer or pledge of any of its registered shares (which must always represent at least 60% of its share capital) within 30 days of becoming aware of such transfer or pledge.

10.2 Change of Corporate Control Triggers

Land-Based Concession Agreements

An acquisition of shares representing more than 10% of the share capital of a casino concessionaire or which directly or indirectly causes a change in control of the concessionaire requires government approval. The same requirement applies to the assignment to a third party of the gaming operations or other material rights and obligations of the concessionaire under its concession contract.

In addition, tender documents may prevent or limit direct or indirect participation in the share capital of a concessionaire by another concessionaire, and impose obligations of pre-approval in the case of a merger, demerger, or conversion of the concessionaire.

Online Gaming

An online gaming licence may only be transferred to a third party with the pre-approval of the SRIJ, including in the event of a merger or demerger, as well as a direct or indirect transfer of shares of the licensee, whereby the acquiring entity comes to hold a majority stake in its share capital, or to hold more than half of its voting rights or the ability to appoint more than half the members of the board of directors.

10.3 Passive Investor Requirements

There are no specific requirements for passive investors in acquisitions or changes of control, without prejudice to the competition law.

10.4 Recent or Forthcoming Changes

There are no recent or forthcoming changes in connection with acquisitions and changes of control.

11. Enforcement

11.1 Powers

The SRIJ is the entity responsible for supervising casino concessionaires, online gaming licences, gaming employees, and gamblers. It has the power to conduct investigations and to initiate administrative and misdemeanour proceedings against such entities and individuals, in the event of breach of gaming laws and regulations or of the terms of the respective licence or concession contract. The Gaming Commission has the power to issue determinations in respect of the administrative and misdemeanour proceedings initiated by the SRIJ, and apply sanctions.

Unlawful gaming activities that may constitute a criminal offence must be reported by the gaming regulatory authorities to the police or the public prosecution for investigation.

11.2 Sanctions

The Gaming Commission can apply sanctions in the form of financial penalties, and can also suspend or revoke online gaming licences. The suspension or revocation of land-based gaming concession contracts can only be determined by the government's cabinet of ministers.

11.3 Financial Penalties

Financial penalties for breach of provisions of the Gaming Law vary between EUR12,500 and EUR25,000. Financial penalties for breach of the Online Gaming Law vary between EUR2,500 and EUR50,000.

11.4 Recent or Forthcoming Changes

There are no recent or forthcoming changes in connection with enforcement matters.

12. Tax

12.1 Tax Rate by Sector

Land-Based Gaming

Land-based casino games are subject to a special gaming tax (IEJ), levied over the monthly opening float (not gross revenue). The tax rate varies according to the geographic gaming area where casinos are located.

In addition, a casino concessionaire must pay a financial consideration under the terms of the respective concession contract. In the case of the Estoril/Lisbon concession (awarded pursuant to a contract dated 30 January 2023), this consideration is composed of a fixed consideration of no less than approximately EUR15 million and a variable consideration of 50% of the gross gaming revenue (but never less than EUR56.5 million). Both considerations are determined with reference to the year 2022 and updated annually according to Portugal's consumer price

index. The payment of the variable consideration discharges the obligation to pay the special gaming tax (in the amount that does not exceed such consideration) and other government fees.

Online Gaming

Online gaming is subject to a special online gaming tax, applicable as follows:

- games of chance and pari-mutuel betting on horse races – fixed tax rate of 25% levied on gross gaming revenues;
- fixed-odds sports betting and fixed-odds horse racing betting – fixed tax rate of 8% over the handle (total amount of money wagered); and
- sports betting exchange (where players bet against each other) – fixed tax rate of 35% over the commissions charged by the operator.

12.2 Recent or Forthcoming Changes

There are no recent or forthcoming changes in connection with tax matters.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Except for casino dealers, which must hold a specific professional certification, there are generally no personal authorisations or licenses applicable to individuals involved in gaming. However, the officers and key personnel of both land-based and online gaming operators must fulfil certain suitability requirements when being appointed to the relevant positions.

13.2 Application Process

The requirements for suitability of officers and key personnel are generally the following:

- not having a relevant criminal record;
- not having been declared bankrupt or insolvent; and
- being of sound reputation in conducting his/her business affairs.

Online gaming operators are required to submit, with respect to the individuals appointed as their officers or representatives, the respective ID and TIN documents, the documents supporting their appointment, curriculum vitae, criminal record certificate, civil registration certificate and a statement of truth signed by the individual in question with respect to their own probity standing.

13.3 Ongoing Annual Fees

There are no annual fees applicable to individuals.

13.4 Ongoing Requirements

The general suitability requirements that apply to the officers and key personnel of land-based and online gaming operators are of an ongoing nature.

Online gaming operators are required to report to the regulator changes to the composition of their corporate bodies within ten days. An individual found unsuitable must be replaced within 30 days from the date in which the fact(s) giving cause to the unsuitability become known to the operator. Failing to replace an unsuitable individual will adversely affect the operators' own suitability.

13.5 Personal Sanctions

There are no sanctions, administrative and/or misdemeanour proceedings that the regulatory bodies have the authority to apply, administer or pursue exclusively against individual persons.

13.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

Trends and Developments

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Lektou

Lektou (Cortés, Sociedade de Advogados, SP, RL) is a specialised Portuguese law firm delivering sophisticated legal services, including comprehensive legal opinions, expert guidance on Portuguese law, and strategic counsel for international companies either establishing or expanding their operations in Portugal or operating abroad. In recent years, Lektou has significantly expanded its international reach through strategic alliances, notably establishing ZLF Law Firm in Hengqin Island, Zhuhai, PRC – a pioneering joint venture that seamlessly bridg-

es expertise across Macau, Hong Kong, and Mainland China – and joining the prestigious Miranda Alliance network. With strategically located offices in both Lisbon and Porto, Lektou provides exceptional multi-jurisdictional support. The firm's team in Portugal combines diverse academic credentials, specialised sector knowledge, and extensive international experience, with particular expertise in gaming law, foreign investment, and complex cross-border transactions, serving the sophisticated needs of a global clientele.

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PORTUGAL TRENDS AND DEVELOPMENTS

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LEKTOU
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Introduction

Portugal's gaming industry operates within a comprehensive regulatory framework aimed at creating a secure and transparent environment for both land-based and online gaming. Each sector is regulated according to its unique operational characteristics and market demands, reflecting Portugal's commitment to adapting oversight practices to diverse gaming environments.

The land-based gaming sector in Portugal functions under a concession model, where a limited number of operators are granted exclusive rights to manage casinos and other gaming venues within specific, regulated gaming zones. Concessionaires are selected through a competitive public tender process and are bound by detailed contracts outlining their operational standards, financial commitments, and social responsibilities. This model restricts the number of licensed operators in each zone, fostering controlled growth, safeguarding market stability, and enabling the government to maintain close regulatory oversight of the physical gaming industry. With the impending expiration of certain concessions in key zones such as Póvoa do Varzim, Espinho, and the Algarve, regulatory authorities are expected to refine the criteria and processes for future concession awards. Potential updates could include pre-qualification measures for bidders, ensuring that financially stable and operationally sound entities are eligible to participate, thus reducing the risk of disputes like those experienced in the Estoril gaming zone.

Conversely, the online gaming sector in Portugal operates under a licensing model, allowing multiple operators to enter the market if they meet regulatory standards set by the *Serviço de Regulação e Inspeção de Jogos* (SRIJ). This approach creates an open yet highly regulated

environment where operators must adhere to strict requirements concerning consumer protection, anti-money laundering (AML) practices, and responsible gaming measures. The 2015 Online Gaming Law (Decree-Law No 66/2015) was a landmark regulation, bringing online gaming under formal oversight and allowing licensed operators to legally offer sports betting, horse racing, and games of chance. This law established a structured, secure environment for digital gaming in Portugal, balancing competition with a rigorous regulatory framework. Core components of this framework include mandatory self-exclusion programmes, responsible gaming measures, and proactive enforcement actions targeting illegal gaming websites to protect consumers and uphold market integrity.

Trends

Land-based gaming

Overview

In Q2 2024, Portugal's land-based gaming sector, comprising casinos and gaming machine halls, generated EUR63.7 million in gross revenue.

This represents a modest 1.3% increase from Q1 2024, though it marks a 4.5% decline year-over-year. These figures indicate a relatively stable market that nonetheless faces challenges such as evolving player preferences and competition from online gaming platforms.

Gaming machines were the primary revenue driver, contributing 78.4% of total revenue and showing a minor increase of 0.8% year-over-year. This reflects a steady demand for automated gaming experiences within physical venues, even as traditional table games continue to see declines.

Player preferences

Within the table games segment, there has been a notable shift in player interests. Games like baccarat and blackjack experienced substantial revenue declines of 32.8% and 34.9%, respectively, while poker emerged as a popular choice, with revenue increasing by 66.3%. Additionally, French Bank, a traditional game with deep roots in Portuguese culture, recorded a modest 7.1% increase, suggesting a stable interest in traditional gaming experiences. These shifts highlight changing preferences, with players gravitating toward skill-based games and traditional formats over more conventional table options. This evolving landscape may prompt land-based operators to reassess their offerings, considering the appeal of skill-oriented games and traditional formats that hold steady appeal.

Bingo

Bingo halls operating outside casinos reported a small 0.6% revenue increase year-over-year, although revenue dropped by 6.1% from Q1 2024. This stable yet modest growth signals a dedicated but limited player base. However, the sector faces significant operational challenges. Several bingo halls that were awarded concessions in 2022 and 2023 have encountered delays in opening, and the recent closure of Setúbal's bingo hall points to broader financial strains. As of March 2024, a report from *Jornal Público* revealed that some concession operators owe EUR5.7 million to the state in unpaid debts, underscoring financial difficulties and the need for regulatory intervention to stabilise and support the industry. Although the risk of termination impends over the concessionaires, addressing these challenges could involve adjustments to concession terms or support measures aimed at enhancing operational viability for bingo halls across Portugal.

Online gaming sector

Overview

Portugal's online gaming sector continued its robust performance in Q2 2024, achieving a gross gaming revenue (GGR) of EUR261.8 million – a 27.1% increase over Q2 2023. This growth, driven by both sports betting and games of chance, demonstrates the sector's expanding role in Portugal's digital economy. Tax contributions from online gaming, through the *Imposto Especial de Jogo Online* (IEJO), totaled EUR76.7 million for the quarter, a 29.5% year-over-year increase, highlighting the sector's fiscal significance and its contribution to public revenue.

Player engagement and demographics

The online gaming sector has seen a notable rise in player engagement. By the end of Q2 2024, the total number of registered online players reached 4.4 million, marking a 16.2% increase from the previous year. New registrations surged by 51.2%, while the active player count rose by nearly 30%, reflecting robust player interest. The player base remains youthful, with 79.2% under 45, and the 25–34 age group accounting for 34.5% of players. Geographically, Porto and Lisbon led in player registrations, each contributing over 21%, indicating regional concentration and potential market strategies for localised engagement.

Gaming segment performance

Fixed-odds sports betting – generating EUR103.3 million in revenue, fixed-odds sports betting grew by 23.1% year-over-year. Football remained the dominant sport, driving nearly 70% of betting activity, particularly during events such as UEFA Euro 2024. This demonstrates the continued popularity of football betting and underscores the impact of major international sports events on betting volumes.

Games of chance – with a contribution of EUR158.5 million to the GGR, games of chance saw a 29.9% year-over-year increase. Slot machines led this segment, accounting for 82.3% of the revenue, followed by French roulette and blackjack. The sustained dominance of slot machines points to a strong demand for digital, automated games within the online space, as players increasingly favour accessible and engaging gaming options.

Developments

SBC summit's relocation to Lisbon

A major shift in Portugal's gaming industry was marked by the relocation of the SBC Summit from Barcelona to Lisbon, with Barcelona set to host ICE from 2025 onward. This move underscores Lisbon's rising status as a key hub in the global gaming sector. Held at the *Feira Internacional de Lisboa* and the MEO Arena, the SBC Summit expanded its show floor to 110,000 square meters, hosting 600 exhibitors and nearly 25,000 attendees from 134 countries.

Beyond affirming Portugal's strategic significance in the industry, the event also delivers substantial economic impact, with estimated indirect benefits to the local economy reaching up to EUR100 million.

The SBC Summit is set to continue its influence on Portugal's gambling B2B market, especially in light of regulatory developments in the Brazilian market, where several suppliers are based in Portugal. Portugal's reputation as a regulated and competitive hub strengthens its appeal for growth and investment within the B2B sector, with technology and compliance solutions positioned to drive industry progress.

Land-based

With the impending expiration of casino concessions in the gaming zones of Póvoa do Varzim, Espinho, and the Algarve set for 31 December 2025, the Portuguese regulatory authorities are preparing to open public bids to award new concessions in these areas (exclusive gaming zones).

However, given the current regulatory landscape, it appears unlikely that any immediate structural changes will be introduced to disrupt the status quo of the concessional system. Instead, the focus is expected to be on refining the criteria and processes for awarding future concessions, particularly to avoid potential legal disputes similar to those recently encountered in the Estoril gaming zone.

The legal contest surrounding Estoril's concession highlighted ambiguities and procedural challenges within the existing concession award framework, prompting questions about fairness and transparency in the process.

Authorities are now expected to revise concession criteria by implementing measures such as a pre-qualification process for bidders, which would help ensure that only entities meeting essential financial, operational and compliance standards are eligible to participate in the public bidding. By filtering participants early in the process, regulators can ensure that only well-qualified entities proceed to the formal bidding stage, reducing the likelihood of disputes and aligning with international best practices in concession awards.

The upcoming tenders present a key opportunity to revitalise casino operations in these notable tourist regions, potentially boosting local economies and Portugal's broader tourism appeal,

especially in what concerns the Algarve and Espinho.

For both existing operators and new entrants, the public bids offer a pathway to establish or expand their footprint within Portugal's mature gaming market.

Moving forward, stakeholders are encouraged to monitor official announcements from SRIJ regarding the public bidding process, pre-qualification requirements, and associated timelines, as the authorities finalise these refinements to ensure a smoother, dispute-free concession process.

Online

The recent acquisition by Cirsa Enterprises, S.A.U. of a 68% stake in CasinoPortugal underscores Portugal's attractiveness as an online gaming market. This move highlights a trend that is likely to lead to more applications for online gaming licences, particularly from Spanish operators and others seeking to capitalise on Portugal's regulated environment and robust growth projections. Portugal's online gaming sector, with a projected GGR expected to exceed EUR1 billion by 2029, provides a compelling entry point for operators across Europe looking to expand in high-growth markets.

This acquisition could serve as a catalyst for heightened M&A activity in the sector, especially from Spanish operators who are facing stringent advertising restrictions in their home market.

Moreover, other international operators may consider acquisitions, partnerships, and new licence applications as strategic pathways to enter or strengthen their presence in Portugal's gaming landscape. This anticipated influx of applicants and potential M&A activity signals a

period of dynamic expansion and competition in Portugal's online gaming industry.

Regulatory developments

To support the expanding industry and ensure oversight, the SRIJ recruited 30 new gaming inspectors in 2024, with roles focused on illegal gaming enforcement, IT systems management, and online sector regulation. This move reflects the government's recognition of the industry's economic role and its commitment to a secure, well-regulated gaming environment.

Responsible gambling

The regulator has initiated a proactive campaign to promote responsible gaming among young people, beginning with a recent awareness event at *Universidade Lusíada* in Lisbon on 22 October 2024. This event, part of the *Mais que um Jogo* (translated as "More than a Game") initiative, aims to educate students on the risks associated with gambling and to highlight the importance of responsible gaming habits.

Developed in collaboration with the *Instituto para os Comportamentos Aditivos e as Dependências*, I.P. (ICAD), the campaign targets younger audiences with a message about the potential dangers of gambling and addiction. The event was attended by representatives from the university's psychology department, including the director of the psychology programme and members of the Psychological Counselling Office, alongside a class of psychology students – signalling the academic community's commitment to addressing gambling-related issues.

Following the success of this initial event, the SRIJ plans to expand the campaign to other universities across Portugal.

This initiative appears to respond to a substantial rise in self-exclusion requests (both land-based and online), underscoring potential concerns over the prevalence of gambling-related issues. For policymakers and regulators, the increase in self-exclusions serves as a cautionary sign, emphasising the need for sustained support for at-risk players. The trend may prompt further examination of the effectiveness of current responsible gaming frameworks and potentially lead to the development of enhanced support systems. These could include broader access to counselling services, additional public awareness campaigns, and improved monitoring of gambling patterns to identify players who may benefit from targeted interventions.

To strengthen responsible gaming efforts, stakeholders may consider intensifying educational outreach, especially to younger demographics, who constitute a significant portion of the online gaming audience. Additionally, partnerships with mental health professionals and gambling support organisations could enhance the safety net for at-risk players, ensuring that Portugal's gaming environment remains both secure and enjoyable for all participants.

Illegal gaming

A study by the *Associação Portuguesa de Apostas e Jogos Online* (APAJO) revealed that over 40% of Portuguese online gamblers use unlicensed websites, despite widespread awareness of licensing requirements. The research indicates that 70% of these players spend up to EUR50 monthly on online gaming. Notably, four unlicensed operators rank among the top 15 online gaming platforms in Portugal.

This ongoing challenge impacts not only licensed operators, who face unfair competition from unregulated sites, but also poses risks for play-

ers, as unlicensed platforms lack the consumer protections required by Portuguese law.

For stakeholders, including regulatory authorities and industry advocates, this reality emphasises the need for stronger enforcement measures, enhanced player education on the risks of unlicensed sites, and collaboration to reinforce the value of a well-regulated market, knowing that while it may be a lost war, there are still battles that can be won.

Taxation

As Portugal's gaming industry continues to grow and adapt, there may be an opportunity to re-evaluate the current tax structures for both online and land-based sectors to better support long-term growth, attract investment, and maintain competitive positioning.

Online gaming taxation (IEJO)

The special online gaming tax, known as *Imposto Especial de Jogo Online* (IEJO), has contributed significantly to public revenue, reflecting the expanding role of the online gaming sector in Portugal's economy. However, as market dynamics shift, a hypothetical reduction in the IEJO rate could enhance Portugal's competitiveness, especially compared to other regulated markets in Europe. A lower tax rate could appeal to both existing and new operators, encouraging further investment and innovation in the online sector.

Additionally, a more favourable tax rate might reduce incentives for players to engage with unlicensed platforms, which bypass regulatory protections and provide no economic benefit.

Land-based gaming taxation

The land-based gaming sector, which operates under a concession model, is likewise subject

to a specific tax framework, with casinos and gaming halls required to make significant fiscal and other contributions. Given recent challenges, such as shifts in player preferences and competition from online gaming, the land-based sector could also benefit from a review of its tax obligations.

Academic expansion in gaming education

Portugal's universities are increasingly offering courses on gaming, reflecting the industry's complexity and the need for expertise in areas like regulatory compliance and responsible gaming.

Notably, Católica Lisbon School of Law has introduced an "Advanced Course in Gaming Law and Sports Betting", covering legal and ethical aspects essential to the industry.

This academic growth not only provides operators with skilled professionals but also reinforces Portugal's commitment to a well-regulated gaming environment, supporting the sector's sustainable development and responsible practices.

Conclusion

Portugal's gaming industry is evolving within a carefully constructed regulatory framework that ensures both growth and oversight for land-based and online sectors. The distinct approaches of concession-based regulation for land-based operations and the licensing model for online gaming reflect Portugal's commitment to tailoring regulatory practices to the unique demands of each sector.

As land-based gaming faces challenges, including shifting player preferences and the upcoming public tenders for concessions in key zones, there is a clear opportunity for Portugal to refine concession criteria. Implementing measures such as pre-qualification processes can help ensure transparent and dispute-free bidding, paving the way for a new era of growth in Portugal's physical gaming venues. Meanwhile, the online sector continues to demonstrate strong revenue performance, driven by a vibrant digital market and robust player engagement, showing significant fiscal contributions through the IEJO.

Emerging trends, such as the increasing number of self-exclusion requests, underscore the need for enhanced responsible gaming initiatives. The proactive campaigns launched by the *Serviço de Regulação e Inspeção de Jogos* (SRIJ) aim to address these concerns, particularly among younger audiences, through education and awareness, which could further strengthen the sector's commitment to player safety.

Furthermore, as Portugal gains prominence as a global gaming hub – with events like the SBC Summit relocating to Lisbon and educational programmes expanding at major universities – there is potential for additional growth in the business-to-business (B2B) gaming market, especially given regulatory developments in Brazil. This international positioning, alongside hypothetical tax reforms, could enhance Portugal's attractiveness to operators and investors.

Portugal can secure a sustainable and prosperous future for its gaming industry, positioning itself as a benchmark for regulated markets in Europe and beyond.

ROMANIA

Law and Practice

Contributed by:

Cosmina Maria Simion, Alina Tace and Petruș Partene
WH Simion & Partners



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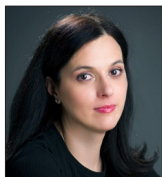
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ative. The firm is committed to finding innovative solutions to the most challenging legal issues. The team at WH Simion & Partners excels at thinking outside the box, ensuring that the firm delivers cutting-edge legal strategies that align with its clients' business objectives. This ingenuity, coupled with the firm's robust legal acumen, sets it apart as a leader in the gaming and gambling domains.

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1. Introduction

1.1 Current Outlook and Recent Changes

The Romanian regulatory framework for gaming was reformed in 2015–16. This created a gambling market that can be generally characterised as robust in both its land-based and online sectors. The COVID-19 crisis has had a severe impact on the land-based gambling industry, which has faced continuous restrictions.

The year 2022 was characterised as a year of legislative inflation affecting the gambling industry from various (and, in some cases, unexpected) angles, where the most notable changes concern the adoption in January 2022 of the AML instructions applicable to the gambling sector, the increase in gambling taxes and the introduction of new obligations for class 2 licensees (such as the notification of any changes made to the initial licensing documentation on the basis of which they had been granted the class 2 licence). The trend of legislative inflation continued in 2023. Significant changes were made to the primary gambling legislation on 6 October 2023, which had a noteworthy impact on the operation of games of chance both in the land-based and online sectors, where the fees applicable in the sector were yet again increased (not even a year after their last increase).

The year 2024 was marked by two rounds of modifications to the primary gambling legislation. The first one, on 28 April 2024, mainly affected land-based gaming through limiting the operation of slot-machine premises only in towns with a population greater than 15,000 inhabitants. The second modification, made on 28 June 2024, added more details to this limitation by describing the measures that can be taken by the regulator and by operators.

2. Jurisdictional Overview

2.1 Online

Where the following sectors are marked as permitted, the respective game or games of chance is/are permitted subject to obtaining the necessary licence and authorisation.

Betting

Betting activities are permitted under Romanian law, and the gambling legislation expressly regulates three types of online betting:

- fixed-odds betting;
- exchange betting; and
- mutual (pari-mutuel) betting.

Online bingo is permitted, and the online bingo licence also covers keno games.

Casinos

Online casinos are permitted, and the casino licence also covers online poker and online slot-machine gaming.

Lotteries

Online lottery games are restricted since this category falls under the monopoly of the Romanian National Lottery.

Fantasy Sports

Fantasy sports are not expressly regulated under Romanian gambling legislation. If this activity does not fulfil the mandatory conditions of gambling (see **3.2 Definition of Gambling**), then fantasy sports should fall outside the purview of the gambling legal framework.

Social Gaming

Social gaming is not expressly regulated under Romanian gambling legislation. If this activity does not fulfil the mandatory conditions of

gambling (see 3.2 Definition of Gambling), then social gaming should fall outside the purview of the gambling legal framework.

Poker

Online poker is permitted and is included in the category of online casino games.

Other Relevant Sectors

Tombola/raffles

Tombola games are regulated under Romanian legislation as an express category of land-based gambling, and the licensing regime was updated in 2022.

Any other types of games of chance (new games of chance or combinations of games)

This generic category includes any product that fulfils the cumulative conditions of games of chance and is not expressly defined by the gambling regulator. The legal regime for such unregulated products will be established by the local regulator based on the game rules and description presented by the organiser.

2.2 Land-Based

Where the following sectors are marked as permitted, the respective categories of games of chance are permitted subject to obtaining the necessary licence and authorisation(s).

Betting

Betting activities are permitted under Romanian law, and the gambling legislation expressly regulates three types of land-based betting:

- fixed-odds betting;
- exchange betting; and
- mutual (*pari-mutuel*) betting.

Poker

Poker is permitted under Romanian law, and the gambling legislation expressly regulates land-based poker clubs.

Bingo

Bingo is permitted, with Romanian legislation regulating two types of land-based bingo games: bingo performed in specialised bingo halls and bingo organised via television networks.

Casinos

Casinos are permitted in Romania, with the gambling legislation regulating in detail the regime for land-based casino licensing.

Gaming Machines

Gaming machines are permitted in Romania. Following the amendments to the primary gambling legislation that entered into force on 6 October 2023, the legislation now regulates only two categories of slot-machine gaming:

- slot-machines with unlimited stakes and winnings; and
- video-lottery machines (VLT).

Electronic devices awarding winnings with limited risk were removed from the primary gambling legislation.

The amendments that have been in force since 28 April 2024, and which were further modified by the changes of 28 June 2024, limit the operation of land-based premises that are equipped with slot-machines only in localities with a population greater than 15,000 inhabitants.

Lotteries

Land-based lottery games are restricted since this category falls under the monopoly of the Romanian National Lottery.

Other Relevant Sectors

Tombola/raffles

Tombola games are regulated under Romanian legislation as an express category of land-based gambling, and the licensing regime was updated in 2022.

Temporary games

Land-based casino games that take place in tourist resorts or on leisure craft qualify as temporary games of chance and are subject to a special temporary licence and authorisation, valid for a period of three months. Following the amendments to the primary gambling legislation that entered into force on 6 October 2023, slot-machine games with unlimited stakes and winnings and land-based bingo no longer qualify for operation under a temporary licence and authorisation.

Poker festivals are a distinct category of temporary games defined by law as temporary events organised in tourist resorts or other locations, consisting of poker tournaments performed exclusively between the participants.

Any other types of games of chance (new games of chance or combinations of games)

This generic category includes any product that fulfils the cumulative conditions of games of chance and is not expressly defined by the gambling regulator. The legal regime for such unregulated products will be established by the local regulator based on the game rules and description presented by the organiser.

3. Legislative Framework

3.1 Key Legislation

The conditions under which the organisation and operation of games of chance are permitted in

Romania are outlined in the following normative acts:

- Government Emergency Ordinance No 77/2009 on the organisation and operation of games of chance (GEO 77/2009);
- Government Decision No 111/2016 for the approval of the methodological norms for the implementation of Government Emergency Ordinance No 77/2009 on the organisation and operation of games of chance (GD 111/2016);
- Government Emergency Ordinance No 20/2013 on the establishment, organisation and functioning of the National Gambling Office (*Oficiul Național pentru Jocuri de Noroc*, or ONJN); and
- Government Decision No 298/2013 on the organisation and functioning of the ONJN.

Gambling activities are also regulated by means of instructions, orders or decisions issued by the ONJN in relation to various aspects of gambling activity, such as:

- the certification of online gambling platforms;
- interconnection protocols and reporting requirements for slot-machines; and
- reporting of the revenues obtained by both land-based and online operators.

Moreover, certain requirements in the AML field are also applicable to gambling activities and were initially contained in Law 129/2019, which implements the fourth and fifth AML Directives. At the end of 2021, the gambling regulator issued sectoral norms/instructions clarifying how the AML regime must be implemented specifically in the field of gambling. These came into force in January 2022.

3.2 Definition of Gambling

Gambling is defined by GEO 77/2009 as an activity that has the following cumulative characteristics:

- a participation fee;
- the random selection of results on which the game is based;
- monetary winnings; and
- a public offering.

3.3 Definition of Land-Based Gambling

Land-based gambling activities are defined as all games of chance – irrespective of whether or not they are expressly regulated by GEO 77/2009 – that:

- fulfil the legal conditions applicable to a game of chance;
- are performed through gaming means installed in Romania; and
- are not transmitted or performed through any kind of communication system (internet, land-line, mobile telephone or any other transmission system).

3.4 Definition of Online Gambling

Online gambling activities are defined as all games of chance – irrespective of whether or not they are expressly regulated by GEO 77/2009 – that:

- fulfil the legal conditions applicable to a game of chance; and
- are performed through communication systems of any kind (internet, landline or mobile telephone, or any other transmission system).

3.5 Key Offences

In principle, failure to observe the legal requirements in the field of gambling may lead to civil, administrative or criminal sanctions.

Administrative Liability

By way of example, administrative liability may be triggered when:

- the organiser of land-based gambling activities allows individuals to participate in games of chance without having valid identity documents in their possession;
- the gambling organiser, without a distinction being made between land-based and online activities, does not pay the participants the winnings obtained from their gambling within three business days, provided that the conditions imposed on the participant in relation to the proof of winnings are fulfilled; or
- the gambling organiser, without a distinction being made between land-based and online activities, fails to notify the ONJN, within a certain deadline, about any modifications that have occurred to the data on the basis of which the licence and authorisation were granted.

Failure by a gambling organiser to comply with the legal requirements can also lead to the suspension or revocation of its licence by the ONJN.

Criminal Liability

Operating games of chance without the required licence and authorisation constitutes a criminal offence. Criminal liability may also be triggered when the following gaming products are offered to players:

- fraudulent games of chance;
- games of chance played through radio channels or other assimilated transmission means;
- games of chance based on the results of clandestine competitions, such as dog fighting, which is expressly forbidden by Romanian legislation, or illegal car racing;

- clandestine games of chance, where the results of the game are influenced by the skill of the person operating the game for the purpose of obtaining revenues, rather than being random; and
- competition games with winnings of any type
 - offered through telephone lines or other communication systems, television or radio
 - where the granting of prizes is based solely on the accuracy of the answers provided to general questions, and which involve a participation fee.

Liability for Participants

With respect to the participants in games of chance, according to GEO 77/2009, any individual in Romania who participates in online gambling operated by an unlicensed or unauthorised operator will face administrative fines ranging from RON5,000 to RON10,000, thus triggering the administrative (but not criminal) liability of the player.

3.6 Penalties for Unlawful Gambling

Operating games of chance without having been granted the required licence and authorisation constitutes a criminal offence and shall be punished with a term of imprisonment from one month to one year, or with a fine. Additional sanctions applicable for the criminal offence of unlicensed gambling are that the gambling operator will be dissolved, and the amounts derived from the unlawful activity will be confiscated.

3.7 Recent or Forthcoming Legislative Changes

On 6 October 2023, Government Emergency Ordinance No 82/2023 amending the primary gambling legislation entered into force. The new piece of legislation significantly impacts the gambling industry. This trend was continued through the amendments of Law No 107/2024

of 28 April 2024 and Government Emergency Ordinance No 80/2024 of 28 June 2024. Without intending to provide an exhaustive list, the main amendments are set out in the following.

- There is a requirement to operate games of chance only through a locally established company, or via a company registered within the EU, European Economic Area (EEA) or Swiss Confederation that also registered a permanent establishment for tax purposes in Romania. Incumbent licensed companies not meeting such requirement on 6 October have a six-month transitory term to comply with the new requirements.
- Joint operation of games of chance can now take place only as an exception to the rule, based on an agreement concluded between two licensed organisers holding either class 1 licences (business-to-consumer (B2C) operators) or class 2 licences (business-to-business (B2B) suppliers).
- Outdoor advertising (billboards/advertising material) is limited to a maximum size of 35 square metres.
- The sale of alcoholic beverages is now prohibited in locations where slot-machines are operated.
- A registry of self-excluded and undesirable persons will be held by the ONJN, although operators will have real-time access to the registry. Previously, each organiser had the obligation to maintain such a registry at the company level.
- Electronic devices awarding winnings with limited risk have been removed from the primary gambling legislation.
- The annual licence fees and annual authorisation fees for both B2C online gambling organisers and B2C land-based gambling organisers have been changed, either upward

or downwards (see **4.3 Recent or Forthcoming Changes** for details).

- Similarly, the annual licence fees for B2B operators supplying services to B2C gambling operators have been increased significantly (see **4.3 Recent or Forthcoming Changes**).
- Responsible gambling fees have been significantly increased. By way of example, the responsible gambling fees for B2C online organisers increased from EUR5,000/year to EUR500,000/year, while for B2B operators they increased from EUR1,000/year to EUR15,000/year.
- Gaming halls equipped with slot-machines are only allowed in localities with a population greater than 15,000 inhabitants.
- The level of the guarantees for covering the risk of non-payment of taxes due to the state budget has been significantly increased (see **4.3 Recent or Forthcoming Changes**).

At the time of writing (October 2024), several pieces of legislation that are relevant for the gambling industry are pending enactment. These include:

- a legislative proposal to modify the primary gambling legislation in order to ban land-based gambling halls within 300 “pedestrian metres” of educational establishments, including campuses; places of residence for children; and in cultural, health, social, religious and other such establishments, as well as in areas intended for such establishments;
- a legislative proposal on advertising for games of chance, which initially sought a complete ban on gambling advertising in Romania (including TV/radio and online) and was adopted by the Senate with amendments, the most important being: (i) audiovisual commercial communication for gambling

activities being prohibited between 6 am and 11 pm, with the exception of graphic inserts displayed during live sports broadcasts, (ii) prohibition of audiovisual commercial communication being presented or recommended by public, cultural, scientific or sports personalities or other persons who, due to their celebrity, may encourage gambling and sports betting activities, and (iii) any outdoor advertising material being limited to 35 square metres;

- a legislative proposal for advertising for games of chance stating that, among other things, gambling advertising will only be allowed if accompanied by the following alternative messages: (i) “Family, social life, welfare: are you ready to risk it all?” or (ii) “Gambling carries risks of debt, addiction and loneliness” (and it should not directly or indirectly encourage minors and adolescents to participate in gambling); and
- a legislative proposal that intended to ban outside advertising related to gambling and/or to limit advertising within 1 kilometre of education units, which was refused by the Senate and, at the time of writing, is pending in the Chamber of Deputies.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The public authority competent to supervise the Romanian gambling market is the ONJN, a specialised body of the central public administration subordinated to the Romanian Ministry of Finance that has enforcement prerogatives and is also competent to grant licences and authorisations.

4.2 Regulatory Approach

The new legal framework for gambling activities was created in 2015–16, when several pieces of legislation regulating the performance of gambling in Romania were enacted. The ONJN has issued licences and authorisations by applying the new legislation rather literally, so one may argue that the authority's approach in terms of regulation is quite prescriptive.

4.3 Recent or Forthcoming Changes Changes Under the New Government Ordinance

Taxes owed by licensed operators and providers

The government ordinance that amended the primary gambling legislation in October 2023 significantly increased the taxes owed by licensed B2C operators and B2B providers. This was not impacted by the modifications brought forth in 2024. The most notable changes include the following.

- The authorisation tax for online gambling has decreased from 23% of the gross gaming revenue (GGR) to 21%. It must be noted that the legislation provided for a minimum annual authorisation tax of EUR120,000 which has been increased to EUR400,000.
- By comparison to the online sector, the authorisation tax for land-based fixed-odds betting increased from 18% to 21% of the GGR. It must be noted that the legislation provided for a minimum annual authorisation tax of EUR100,000 which has been increased to EUR200,000.
- The annual licence tax for online gambling, before the legislative changes, ranged from EUR15,600/year (if the annual turnover was less than EUR500,000) to EUR312,000/year (if the annual turnover exceeded EUR10 million). After the changes, the licence tax has been

standardised to EUR300,000/year, irrespective of the level of the turnover.

- The annual licence fee for class 2-licensed B2B providers has increased from EUR9,500/year to EUR20,000/year. In addition, the regulator also requires B2B licensees to pay an administrative tax for the issuance of the licence in the amount of EUR10,500, as compared to the previous level of this tax, EUR9,500 (not as an annual payment, but only at the licensing stage).
- The annual authorisation tax for land-based slot-machine gambling increased from EUR4,600/machine to EUR5,300/machine. It is important to emphasise that slot-machines are the most popular form of land-based gambling in Romania (estimates suggest that more than 60,000 machines are operated in the market) and that an operator must have at least 75 authorised slot-machines in order to maintain the validity of its licence.
- The administrative tax of EUR150 for the analysis of documentation related to the integration or recertification of new online games has been increased to EUR250. While the amount of this new tax is not significant, it must be noted that, under the law, any new online game intended to be offered in Romania must receive prior approval from the regulator. This administrative tax is not, however, owed for each individual game, but rather for each individual approval request submitted by an operator (and where a single request can technically include hundreds of games).
- Due to the state budget, the level of the guarantees for covering the risk of non-payment of taxes has been significantly increased (in some cases, the level of the guarantee is 50 times higher than the previous requirement), as per the following.
 - (a) Starting 1 January 2025, the level of the guarantee is EUR 1 million irrespective of

the value of the GGR for any land-based gambling activity (e.g., betting agencies, slot-machine gaming halls), except for land-based casinos. For land-based casinos, the level of the guarantee is set to EUR 3 million. The previous form provided for a different method of calculating the guarantees for land-based gambling based on each gambling activity. By way of example, the maximum level of guarantee could not exceed EUR60,000 for slot-machines, EUR175,000 for casinos, EUR7,000 for bingo games or EUR100,000 for fixed-odds betting.

- (b) For online gambling (except casino activities), starting 1 January 2025, the level of the guarantee is EUR2 million, irrespective of the value of the GGR. For online casino activities, starting 1 January 2025, the level of the guarantee is EUR5 million, irrespective of the value of the GGR.

Players' tax on gambling income

Starting 1 August 2022, the taxes on gambling income obtained by players from most of the categories of games of chance are as follows:

- for revenues up to RON10,000 (approximately EUR2,000), the tax is 3%;
- for revenues ranging from RON10,000 to RON66,750 (approximately EUR13,000), the tax is 20% (calculated on the amount exceeding RON10,000); and
- for revenues exceeding RON66,750, the tax is 40% (as per the current regime, in this case, a player must pay tax of RON11,650 plus 40% on the amount that exceeds RON66,750).

Withholding tax

It is worth pointing out that in the case of online gambling, the Fiscal Code has already imposed a withholding tax mechanism applicable when-

ever the player makes a withdrawal from their game account to their bank account (or uses another withdrawal method). Hence, with each withdrawal from the online platform, operators must apply the above-mentioned taxation thresholds.

Tax exemption

It is also worth noting that for certain categories of land-based gambling (ie, casinos, slot-machine halls, scratch cards organised by the National Lottery and poker clubs), players still benefit from a tax exemption that is applicable to revenues that do not exceed RON66,750 (approximately EUR13,000).

National Cultural Fund tax

In November 2022, via a law that amended the legislation in the field of cultural activities, the Romanian parliament also introduced a new payment obligation in the form of a contribution to the National Cultural Fund. This contribution amounts to 0.5% of the revenues obtained by “economic operators in the field of gambling”.

At the time of the enactment, it was unclear who the “economic operators in the field of gambling” were and what “revenues” meant in the context of this new payment obligation. Later, through the implementing legislation, these two notions were clarified: the obligation applies to B2C organisers, and the 0.5% applies to the value of the GGR.

4.4 Types of Licences

Romanian legislation regulates the following types of licences.

- Class 1 licence and related authorisation(s) – these are the permits that must be obtained by a B2C operator in order to offer gambling services on the Romanian market (irrespec-

tive of whether this relates to land-based or online gambling).

- Class 2 licence – this licence is required for B2B providers specialising in the gambling industry that supply products/services to B2C operators licensed in Romania. The categories of B2B suppliers to which the ONJN has issued class 2 licences are as follows:
 - (a) manufacturers, distributors and other entities performing activities with gaming qualities or gaming components (note that this type of class 2 licence is relevant for the land-based sector);
 - (b) software providers;
 - (c) providers of platform management and hosting services;
 - (d) providers of live casino streaming services;
 - (e) certification laboratories, auditors and conformity assessment bodies;
 - (f) payment processors; and
 - (g) marketing affiliates.
- Class 3 licence – this licence is granted by benefit of law to the Romanian National Lottery, which has a legal monopoly over the organisation of land-based and online lottery games.

4.5 Availability of Licences

Class 1 and class 2 licences are readily available, provided that the respective B2C or B2B operators meet the applicable licensing requirements. The class 3 licence is granted only to the Romanian National Lottery.

4.6 Duration of Licences

The class 1 licence is valid for ten years and may be renewed for identical periods of time, while the authorisation is generally granted for one year and must be renewed/prolonged on an annual basis (with the exception of the authori-

sation for land-based temporary games, which is valid for three months and can be renewed).

The class 2 licence is also valid for ten years, subject to the payment of the annual licence fee within the applicable deadline.

4.7 Application Requirements

As a core rule, only operators based in Romania – or exempted operators in the EU, EEA or Swiss Confederation – may apply for a B2C licence and authorisation. Should the operator be based in the EU, EEA or Swiss Confederation, the company must register a permanent establishment for tax purposes in Romania as a requirement for obtaining the licence and authorisation.

The 2024 amendments bring an express prohibition against agreements that, explicitly or disguised, would allow an entity not licensed under gambling legislation to carry out gambling activities. Non-compliance with this provision is sanctioned with a fine of RON 150,000–200,000 and the seizure of all sums derived from the infringing activity. The intention is to control white-label agreements.

Licensing Process for Land-Based Gambling

To perform land-based gambling activities, a gambling operator must obtain a class 1 licence and one or several authorisations. While the licensing procedure is not product-specific, the authorisation must be obtained for each type of gambling activity intended to be performed.

Obtaining a licence

To obtain the licence, the operator must submit an application request along with several corporate and operational documents related to the legal entity itself, as well as its directors and shareholders. Such documentation includes criminal record checks for each direc-

tor and shareholder, and affidavits given by the director(s) disclosing, among other aspects, the ultimate beneficial owner of the company (with a 25% shareholding being the relevant threshold for an ultimate beneficial owner).

Obtaining authorisation

The authorisation can be obtained by an operator that has previously been granted a class 1 licence. The regulation allows an operator to submit licence and authorisation applications at the same time, provided that the necessary conditions are fulfilled for each of these. The conditions for obtaining the authorisation vary in accordance with the type of gambling activity sought to be performed, and refer to operational aspects (eg, the game rules for each game offered to the players and the configuration of the gambling premises) and technical requirements (eg, the certification of the gambling equipment or the development of the reporting solution to the ONJN of the aggregated financial and operational data).

Licensing Process for Online Gambling

To a certain extent, the licensing and authorisation requirements for land-based gambling also apply to online activities; the above-mentioned observations regarding the documentation for directors and shareholders are also applicable in connection with an online licence.

However, while authorisation must be obtained for each type of activity (or machine, as the case may be) in land-based gambling, in the case of online gambling, only one authorisation needs to be obtained for all the activities conducted on the same gambling platform (which can be connected to one or several internet domain names).

Technical and operational requirements

Other particular conditions applicable to an operator applying for a licence and authorisation to perform online gambling relate mainly to technical and operational requirements.

Thus, the applicant is required to have its entire IT system audited by a specialised testing laboratory that holds a class 2 licence, while the gambling software must be certified by a class 2-licensed certifier, as must the random number generator and return-to-player percentage for each game. In terms of the necessary infrastructure, if the main gaming server is not located in Romania, the operator must establish safe and mirror servers in Romania in order for the ONJN to be able to monitor the activity related to the Romanian market and verify any incidents that occur. In brief, while the safe server stores a rough replica of the data from the gaming server, the mirror server must contain centralised reports summarising the daily activity and financial results obtained by the operator. The rendering of services, directly or indirectly, in connection with gambling activities to entities that do not hold class 1 licences issued by the ONJN, and which permit access to gambling activities by the participants that access the game platform from the territory of Romania and/or participants that do not have fiscal residency in a different state, is prohibited. Operators holding class 2 licences issued by the ONJN have the obligation to implement any technical measures available to prevent and combat access for the participants to gambling activities by infringing the provisions of the present article.

On the operational side, among other requirements, operators that are not Romanian-based companies are required to appoint an authorised representative (a Romanian legal or natural per-

son) to act as the representative of the operator before the Romanian state authorities.

4.8 Application Timing

In accordance with the regulations, complete licensing documentation must be submitted to the regulator at least nine business days before the ONJN Supervisory Committee's meeting. The Supervisory Committee is the body within the ONJN that approves licence applications during its periodic meetings, which are generally organised twice a month.

Pursuant to GEO 77/2009, licence applications will be resolved within 30 days from the date of submission of the complete documentation. However, considering that the ONJN has the competence to request any additional documents or information deemed necessary, in practice, the licensing and authorisation procedure generally exceeds the initial 30-day timeframe provided by the law.

4.9 Application Fees

The legislative framework imposes the obligation to pay an administrative fee of EUR600 for the review of the licensing documentation and EUR250 for the review of authorisation documentation for land-based games of chance.

For an online licence, the applicant is required to pay an administrative fee of EUR3,500 for the review of the licensing documentation.

Both land-based and online operators are also required to pay a EUR10,500 fee for the issuance of the licence.

Furthermore, the application for a class 2 licence is subject to payment of an administrative fee of EUR10,500 for the issuance of the licence.

4.10 Ongoing Annual Fees

Annual Fees for Land-Based Gambling

In the case of land-based gambling, licensed operators are required to pay an annual licence tax in the form of a flat fee of a specific amount, depending on the type of land-based games operated. The licence tax may range from EUR15,000 per year for bingo games to EUR200,000 per year for fixed-odds betting.

Land-based operators must also pay an annual authorisation tax, which is calculated by reference to the following criteria.

- Operator's revenue – in the case of betting activities, the authorisation tax represents 21% of the operator's revenue (for fixed-odds betting, mutual betting and counterpart betting), while for bingo broadcast on television, the authorisation tax represents 23% of the operator's revenue; however, this tax can be no less than a specific amount depending on the type of game (EUR200,000 for fixed-odds betting and EUR150,000 for bingo on television).
- Number of locations/gaming means – land-based casinos incur an authorisation tax of EUR70,000 per table (in Bucharest) or EUR40,000 per table (outside Bucharest), and each slot-machine with unlimited winnings requires an authorisation tax of EUR5,300. For bingo performed in gaming halls, the operator is bound to pay an authorisation tax of EUR7,500 per location plus 5% of the value of the printed cards mandatorily purchased from the Romanian National Printing House.

The legislation also imposes certain special taxes for the following categories of land-based gambling:

- an entry fee for casinos (RON50) and poker clubs (RON30); and
- a vice tax for unlimited-winnings slot-machines and video-lottery machines of EUR500 per post (terminal) per year.

As a separate payment obligation, organisers of land-based games of chance are required to pay a responsible gambling contribution, which has been increased as of 6 October 2023 from a flat fee of EUR1,000 per year for all types of land-based games of chance to a separate mechanism where the responsible gambling contribution is determined based on the type of game of chance. In this sense, by way of example, the responsible gambling contribution for fixed-odds betting is not set to EUR200,000, while mutual betting requires the payment of a responsible gambling fee of EUR50,000.

Annual Fees for Online Gambling

An operator of online gambling must pay an annual licence tax of EUR300,000 per year, irrespective of the annual turnover (previously, the annual licence tax was calculated by reference to the operator's turnover, ranging from EUR15,600 per year to EUR312,000 per year).

The authorisation tax for online gambling is also paid on an annual basis and amounts to 21% of the income obtained from gambling activities (GGR), but it cannot be less than EUR400,000 per year.

Online licensed operators are also required to pay an annual responsible gambling contribution of EUR500,000.

For the analysis of the documentation related to the integration or recertification of new online games, gambling operators must pay a new administrative tax of EUR250 per approval

request (regardless of the number of games submitted for approval through the request), which is submitted to the gambling regulator.

Taxes for Licensed B2B Providers

B2B providers holding a class 2 licence are obliged to pay an annual licence tax of EUR20,000 per licence and a responsible gambling contribution of EUR15,000. The law simply stipulates that the contribution is EUR15,000, but in practice, the regulator imposes this contribution for each class 2 licence held by the B2B supplier.

5. Land-Based Gambling

5.1 Premises Licensing

Pursuant to GEO 77/2009 and GD 111/2016, land-based gambling activities may be operated only in specialised locations, as outlined in the following.

Casinos

Casinos are the specialised locations used for the operation of games of chance characteristic to casinos. The surface area and structure of casinos must enable the installation of gaming equipment and other technical devices needed to carry out the specific activity, and they must be located in buildings intended for use as business premises or in hotels with a minimum three-star rating. Casinos are subject to minimal legal requirements with regard to the location of the premises, surface and safety equipment.

Betting Agencies

Betting agencies are the specialised locations for betting activities in which at least one dependent (fixed-odds) betting terminal is operated and that cumulatively meet several conditions

in terms of minimum surface area, mandatory equipment, etc.

Locations for Operation of Slot-Machines

All premises used for the operation of slot-machine gaming, irrespective of the type of slot-machine, are subject to certain restrictions in relation to the advertising of the premises, as follows:

- organisers must prevent viewing of the activities carried out within the respective premises; and
- organisers may not suggest gambling activities by using images, text or other symbols.

Locations for Operation of Bingo Games

Pursuant to GD 111/2016, bingo games performed in specialised gaming halls may only take place in locations within specialised premises or business premises that are registered as the organiser's main or secondary office and that meet a set of mandatory conditions in relation to logistics and organisation: sufficient electric lighting, air-conditioning, a sound system, safety-related requirements, a back-up electrical circuit, etc.

5.2 Recent or Forthcoming Changes

In October 2023, the government ordinance amending the primary gambling legislation was adopted by the Romanian government, with the following changes being the most notable for land-based gambling.

- There is a requirement to operate games of chance only through a locally established company, or via a company registered within the EU, EEA or Swiss Confederation that also registered a permanent establishment for tax purposes in Romania. Incumbent licensed companies not meeting such requirement on

6 October have a six-month transitory term to comply with the new requirements.

- Joint operation of games of chance can now take place only based on an agreement concluded between licensed gambling organisers, or between licensed gambling organisers and companies under common control with them. The 2024 changes supplied the primary legislation with a definition of joint operation of games of chance: gambling activities that imply carrying out at least one of several specific gambling activities, namely operating the means of gambling, collecting and recording stakes and/or paying out and recording winnings, among other such activities.
- Electronic devices awarding winnings with limited risk have been removed from the primary gambling legislation.
- Outdoor advertising (billboards/advertising material) is limited to a maximum size of 35 square metres.
- The sale of alcoholic beverages is now prohibited in locations where slot-machines are operated.
- A registry of self-excluded and undesirable persons will be held by the ONJN, while operators will have real-time access to the registry. Previously, each organiser was obliged to maintain such a registry at the company level.
- Movement of gaming equipment can be done made only with the prior approval of the ONJN. Previously, the requirement was only to notify the ONJN in this respect.
- Gaming halls are only permitted in localities with a population greater than 15,000 inhabitants. If the population has fallen below 15,000 inhabitants, the regulator will urgently order – within three working days and for all slot-machine gambling organisers in the respective administrative-territorial unit – the cessation of slot-machine gambling activity, which must be carried out by the organisers within a

maximum of three working days from the date of its receipt. The operators can themselves inform the regulator if the population falls under 15,000 inhabitants within 48 hours from the cessation of the activity.

Moreover, the requirement to prove the existence of a technical infrastructure to compile databases of self-excluded and undesirable persons, and the obligation to keep electronic records of all persons accessing venues where gambling activities are organised and operated – as well as to archive the electronic databases of self-excluded and undesirable persons and keep them for a minimum of five years after their creation – were removed by the government's emergency ordinance of 6 October 2023.

6. Online Gambling

6.1 B2C Licences

An online B2C licence allows an operator to offer the products/activities covered by that licence on a Romanian platform. The Romanian platform covers all players with Romanian IP addresses as well as all Romanian citizens who do not have a fiscal residence in a foreign jurisdiction.

6.2 B2B Licences (Suppliers, Software, Etc)

A B2B licence allows a licensed supplier to perform the activities covered by that licence in Romania. As a particularity of Romanian legislation, B2B licences are not granted for specific products (such as a specific set of games or gambling platforms) but refer to generic B2B activities (eg, "production and distribution of gambling software" or "provision of hosting facilities").

6.3 Affiliates

As mentioned in 4.4 **Types of Licences**, affiliates wishing to operate in the Romanian market are required to obtain a specific class 2 licence from the ONJN. The regulation defines an affiliate as any natural or legal person who obtains revenues on the basis of a contract concluded with a B2C online operator as a result of participation in gambling by players redirected by the affiliate onto the website/platform of the B2C operator.

Besides the general obligation to pay the annual licence fee and responsible gambling contribution, licensed affiliates also have an express legal obligation to send all affiliation contracts concluded with B2C operators to the ONJN.

6.4 White Labels

Romanian gambling legislation does not specifically regulate the possibility of using white-label providers.

The regulation sets forth that licences are nominal and only permit operation by the holder of the licence. As an exception to this general rule, GD 111/2016 provides the possibility to create joint ventures in which it is sufficient for only one of the entities involved to hold a gambling licence. However, joint operation entails joint liability for all parties involved. Moreover, as per the recent legislative amendments, starting 6 October 2023, the joint operation of games of chance can take place only based on an agreement concluded between licensed gambling organisers, or between licensed gambling organisers and companies under common control with them.

6.5 Technical Measures

The primary tool to prevent unlicensed gambling activities is the "blacklist" of unlicensed gambling websites, which is managed by the ONJN and currently comprises more than 1,400 inter-

net domain names. The legislation sets forth that internet service providers (ISPs) and all service suppliers for the gambling industry, including payment processors, are bound to comply with the decisions taken by the regulator in relation to unlicensed websites. Specific reference is made to ISPs, which are required to ban access to the blacklisted websites (as well as to those websites promoting unlicensed gambling) under the threat of a fine ranging from RON50,000 to RON100,000.

6.6 Recent or Forthcoming Changes

In October 2023, the new government ordinance amending the primary gambling legislation was adopted by the Romanian government, bringing about a number of significant changes to the online gambling sector. The changes include the requirement to operate games of chance only through a locally established company or by a company registered within the EU, EEA or Swiss Confederation that also registered a permanent establishment for tax purposes in Romania. Incumbent licensed companies not meeting such requirement on 6 October 2023 have a six-month transitory term to comply with the new requirements.

See **3.7 Recent or Forthcoming Legislative Changes** for more details.

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

7.1 RG Requirements

The gambling regulatory framework is focused on protecting minors and preventing their access to gambling, as well as ensuring the integrity and transparency of gambling activities and main-

taining a fair game system that is constantly supervised.

All entities that are involved in the gambling industry and hold a licence granted by the Romanian regulator (both land-based and online operators, as well as licensed B2B providers) are required, pursuant to GEO 77/2009, to pay an annual responsible gambling contribution to a public body, the main purpose of which is to finance programmes and activities aimed at ensuring a responsible gambling environment and preventing gambling addiction.

7.2 Gambling Management Tools

Regarding online gambling, the legislation specifically provides that the platforms must be designed to enable responsible gambling functions, such as:

- the setting of daily, weekly or monthly deposit limits; or
- the possibility of players permanently or temporarily self-excluding from gambling.

Furthermore, the platform must also have a “reality-check” feature embedded in it, in the form of a warning message posted automatically every 60 minutes that must inform the player about the amount of time spent gambling.

Online operators are also obliged to inform a player who has opted to self-exclude about the possibility of receiving counselling and treatment for gambling addiction in a treatment centre.

In October 2023, the government emergency ordinance amending the primary gambling legislation introduced a new provision stating that the registry of self-excluded and undesirable persons will be held by the ONJN, while operators will have real-time access to such registry.

7.3 Recent or Forthcoming Changes

In October 2023, the government emergency ordinance amending the primary gambling legislation introduced a new provision stating that a registry of self-excluded and undesirable persons will be held by the ONJN, although operators will have real-time access to the registry. Previously, each organiser had the obligation to maintain such a registry at the company level. In this sense, requests for self-exclusion could be submitted to the ONJN or to the gambling operators. Now, gambling operators are obliged to send the requests for self-exclusion to the ONJN within two working days from the date of registration, and the lists of persons who – according to the internal decision of the organisers – have been declared undesirable, together with the reasons for this decision, within five working days from the date of the drawing up or modification.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Romania has implemented the fourth and fifth AML Directives, through Law 129/2019. At the end of 2021, after a considerable delay, the gambling regulator issued the sectoral norms/instructions clarifying how the AML regime must be implemented in the field of gambling, and these came into force in January 2022.

The AML instructions brought clarifications regarding the subjects covered by the AML regime, which applies to all operators licensed in Romania irrespective of their country of incorporation.

Furthermore, the AML instructions provide particular obligations for licensed operators in the field of gambling, as well as extensive require-

ments to conduct risk management, perform standard or enhanced KYC in certain scenarios, implement data retention obligations, report mechanisms to the AML authority, or appoint and train personnel qualified in the area of AML (money laundering reporting officers, or MLROs).

Excessive Obligations

However, while clarifying certain aspects that are characteristic to the gambling sector, the AML instructions have introduced certain excessive or unclear obligations, such as an operator's obligation to perform a due diligence process (including identification of the ultimate beneficial owner) not only for customers/players, but also for each and every business supplier. This requirement may be considered excessive since the AML law itself does not specifically impose this obligation.

8.2 AML Requirements

The AML legislation imposes various obligations, such as:

- specific customer due diligence;
- reporting of suspicious transactions;
- risk assessments;
- implementation of AML policies; and
- record-keeping in a specific format.

8.3 Recent or Forthcoming Changes

In January 2022, the Romanian regulator issued instructions for the application of AML legislation in the gambling field.

The AML instructions brought clarifications regarding the subjects covered by the AML regime, which applies to all operators licensed in Romania irrespective of their country of incorporation.

Furthermore, the AML instructions provide particular obligations for licensed operators in the field of gambling, as well as extensive requirements to conduct risk management, perform standard or enhanced KYC in certain scenarios, implement data retention obligations, set up reporting mechanisms within the AML authority, and appoint and train personnel qualified as MLROs.

However, while clarifying certain aspects that are characteristic to the gambling sector, the AML instructions have also introduced excessive or unclear obligations, such as the operator's obligation to perform a due diligence process (including identifying the ultimate beneficial owner) not only for customers/players, but also for each and every business supplier. This requirement may be considered excessive since the AML law itself does not impose this obligation.

9. Advertising

9.1 Regulatory/Supervisory Agency

The observance of the advertising regime for gambling activities is primarily supervised by the ONJN. The National Audio-Visual Council and the National Authority for Consumer Protection can also technically supervise certain aspects of gambling advertising, depending on the situation.

9.2 Definition of Advertising

In accordance with Law 158/2008, advertising is defined as any form of presentation of a trade, business, craft or profession with the purpose of promoting the sale of goods or services, including immovable goods, rights or obligations.

9.3 Key Legal, Regulatory and Licensing Provisions

Pursuant to GD 111/2016, any advertising of gambling activities must be performed in accordance with the legal principles relating to the protection of minors and responsible gambling. Advertising materials cannot be placed within or on the boundaries of educational, religious or social-cultural premises and must depict, in a visible manner:

- minors' interdiction from participating in gambling, shown through visual signs;
- the series and number of the gambling licence; and
- the ONJN logo.

9.4 Restrictions on Advertising

The most notable restrictions in terms of advertising are as follows:

- advertising of bonuses offered by online operators may be shown only on limited channels, namely on the operator's website, on the websites of its licensed affiliates or via e-messages sent to active players who have opted in to receiving this type of commercial communication;
- based on a decision of the National Audio-Visual Council, corroborated by the interpretation of the audio-visual regulator, TV advertising of gambling may be shown only after 11 pm, with the exception of betting activities, which may be promoted during live sports events; and
- outdoor advertising (billboards/advertising material) is limited to a maximum size of 35 square metres.

9.5 Sanctions/Penalties

The sanctions for infringing the advertising regime for gambling activities start with admin-

istrative fines and can theoretically lead up to the suspension or revocation of the licence.

9.6 Recent or Forthcoming Changes Notification of the ONJN

Since July 2022, the amendments made to gambling legislation have imposed the obligation for gambling operators to notify the gambling regulator of advertising contracts pertaining to the promotion of gambling brands, platforms, applications or activities through the placement of advertising messages in localities and public roads – or using a television service – within five working days from the date of signing. Contracts concluded with sports entities or federations that entail advertising in stadiums or sports halls do not fall under this requirement.

The 5% Tax

Operators owe a 5% tax (introduced as of July 2022) of the value of the above-mentioned advertising contracts, payable by the 25th day of the month following the one during which the contract is concluded. In the case of contracts entailing recurring payments/instalments, the payment of the new tax is due on the last day of the month in which the instalment is due. The tax authority has issued an order regulating how this new tax needs to be reported. However, it is unclear – even at this stage – who should pay this tax (operator, advertising agency, etc).

Advertising Restrictions

Although several legislative proposals have been initiated in order to further restrict advertising for games of chance, or to entirely prohibit TV advertising in this area, this legislative proposal does not seem to be gaining further traction, and there are signs that advertising for games of chance in Romania may go through some rough waters in the foreseeable future.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

In accordance with changes to Romania's gambling legislation made in July 2022, both B2C operators and B2B providers that hold a class 2 licence in Romania are required to notify the gambling regulator should there be significant changes to the initial information on the basis of which the licence and authorisation were granted. According to the law, the meaning of the term “significant changes” should have been established through an order issued by the regulator within 30 days of the government ordinance coming into force (ie, by mid-August 2022); however, at the time of writing (October 2023), this piece of legislation had still not been enacted.

10.2 Change of Corporate Control Triggers

As summarised under **10.1 Disclosure Requirements**, the order explaining the term “significant changes”, triggering the obligation to notify the gambling regulator, had not been released by the time of writing (October 2024). The applicable implications should therefore be assessed on a case-by-case basis.

10.3 Passive Investor Requirements

Romanian gambling legislation does not list any explicit requirements in relation to passive investors in the context of acquisitions or changes of control. The applicable obligations (if any) are to be determined on a case-by-case basis.

10.4 Recent or Forthcoming Changes

There are no changes relevant to this topic.

11. Enforcement

11.1 Powers

Depending on the type and severity of the breach, the ONJN has the power to suspend, revoke or even cancel gambling licences. Furthermore, the gambling regulator also has the competence to apply administrative fines if an operator infringes the licensing and authorisation conditions.

If a breach committed by an operator represents a criminal offence, the ONJN is legally obliged to refer the case to the relevant criminal investigation bodies.

11.2 Sanctions

Sanctions are enforced either directly by the ONJN (in the case of a suspension, revocation or cancellation of the licence or other regulatory breaches) or in co-operation with other public authorities (eg, the tax authority or the police).

Since 2015, when the regulatory framework was reformed, there have been several notable cases where the ONJN has suspended or revoked both land-based and online licences, and it even cancelled two interim online licences.

11.3 Financial Penalties

Financial penalties are generally enforced through the co-operation of the Romanian gambling regulator with the fiscal authorities. The law stipulates a certain range for pecuniary penalties, but the gambling office technically has the power to individualise a sanction.

In addition, it must be noted that all licensed operators are required to post a guarantee for securing the risk of non-payment of their tax obligations to the state. If an operator fails to pay

the applicable taxes, the authorities are entitled to enforce the relevant guarantee.

11.4 Recent or Forthcoming Changes

There are no changes relevant to this topic.

12. Tax

12.1 Tax Rate by Sector

Land-Based Gambling Operations

In accordance with the gambling regulations, land-based gambling operations entail a physical presence in Romania. Thus, operators holding a land-based licence are established as Romanian companies and, as a result, they become subject to the general corporate tax provided by Romanian fiscal legislation. At the time of writing (October 2024), the general corporate tax is established as a 16% profit tax.

Exceptionally, for operators of land-based casinos only, if the profit tax deriving from this activity does not exceed 5% of the revenues, the casino operator is subject to corporate tax capped at 5% of total revenues (turnover, not GGR).

Online Gambling Operations

In the case of online gambling operations, the fiscal regime may differ depending on the jurisdiction of incorporation. However, as per the amendments to the primary gambling legislation made in October 2023, obtaining a licence by a company located in the EU, EEA or Swiss Confederation requires the registration of a permanent establishment for tax purposes in Romania. Thus, any company established in an EU or EEA member state (or under the Swiss Confederation) may apply for a licence in Romania subject to having registered a permanent establishment in Romania. At the time of writing (October 2024), most operators holding an online licence

in Romania are incorporated outside Romania, in other EU jurisdictions.

As such, an operator holding an online licence in Romania as a foreign company, and having a permanent establishment for tax purposes in Romania, will be subject to corporate tax in Romania for any activities linked to the Romanian market.

The tax regime and rules/distinctions summarised in the foregoing do not apply to B2B providers holding a class 2 licence in Romania. For these entities, there is no requirement to register a permanent establishment for tax purposes in Romania. Thus, the fiscal regime may differ depending on the jurisdiction of incorporation.

Taxation of Players

Besides the increases in taxes owed by gambling operators and suppliers, the taxes owed by players for revenues obtained have not changed since 2022. See **4.3 Recent or Forthcoming Changes**.

It is worth pointing out that in the case of online gambling, the Fiscal Code already imposed a withholding tax mechanism applicable whenever the player makes a transfer from their game account to their bank account (or uses another withdrawal method). Hence, with each withdrawal from the online platform, operators must apply the taxation thresholds listed in **4.3 Recent or Forthcoming Changes**.

It is also worth noting that for certain categories of land-based gambling (ie, casinos, slot-machine halls, scratch cards organised by the National Lottery and poker clubs) players still benefit from a tax exemption that is applicable

for revenues that do not exceed RON66,750 (approximately EUR13,000).

National Cultural Fund Tax

Furthermore, the law adopted by the Romanian parliament in November 2022, amending the legislation in the field of cultural activities, introduced a new payment obligation in the form of a contribution to the National Cultural Fund. This contribution amounts to 0.5% of the “revenues” obtained by “economic operators in the field of gambling”. Thus, the obligation applies to B2C organisers, and the 0.5% applies to the value of the GGR.

12.2 Recent or Forthcoming Changes

There are no changes relevant to this topic.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There is no personal authorisations and licensing regime applicable in Romania at the moment.

13.2 Application Process

See **13.1 Types of Authorisations and Licences**.

13.3 Ongoing Annual Fees

See **13.1 Types of Authorisations and Licences**.

13.4 Ongoing Requirements

See **13.1 Types of Authorisations and Licences**.

13.5 Personal Sanctions

See **13.1 Types of Authorisations and Licences**.

13.6 Recent or Forthcoming Changes

See **13.1 Types of Authorisations and Licences**.

Trends and Developments

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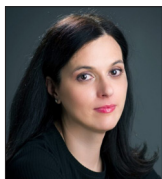
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WH Simion & Partners

WH Simion & Partners is an alliance between the Romanian law firm Simion & Partners and WH Partners. This strategic partnership enhances the firm's capacity to provide comprehensive legal services, combining in-depth knowledge of the gambling industry with the extensive resources and expertise required for handling complex transactional work and dispute resolution. At WH Simion & Partners, the approach is inherently forward-looking and cre-

ative. The firm is committed to finding innovative solutions to the most challenging legal issues. The team at WH Simion & Partners excels at thinking outside the box, ensuring that the firm delivers cutting-edge legal strategies that align with its clients' business objectives. This ingenuity, coupled with the firm's robust legal acumen, sets it apart as a leader in the gaming and gambling domains.

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Introduction

The Romanian gambling market has faced numerous challenges during the past few years, mainly due to the impact of the COVID-19 pandemic. The restrictions experienced in this period by the local market were similar in nature to those applied in other jurisdictions, where the shut-down of operations or restrictions of day-to-day activities were, unfortunately, common throughout the world.

The trend of legislative inflation affecting the gambling industry from various (and in some cases, unexpected) angles started in 2022 and continued in 2023.

Following a significant increase in taxes to be paid by actors in this sector from mid-2022, and after the noteworthy changes to the primary gambling legislation applied at the beginning of October 2023, 2024 was marked by two rounds of modifications. The first round, on 28 April 2024, mainly affected land-based gaming by limiting the operation of slot-machine premises only in towns with a population greater than 15,000 inhabitants. The second round, on 28 June 2024, added more details to this limitation by describing the measures that can be taken by the regulator and by operators.

Anti-money Laundering (AML)

After a considerable delay, Romania has finally implemented the fourth and fifth AML Directives.

The gambling regulator was required to issue the sectorial norms/instructions clarifying how the AML regime should be implemented in the gambling field in Romania, and this piece of legislation should have been enacted at the end of 2019. However, the regulator's instructions were issued two years later, being published at the

end of 2021 and coming into force in January 2022.

These AML instructions are a double-edged sword. On the one hand, the instructions clarify that the AML regime applies to all operators licensed in Romania, irrespective of their country of incorporation. This has enabled the regulator to put an end to a debate that has lasted several years, since in the past the AML office stated that the regime applied only to legal entities incorporated in Romania (it is important to note in this context that the majority of B2C online licences issued by the Romanian regulator until now have been granted to non-Romanian companies).

On a similarly positive note, the coming into force of the AML instructions at the beginning of this year has ended an era of uncertainty, as it is now clear that gambling operators are subject to all the characteristic AML obligations, such as the requirement to conduct risk assessments, perform standard or enhanced KYC in certain scenarios, implement data retention obligations or appoint personnel qualified in the area of AML (namely, money laundering reporting officers (MLROs)).

On the other hand, the AML instructions have introduced excessive or unclear obligations. For instance, the instructions stipulate that, if certain criteria are met (eg, a specific minimum turnover or a certain number of employees), operators must perform an audit confirming compliance with the AML framework. This audit must be performed every two years, but the instructions do not clarify what qualifications the auditor must have (if any) to conduct this procedure. At the time of writing (October 2024), the regulator has still not offered any clarification on this matter.

In addition, under the AML instructions, operators are obliged to perform a due diligence process (including identification of the ultimate beneficial owner), not only for customers/players but also for each business supplier. This requirement seems excessive since the AML law itself does not impose this obligation.

While the AML instructions have been in force for almost one year, it is quite clear that operators are still in the adaptation phase, so it remains to be seen how this situation will further evolve. The general impression of the market (at least at this stage) is that the authorities are not controlling the application of the new regime to check whether the AML obligations are being observed in practice.

Primary Gambling Legislation

On 6 October 2023, government Emergency Ordinance No 82/2023 amending the primary gambling legislation entered into force. The new piece of legislation significantly impacts the gambling industry. This trend was continued through the amendments of Law No 107/2024 of 28 April 2024 and Government Emergency Ordinance No 80/2024 of 28 June 2024. Without intending to provide an exhaustive list, the main amendments are set out below.

- There is a requirement to operate games of chance only through a locally established company, or via a company registered within the EU, European Economic Area (EEA) or Swiss Confederation that also registered a permanent establishment for tax purposes in Romania. Incumbent licensed companies not meeting such requirement on 6 October have a six-month transitory term to comply with the new requirements.
- Joint operation of games of chance can now take place only based on an agreement con-
- cluded between licensed gambling organisers, or between licensed gambling organisers and companies under common control with them.
- Outdoor advertising (billboards/other advertising material) is limited to a maximum size of 35 square metres.
- The sale of alcoholic beverages is now prohibited in locations where slot-machines are operated.
- A registry of self-excluded and undesirable persons will be held by the National Gambling Office (*Oficiul National pentru Jocuri de Noroc* (ONJN)), although operators will have real-time access to the registry. Previously, each organiser had the obligation to maintain such a registry at the company level.
- Electronic devices awarding winnings with limited risk were removed from primary gambling legislation.
- The annual licence fee for B2C gambling organisers has been set to a flat level of EUR300,000 irrespective of the turnover of the company. In the previous form of the law, the annual licence fee was determined based on the turnover of the company. The lowest amount was EUR15,600 (for an annual turnover of under EUR500,000/year), while the highest amount was EUR312,000 (for an annual turnover exceeding EUR10 million/year).
- Responsible gambling fees have been significantly increased. By way of example, the responsible gambling fees for B2C online organisers increased from EUR5,000/year to EUR500,000/year, while fees for B2B operators increased from EUR1,000/year to EUR15,000/year.
- Gaming halls equipped with slot-machines are only allowed in localities with a population greater than 15,000 inhabitants.
- Due to the state budget, the level of the guarantees covering the risk of non-payment

of taxes has been significantly increased (in some cases, the level of the guarantee is 50 times higher than the previous requirement).

(a) For land-based gambling (except casinos), starting 1 January 2025, the level of the guarantee is EUR1 million, irrespective of the value of the gross gaming revenue (GGR). For land-based casinos, the level of the guarantee is set to EUR3 million. The previous form provided for a different method of calculating the guarantees for land-based gambling based on each gambling activity. By way of example, the maximum level of guarantee could not exceed EUR60,000 for slot-machines, EUR175,000 for casinos, EUR7,000 for bingo games or EUR100,000 for fixed-odds betting.

(b) For online gambling (except casino activities), the level of the guarantee is set at EUR 2 million starting 1 January 2025, irrespective of the value of the GGR. For online casino activities, the level of the guarantee starting 1 January 2025 is EUR5 million, irrespective of the value of the GGR. The previous form provided for a different method of calculating the guarantee for online gambling based on each gambling activity. By way of example, the level of the guarantee was set to EUR100,000 for online fixed-odds betting, mutual betting or exchange betting, EUR100,000 for online bingo and keno games, EUR100,000 for online casino activities and EUR100,000 for online tombola.

Moreover, the requirement to prove the existence of a technical infrastructure for the compilation of databases of self-excluded and undesirable persons, and the obligation to keep electronic records of all persons accessing venues where

gambling activities are organised and operated, as well as to archive the electronic databases of self-excluded and undesirable persons and keep them for a minimum of five years after their creation, were removed by the new government emergency ordinance.

The government emergency ordinance amending the primary gambling legislation introduced a new provision stating that a registry of self-excluded and undesirable persons will be held by the ONJN, although operators will have real-time access to such registry. Previously, each organiser had the obligation to maintain such a registry at the company level. In this sense, requests for self-exclusion could be submitted to the ONJN or to the gambling operators. Now, gambling operators are obliged to send requests for self-exclusion to the ONJN within two working days from the date of registration, as well as lists of persons who, based on the internal decision of the organisers, have been declared undesirable – together with the reasons for this decision – within five working days from the date of the drawing up or modification.

Following these amendments, it is expected that the gambling operators currently active on the Romanian market will place their current activities under scrutiny. This may generate movements in the market; thus, there is a chance that, in the coming period, there will be transactions or business transfers related to the gambling activities carried out by some of the gambling operators designed to align with the new requirements, or to best address such requirements from a corporate perspective.

Taxation

The government ordinance that amended the primary gambling legislation in October 2023 significantly increased the level of taxa-

tion throughout the industry. The most notable changes include the following.

- The authorisation tax for online gambling has decreased from 23% of the GGR to 21%. It must be noted that the legislation provided for a minimum annual authorisation tax of EUR120,000, which has been increased to EUR400,000.
- Relative to the online sector, the authorisation tax for land-based fixed-odds betting increased from 18% to 21% of the GGR. It must be noted that the legislation provided for a minimum annual authorisation tax of EUR100,000, which has since been increased to EUR200,000.
- The annual licence tax for online gambling before the legislative changes ranged from EUR15,600/year (if the annual turnover was less than EUR500,000) to EUR312,000/year (if the annual turnover exceeded EUR10 million). After the changes, the licence tax was standardised at EUR300,000/year, irrespective of the level of turnover.
- The annual licence fee for class 2-licensed B2B providers has increased from EUR9,500/year to EUR20,000/year. In addition, the regulator also requires B2B licensees to pay a one-time administrative tax for the issuance of the licence in the amount of EUR10,500, as compared to the previous level of EUR9,500.
- The annual authorisation tax for land-based slot-machine gambling increased from EUR4,600/machine to EUR5,300/machine. It is important to emphasise that slot-machines are the most popular form of land-based gambling in Romania (estimates suggest that more than 60,000 machines are operated in the market) and that an operator must have at least 75 authorised slot-machines in order to maintain the validity of its licence.

- The administrative tax of EUR150 for the analysis of documentation related to the integration or recertification of new online games has been increased to EUR250. While the amount of this new tax is not significant, it must be noted that, under the law, any new online game intended to be offered in Romania must receive prior approval from the regulator. This administrative tax is not, however, owed for each individual game, but rather for each individual approval request submitted by an operator (and where a single request can technically include hundreds of games).

Starting on 1 August 2022, the taxes on gambling income obtained by players of most of the categories of games of chance are as follows:

- for revenues up to RON10,000 (approximately EUR2,000), the tax is 3%;
- for revenues ranging from RON10,000 to RON66,750 (approximately EUR13,000), the tax is 20% (calculated on the amount exceeding RON10,000); and
- for revenues exceeding RON66,750, the tax is 40% (in this case, under the current regime, a player must pay RON11,650 in tax plus 40% on the amount that exceeds RON66,750).

It is worth pointing out that in the case of online gambling, the Fiscal Code has already imposed a withholding tax mechanism applicable whenever the player makes a transfer from their game account to their bank account (or uses another withdrawal method). Hence, with each withdrawal from the online platform, operators must apply the above taxation thresholds.

It is also worth noting that for certain categories of land-based gambling (ie, casinos, slot-machine halls, scratch cards organised by the National Lottery and poker clubs), players still

benefit from a tax exemption that is applicable to revenues that do not exceed RON66,750 (approximately EUR13,000).

National Cultural Fund Tax

In November 2022, via a law that amended the legislation in the field of cultural activities, the Romanian Parliament also introduced a new payment obligation in the form of a contribution to the National Cultural Fund. This contribution amounts to 0.5% of the revenues obtained by “economic operators in the field of gambling”.

At the time of the enactment, it was still unclear who the “economic operators in the field of gambling” were and what “revenues” meant in the context of this new payment obligation. Later, through the implementing legislation, the two notions were clarified: the obligation applies to B2C organisers, and the 0.5% applies to the value of the GGR.

Advertising

Gambling advertising (or more specifically, the limitation or prohibition of this type of advertising) has been a recurrent topic that emerges from time to time in the political landscape. While gambling advertising is currently permitted in Romania, albeit with certain limitations (being intensively used by operators, especially

in the form of out-of-home (OOH) advertising or TV advertising), it seems that political stakeholders have started to look more carefully at this phenomenon. Various bills have been proposed throughout the years (some of which are still pending) aimed at further restricting advertising for games of chance.

- A legislative proposal on advertising for games of chance, which initially sought a complete ban on gambling advertising in Romania (including TV/radio and online), was adopted, with the most important provisions being (i) prohibition of audiovisual commercial communication for gambling activities between 6 am and 11 pm, with the exception of graphic inserts displayed during live sports broadcasts, and (ii) the limitation of any outdoor advertising material to 35 square metres.
- A legislative proposal on advertising for games of chance states that, among other things, gambling advertising will only be allowed if accompanied by one of the following messages: (i) “Family, social life, welfare: are you ready to risk it all?” or (ii) “Gambling carries risks of debt, addiction and loneliness” (and advertising should not directly or indirectly encourage minors and adolescents to participate in gambling).

SERBIA

Law and Practice

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4H Agency is a global gambling advisory firm with a 20-member team based in Georgia, the UAE, Ukraine, France, Latvia and Mexico. Specialising in comprehensive guidance for B2C operators and B2B providers, the firm's areas of expertise include market insights, regulatory compliance, licensing, payment systems and public affairs, with a focus on delivering tailored, transparent solutions. Recent projects include consulting with startups and industry leaders on licensing strategies, product localisation and navigating regulatory reforms. More-

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1. Introduction

1.1 Current Outlook and Recent Changes

In recent decades, Serbia has taken significant steps to modernise its gambling laws and bring them in line with international standards. The legalisation of online gambling in 2011 marked a pivotal moment in the development of Serbia's gambling industry. The country has since emerged as a growing player in the Balkans' online gambling market. Serbia has always stood out as a historic hub for e-sports, serving teams from across Eastern Europe and Commonwealth of Independent States (CIS) countries, and as a home to a large number of B2B live studio providers due to the absence of a B2B licence and highly favourable business conditions. This has fostered a profitable environment for such businesses, enhancing Serbia's appeal as a centre for gaming-related ventures.

Also, Serbia's efforts to regulate its gambling sector more transparently have opened up new opportunities for both domestic and international operators. Serbia's relatively relaxed advertising regulations compared to other European markets provide more flexibility for promoting gambling services. However, operators should be aware that ongoing regulatory reforms could introduce stricter requirements, particularly around responsible gambling (RG) practices.

In September 2024, the Ministry of Finance released a comprehensive draft proposing significant amendments to the existing gambling legislation. These amendments, currently under review, outline a range of new obligations, increased fees and enhanced control measures for gaming operators. If enacted, they will take effect 30 days post-approval, with by-laws to be adopted within 120 days to guide implementation. Immediate fee increases will boost national

revenue, while the new provisions seek to align Serbia's gambling industry with international standards, prioritising regulatory compliance, social accountability and market transparency.

2. Jurisdictional Overview

2.1 Online

Online games in the Serbian gambling industry are regulated on the basis of land-based terms, namely "classic games of chance", "special games of chance" and "prize games".

Classic games of chances are basically under state monopoly (National Lottery of Serbia), as this sector includes different types of lotteries, tombola-based games and general sports forecasting (which differs from sports betting, as it involves guessing the outcome of sports competitions).

Special games of chance include casinos, sports betting and slot-machines, while prize games are games organised for advertising purposes in which all participants are given the opportunity to earn a predetermined prize in the form of either goods or services.

For the purposes of this guide, prize games will not be reviewed further. Therefore, considering general sectors of online gambling, the Serbian gambling market includes:

- online casinos (slots, poker, etc) – regulated and permitted for licensing;
- online sports betting – regulated and permitted for licensing;
- online bingo and lotteries, other tombola-based games and sports forecasting – regulated but fully covered by state monopoly and therefore restricted;

- fantasy sport – unregulated; and
- social gaming – unregulated.

2.2 Land-Based

As indicated previously, Serbia regulates classic games of chance, special games of chance and prize games.

Classic games of chance include:

- lotteries, instant lotteries and other lottery-based games;
- sports betting (guessing the outcome of football and other sports competitions);
- lotto, keno and similar games;
- tombolas, bingo and other similar tombola-based games;
- fonto; and
- short message service (SMS) lotteries.

Special games of chance include:

- casinos, with the permitted types of games being blackjack, American roulette, French roulette, baccarat (*chemin de fer*), craps, draw poker, Texas hold ‘em, ultimate Texas hold ‘em, Caribbean diamond poker, casino stud poker, Caribbean 7 stud poker, Omaha poker, three-card poker, “let it ride” poker, sic bo, money wheel, punto banco and Serbian-Russian roulette”;
- sports betting, which can be organised in land-based betting shops for betting on (i) the outcome of sporting events (match results), horse racing and dog racing; (ii) the outcome of other real events, such as dancing, singing and music; and (iii) the outcome of computer-generated virtual events (eg, e-sports); and
- slot-machines, which can be operated in a casino or separately in a slot club.

3. Legislative Framework

3.1 Key Legislation

The key legislation that regulates the gambling industry in Serbia is the Law on Games of Chance 2020 (Law No 18/20; hereinafter referred to as the “Gambling Law”). Additional laws and sub-laws pertinent to the gambling industry include:

- anti-money laundering laws (Law Nos 113/17, 91/19 and 153/20);
- laws limiting the disposal of property in order to prevent terrorism and the spread of weapons of mass destruction (Law Nos 29/15, 113/17 and 41/18); and
- the Regulation on the Types of Games of Chance (Law No 152/20, etc).

3.2 Definition of Gambling

According to the Gambling Law, gambling is defined as “games of chance”, which are games in which:

- for a fee, participants are provided with the opportunity to win money, items, services or rights; and
- winning or losing does not depend on the knowledge or skill of the participants, but rather on chance or some uncertain event.

The legal definition of gambling excludes “skill games”, where qualified participants use their knowledge and skills, and the outcome depends solely on their performance. It also excludes “entertainment games”, such as those played on computers and simulators, pinball machines, darts and billiards, where participants pay to play but cannot win money, goods or services – only additional free games of the same type.

3.3 Definition of Land-Based Gambling

The following definitions are relevant to land-based gambling in Serbia:

- classic games of chance are defined as games that involve a large number of participants competing to be the sole or joint winner of a predefined prize fund; and
- special games of chance are defined as games in which the participants play against each other, or against the operator, in order to win a prize dependent on the stakes.

Special games of chance are further defined as follows.

- A casino is a furnished space for organising special games of chance, at tables and using automatic equipment, where the players play against the house or against one another on tables featuring small balls, small dice, cards or other similar items.
- A betting shop is a furnished space for operating sports betting equipped with one or more numbered “pay-in”/“pay-out” counters, used for placing and collecting bets. Participants can bet on the outcomes of sports events, other real events or virtual events suggested by the operator. The outcome of these events must be unpredictable, and neither the operator nor the players can influence it. The potential winnings are set when the bet is placed and cannot be changed thereafter.
- A slot-machine club is a furnished space for operating slot-machines – ie, electromechanical, electronic and similar devices that work based on an algorithm for random events – where the players pay a certain amount to acquire the ability to obtain a win dependent on the game rules.

3.4 Definition of Online Gambling

Under the Gambling Law, online gambling is defined as all games of chance (classic or special) organised by means of electronic communication, such as the internet, telephone, television, radio, SMS or any other form of electronic communication.

Since online gambling is regulated under the general land-based gambling legislation, there are no separate definitions for online gambling offerings as they are considered to be the same as land-based ones (ie, online casinos and casinos, online sports betting, sports betting, etc). Definitions of land-based gambling offerings can be reviewed in **3.3 Definition of Land-Based Gambling**.

3.5 Key Offences

There are a large number of offences that can be committed by operators or players, ranging from small misdemeanours to crimes. These include:

- operating without a licence;
- transfer of a licence;
- participation in or enabling participation in offshore gambling;
- operating gambling in gambling-free zones;
- allowing minors to gamble;
- non-payment of winnings;
- non-compliance with the requirement regarding the minimum amount of gambling equipment (for land-based operations);
- non-compliance with the special location requirements for gambling establishments; and
- the absence of gambling certification.

3.6 Penalties for Unlawful Gambling

There is a general fine ranging from EUR850 to EUR17,000 for breaching the Gambling Law.

This fine applies to all misdemeanours except operating without a licence.

In addition, for general offences, the responsible persons (eg, directors or representatives of the operator) shall also pay fines – in addition to the sanction for the company – ranging from EUR42 to EUR1,200.

Unlicensed gambling offences are covered by the Criminal Code of Serbia, and the penalty is up to two years' imprisonment.

3.7 Recent or Forthcoming Legislative Changes

In September 2024, regulatory changes gained momentum with a draft proposal for amendments to the Gambling Law (the "Draft Law"). If approved, these proposed changes aim to limit gambling advertising, protect minors and reduce the visibility of betting ads, aligning the restrictions with those for alcohol and tobacco. These include:

- stricter gambling advertising regulations, including the requirement for additional warning labels;
- a mandatory self-exclusion system and player protection regulations; and
- the introduction of "multi-terminal" devices allowing multiple players to gamble simultaneously, each with separate accounts.

Following this, in October, the gambling regulator clarified the 100-metre distance rule between gambling venues, improving regulatory transparency and engaging directly with operators.

More details regarding forthcoming changes to the Draft Law can be reviewed in **4.3 Recent or Forthcoming Changes**, **5.2 Recent or Forthcoming Changes**, **6.6 Recent or Forthcoming**

Changes and **12.2 Recent or Forthcoming Changes**.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The key regulatory authority applicable to the gambling sector in Serbia is the Games of Chance Administration under the Ministry of Finance.

4.2 Regulatory Approach

The Serbian gambling regulator is committed to creating a balanced environment by enhancing market structure and making legal guidelines clearer. This approach targets both the expansion of the regulated market and the reduction of offshore activity, as well as maximising budget contributions from licensed operators. The regulator has sought to increase fees and enforce compliance while also presenting enticing incentives for licensed operators, such as favourable tax rates and a simplified entry process. Therefore, the Serbian regulatory approach can be considered prescriptive.

4.3 Recent or Forthcoming Changes

As indicated previously, the most recent changes to the Gambling Law expected to enter into force (the Draft Law) include the proposition of the Ministry of Finance to increase fees for licences, emphasising social responsibility through new control measures and restrictions on cash payments.

There are also some new concepts, such as self-exclusion options for online players, video surveillance requirements and prohibitions on inter-player games (eg, Texas hold 'em poker),

which reflect efforts to enhance regulatory oversight and prevent money laundering.

Further notable changes focus on RG, including limits on alcohol sales within gaming facilities and mandatory distances from educational institutions for betting locations. Organisers could be also required to obtain prior consent for specific operational changes, such as the organisation of tournaments and provision of account registration services, and will face enhanced penalties for non-compliance.

For further details regarding the Draft Law please, review [3.7 Recent or Forthcoming Legislative Changes](#), [5.2 Recent or Forthcoming Legislative Changes](#), [6.6 Recent or Forthcoming Legislative Changes](#) and [12.2 Recent or Forthcoming Changes](#).

4.4 Types of Licences

The following licences are applicable to the gambling industry in Serbia:

- licence for online gambling (any type of activity);
- licence for land-based casinos;
- licence for land-based sports betting;
- licence for land-based slot-machines; and
- licence for lotteries.

There is no licence for B2B gambling providers in Serbia.

4.5 Availability of Licences

The availability of gambling licences in Serbia depends on the type of licence. Only Serbian companies can apply for a licence, and the restrictions are as follows.

- Licence for online gambling – available without restrictions except for online lotteries,

which are considered part of the land-based “lottery monopoly”.

- Licence for land-based casino – the maximum amount of casino licences that can be issued is restricted to ten, and two of these have already been issued. Moreover, such licences are issued only via government tender (auction), which further complicates the process of obtaining a licence.
- Licence for land-based sports betting – no restrictions.
- Licence for land-based slot-machines – no restrictions.
- Licence for lottery – under state monopoly (*Državna Lutrija Srbije*).

Please note that since lottery licences are unavailable due to the state monopoly, details of these licences will not be provided in this guide.

4.6 Duration of Licences

The licence duration is ten years for all available licences, with the exception of the land-based sports betting licence for horse racing – this can be granted to the operator for the duration of the equestrian racing season.

4.7 Application Requirements

Key application requirements for operators and suppliers vary depending on the type of activity, though there are some general ones. For example, the Gambling Law generally requires gambling operators to ensure that their founders, owners, key associates and appointed persons have clean legal records, particularly regarding serious criminal offenses, AML and terrorism financing violations. Certification from a state authority confirming compliance must be submitted for each application.

Further, basic documents and information must be submitted with a gambling licence application, as follows:

- business and legal entity information – business name, registered address, the decision on the entry of the legal entity into the appropriate register, and share capital details;
- ownership and financial structure – evidence of ownership structure down to the beneficial owner, as per the Central Register of Beneficial Owners, and the incorporation status of the legal entity;
- financial statements – balance sheet, profit and loss statements for the previous year, and audit reports for the financial statements of the founder or members for the previous two years (if applicable), including financial statements covering a period of up to six months before the request;
- criminal record check – confirmation from the competent state body that neither the applicant nor key associates thereof have been convicted of relevant criminal offenses or violated money laundering and terrorism financing regulations; if this cannot be provided, an affidavit under oath may be submitted, with the possibility of additional evidence requirements of the authorities; and
- game rules – the rules of the relevant game(s).

There are also some specific requirements in addition to those listed in the foregoing, which vary depending on the offering.

- Applicants for online gambling licences shall provide:
 - (a) procedures for identifying and registering players, handling interrupted communication, and system protection and backup;
 - (b) details for restoring saved positions;
 - (c) an impact study addressing the preven-

- tion of adverse effects on players;
 - (d) proof of ownership or usage rights for premises housing online gambling equipment;
 - (e) the fee for approval of the licence (EUR2,500 per month);
 - (f) share capital of not less than EUR250,000;
 - (g) a deposit (guarantee) in a Serbian bank dedicated to ensuring the payment of winnings to players, and settlement of obligations for the duration of the licence period, of not less than EUR300,000; and
 - (h) a “risk deposit” for each day of operation of not less than EUR10,000.
- Applicants for land-based casino licences shall provide:
 - (a) proof that the applicant or its majority founder holds a share in at least one casino and has at least five years of experience operating casino games;
 - (b) a three-year business plan for the legal entity;
 - (c) a bank guarantee covering the minimum licence fee for the tender (licence fee may not be less than EUR500,000);
 - (d) share capital of not less than EUR1 million;
 - (e) a deposit (guarantee) in a Serbian bank dedicated to ensuring the payment of winnings to players, and settlement of obligations for the duration of the licence period, of not less than EUR300,000; and
 - (f) a risk deposit for each day of operation of not less than EUR50,000.
 - Applicants for land-based sports betting licences shall provide:
 - (a) proof of ownership, use, or lease of appropriate premises, with a minimum of 30 betting shops, unless applying for a sports betting licence for horse racing;
 - (b) a list of pay-in/pay-out desks and evidence of compliance with numerical

labelling requirements;

- (c) evidence of the facility location for betting games (for details, see **5.1 Premises Licensing**);
 - (d) the fee for approval of the licence (EUR100 per month per betting shop);
 - (e) share capital of not less than EUR250,000;
 - (f) a deposit (guarantee) in a Serbian bank dedicated to ensuring the payment of winnings to players, and settlement of obligations for the duration of the licence period, of not less than EUR5,000 (except for operators with at least 300 betting shops, who shall provide a deposit of EUR1.5 million); and
- (g) a risk deposit for each day of operation of not less than EUR150 per pay-in/pay-out desk.
- Applicants for slot-machine licences shall provide:
- (a) proof of ownership or lease for at least 100 slot-machines within Serbia, with details on their location;
 - (b) evidence of compliance with technical standards and machine certification;
 - (c) the fee for approval of the licence (EUR25 per month per slot-machine);
 - (d) share capital of not less than EUR250,000;
 - (e) a deposit (guarantee) in a Serbian bank dedicated to ensuring the payment of winnings to players, and settlement of obligations for the duration of the licence period, of not less than EUR500 per slot-machine (except for operators with at least 2,000 slot-machines, who shall provide a deposit of EUR1 million); and
 - (f) a risk deposit for each day of operation of not less than EUR100 per pay-in/pay-out desk.

4.8 Application Timing

Licence issuance is generally 30 days after finalisation of the application. The regulator will review the uploaded documents and issue either an approval or refusal, or a request for additional documentation/information.

4.9 Application Fees

The fees associated with gambling licence applications are as follows:

- fee for gambling licence application – EUR3;
- fee for individuals requesting interpretation, clarification or opinion regarding the application of gambling regulations – EUR17
- fee for legal entities or entrepreneurs requesting interpretation, clarification or opinion regarding the application of gambling regulations – EUR140;
- fee for the issuance of documents (decision on the approval to operate or termination of the right to operate, or decisions amending the approval) – EUR6; and
- fee for issuing reminders to pay outstanding administrative fees – EUR3.

Gambling licence fees shall be paid within eight days of receiving the decision on approval of the licence, as follows:

- online gambling licence – EUR2,500 per month;
- land-based casino licence – decided via tender but not less than EUR500,000;
- land-based sports betting licence – EUR100 per month per betting shop; and
- slot-machine licence – EUR25 per month per slot-machine.

4.10 Ongoing Annual Fees

There are no annual gambling license fees, but rather only monthly ones. As specified earlier, the fees are as follows:

- online gambling licence – EUR2,500 per month;
- land-based casino licence – decided via tender but not less than EUR500,000;
- land-based sports betting licence – EUR100 per month per betting shop; and
- slot-machine license – EUR25 per month per slot-machine.

5. Land-Based Gambling

5.1 Premises Licensing

Casinos

The government determines casino locations through a tender process to support regional development. All gaming tables must be certified and approved before use. Each table must display a label with essential details: label number, operator name, certification laboratory, unique serial number, casino location and licence validity details.

Casinos must be organised so that gaming areas, guest spaces and staff areas form a single, cohesive unit. Entry to the casino must be controlled by a reception service that identifies all individuals (players, guests, etc). A casino must be situated in a dedicated building or within an at least three-star hotel. Essential facilities include a cash register, exchange office and secure area for valuables and audio-video recordings. Operators must also provide continuous audio and video surveillance over all tables and slot-machines, as well as monitoring entries, exits, players and visitors to ensure compliance with gambling laws.

Sports Betting Shops

Betting shops must be at least 200 metres from educational institutions and 100 metres from other betting shops, slot-machine clubs or casinos. Operators are required to use a certified information and communication system that securely stores, archives and exchanges data with the regulator's software for supervision purposes.

Each pay-in/pay-out desk in a betting shop must be pre-approved by the regulator and visibly labelled with information including the printer type, manufacturer, operator name, serial number, location and licence validity details. Operators are also required to provide continuous audio and video surveillance at the betting shop, with special monitoring of pay-in/pay-out desks, entries, exits and visitor activities to prevent any rule violations.

Slot-Machine Clubs

Slot-machine clubs must be at least 200 metres from educational institutions and 100 metres from other slot-machine clubs, betting shops or casinos. Operators must implement a certified information and communication system for their slot-machine operations.

Each club must have a minimum of five slot-machines from the same operator, and any slot-machine introduced for the first time must be less than one year old. Machines can only be used if certified, with a visible label displaying the label number, operator name, certification lab, serial number, location and licence validity details. Continuous audio and video surveillance must be maintained over all slot-machines, as well as monitoring entries, exits and visitor activities in the club.

5.2 Recent or Forthcoming Changes

The Draft Law amending the current Serbian Gambling Law, published in September 2024, introduces several major amendments to the land-based gambling regulations, as follows.

- Mandatory requirement for consent from the regulator prior to organising tournaments in casinos.
- The right of the regulator to monitor video surveillance in the casino in real time through a link, which the operator will be obliged to provide.
- New fees for obtaining licences, with a doubling of the licence fees for casinos (proposed minimum licence fee of EUR1 million), as well as slot-machines (proposed fee of EUR50 per machine) and sports betting (proposed fee of EUR200 per betting shop).
- Tax increases are also proposed; the details can be reviewed in **12.2 Recent or Forthcoming Changes**.
- The word casino, synonyms and translations thereof, and derived words can be used only by licensed casino operators, inside or outside of casino buildings, with some restrictions.
- New restrictions are introduced for serving food and alcoholic beverages in slot clubs and betting shops, and only low-alcohol beverages (less than 5% volume) are allowed. It is forbidden for the gaming area to be directly connected to the area where food and drinks are served.
- The Draft Law also specifies which educational institutions are subject to the minimum distance requirement (from slot clubs and betting shops), applying to all institutions attended by children, minors and young adults up to the age of 19. As proof of adherence to the distance requirement, in addition to a certificate from the Republic Geodetic

Institute, it will now be necessary to provide opinions from traffic experts.

- Any change in the capital structure of the gambling operator is subject to the prior approval of the regulator. Along with a request for approval, it will be necessary to submit proof of compliance with tax obligations and a certificate showing the criminal record of the intended purchaser of shares.

6. Online Gambling

6.1 B2C Licences

In Serbia, there is one type of online B2C online gambling licence. This general licence allows the operation of online casinos, online slots and online betting.

The application requirements for an online gambling licence are specified in **4.7 Application Requirements**. In addition, online gambling operators are obliged to use an information and communication system, which must be certified and approved prior to use.

6.2 B2B Licences (Suppliers, Software, Etc)

There is no relevant B2B licence provider in Serbia. However, the regulator maintains a list of 11 authorised entities permitted to repair gambling equipment. These authorised repairers are approved but not licensed by the regulator, similar to the approval process for certified laboratories.

6.3 Affiliates

Serbian gambling legislation does not regulate affiliates.

6.4 White Labels

Serbian gambling legislation does not regulate white-label providers.

6.5 Technical Measures

According to Serbian regulations, online operators shall use an information and communication system for operating online gambling that securely stores, archives and exchanges data with the regulator's software for further supervision of compliance with gambling and AML regulations.

Such information and communication systems must meet the following conditions:

- use legally procured software of appropriate quality for secure electronic exchange of data with the regulator's software;
- have adequate responsiveness and availability for the electronic exchange of data with the regulator's software;
- enable direct and secure data exchange with the regulator's software;
- utilise a process protecting against unauthorised use of the system and data loss; and
- provide security mechanisms for sending unique secret keys.

6.6 Recent or Forthcoming Changes

The Draft Law proposed several changes to the online gambling industry. If approved, Serbian online operators will be mandated to provide RG tools, such as a facility for self-exclusion for players, either permanently or temporarily (minimum of 24 hours); financial limits on payment and loss amounts; and a process for reporting self-excluded players to the regulator.

Under the Draft Law, licensing fees and the overall financial burden of online operators also increased:

- the deposit to guarantee winnings payments has been raised from EUR300,000 to EUR500,000;
- the monthly licence fee increased significantly from EUR2,500 to EUR10,000; and
- taxation also increased, as detailed in 12.2 Recent or Forthcoming Changes.

Finally, the regulator will be able to easily ban foreign entities operating unregistered online games, and inspectors can block IP addresses and prevent related bank transactions to stop offshore gambling.

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

7.1 RG Requirements

Serbian legislation includes key RG requirements, where all employees of gambling operators who have direct contact with players must be trained in preventive measures against addictive disorders related to problem gambling and must be in contact with players regarding gambling problems.

Measures regarding RG in Serbia include the following:

- operators are mandated to prohibit minors (those under 18 years of age) from participating in gambling;
- operators are obliged to disable access for player accounts immediately upon receipt of a request for temporary or permanent self-exclusion from players;
- operators are mandated to constantly display the time and date while players are playing;

- operators shall comply with financial limits reported by players on a daily, weekly and monthly basis; and
- operators shall also provide, on their premises/websites, information on addiction prevention and contact information for health ministry-approved institutions for the treatment of addiction.

There are also some responsible advertising rules, mandatory notification of the bank regarding the participation of minors in gambling and rules pertaining to the prevention of addictive disorders, etc.

7.2 Gambling Management Tools

The Gambling Law provides the following main tools aiding RG:

- self-exclusion – the operator is obliged to disable access to a given account immediately upon receipt of a request for self-exclusion, for a certain period of time or permanently, where self-exclusion depends on the player's request;
- financial limits – a player may limit, in writing or electronically, the maximum amount he or she can pay within a certain period of time, or the maximum losses he or she may incur within a certain period of time, where the operator is obliged to allow participants to set financial limits; and
- advertising restrictions, which are mainly used for protecting children and minors (restriction of advertising near schools, health or other institutions, and on websites intended for children and minors); the advertisements must not suggest solutions to professional, economic or personal problems.

7.3 Recent or Forthcoming Changes

Recent changes mainly concerned advertising procedures. Advertising rules have tightened, mandating that all gambling advertisements carry warnings about addiction and the prohibition of underage gambling. Compliance with these provisions has specific deadlines, most notably a 15-month transition period for fulfilling capital, security and surveillance requirements.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML legislation applicable to gambling operators is the Law on Prevention of Money Laundering and Terrorist Financing (Law No 113/17), the AML Law (Law No 153/20) and the Law on Restriction of Disposal of Property for the Prevention of Terrorism and Proliferation of Weapons of Mass Destruction (Law Nos 29/15, 113/17 and 41/48).

There is also a rulebook for complying with the AML Law and some guidelines to assess the risk of money laundering and terrorist financing for taxpayers who operate online or land-based gambling.

8.2 AML Requirements

According to the AML Law, gambling operators should ensure that they comply with the following.

Reporting Suspicious Transactions

Operators must report to the AML regulator any transaction where there are reasonable grounds to suspect money laundering or terrorism financing, as soon as it is executed and no later than three days after execution.

Operators are obliged to develop a list of indicators for identifying persons and transactions for which there are grounds for suspicion of money laundering or terrorist financing. The gambling regulator maintains a list of indicators for recognising persons and transactions for which there is a basis for suspicion of money laundering and terrorist financing in the case of online or land-based gambling.

Player Verification

Operators must ensure that personal identification data is verified by inspecting the relevant documents. The person whose identity is being verified must be present during the inspection. If there is cause to doubt the credibility of the document used for verification, a written statement on the truthfulness and reliability of the data and document must be obtained.

Conducting Customer Due Diligence

Operators are mandated to undertake customer due diligence measures when a player withdraws winnings or make deposits to their account – or both – in amounts of at least EUR2,000, regardless of whether a single transaction or a series of interrelated transactions are involved.

8.3 Recent or Forthcoming Changes

Serbia has recently introduced, and is expected to further align with, European AML standards, primarily driven by the EU's Sixth Anti-Money Laundering Directive (AMLD6) and national policy updates. Key forthcoming changes include enhancing risk-based approaches to customer due diligence and introducing stricter requirements regarding beneficial ownership transparency. This means that online casino operators in Serbia may soon need to adjust their AML frameworks to accommodate these elevated standards, including adopting a more robust transaction monitoring system.

Additionally, Serbia's Administration for the Prevention of Money Laundering (APML) has emphasised its commitment to Financial Action Task Force (FATF) standards, while Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL) assessments encourage ongoing improvements to Serbia's AML/Combating the Financing of Terrorism (CFT) systems, fostering compliance with global AML requirements. This will involve refining the collection of data on customers' financial activities and enhancing reporting consistency across operators, which will likely require updates to operators' suspicious transaction reporting (STR) protocols.

9. Advertising

9.1 Regulatory/Supervisory Agency

The primary regulators in the advertising sector are the Regulatory Authority for Electronic Media and the gambling regulator.

9.2 Definition of Advertising

According to the Law on Advertising, advertising is the presentation of information – in any form – associated with business or professional activities designed to encourage the sale of goods and services, as well as the transfer of rights and obligations. An “advertising message”, meanwhile, is a notice with advertising content, regardless of form or the manner or means by which it is transmitted.

9.3 Key Legal, Regulatory and Licensing Provisions

Key advertising provisions under Serbian legislation relevant to gambling operators are generally restrictive in nature. The main regulations pertain to:

- safety for minors – gambling ads must not target minors, must include a warning about age restrictions and cannot appear in places accessible to children, etc;
- prohibition of unlicensed gambling – advertising unlicensed gambling activities is strictly prohibited; and
- responsible advertising – ads must not mislead about the odds of winning, imply that skill can affect outcomes or suggest gambling as a solution to financial or personal problems, etc.

For a more detailed overview of the gambling-related advertising regulations, please review **9.4 Restrictions on Advertising**.

9.4 Restrictions on Advertising

The main restrictions on advertising are imposed by the Gambling Law itself. According to this Law, it is prohibited to:

- advertise gambling without making reference to the ban on the participation of minors;
- advertise unlicensed gambling activities;
- advertise gambling without a warning about problem gambling; and
- advertise gambling in facilities where bets are received and payments are made.

Several restrictions are also imposed by the Law on Advertising:

- gambling shall not be advertised in open areas, except in places that are at least 100 metres from the nearest preschool, school, health or other institution intended for children or minors;
- gambling shall not be advertised on websites intended for children or minors;

- gambling shall not be advertised on radio and television programmes, or in print media, intended for children;
- gambling advertising must contain a warning about the prohibition of participation by children and minors;
- gambling advertising must not exploit the inexperience or lack of knowledge of children or minors;
- gambling advertising must not use children or minors; and
- gambling advertising must not characterise participation in gambling activities as a means of maturation for children or minors.

Regarding general restrictions on the content of advertising, the following rules apply in Serbia:

- advertisements must not contain unfounded statements about the chances of winning or income that players can expect when playing;
- advertisements must not suggest that skill can affect the outcome of a game if this is not the case;
- advertisements must not represent gambling as a socially desirable activity; and
- advertisements must not suggest that participation in gambling is a substitute for employment or financial investment or a solution to professional, financial or personal problems.

9.5 Sanctions/Penalties

In Serbia, violations of gambling advertising regulations may result in various penalties, depending on the nature and severity of the offense.

Advertising that targets minors, lacks mandated warnings or uses inappropriate product placements can lead to the following penalties:

- legal entities face fines ranging from EUR2,500 to EUR17,000, depending on the infraction's severity; and
- individuals and entrepreneurs may incur fines ranging from EUR427 to EUR4,272, and additional legal measures might also apply.

In addition, the law allows for protective measures that may restrict certain activities of an offender for up to one year. In cases of repeated or severe violations, the authorities might also publicly announce the offender's sanctions.

9.6 Recent or Forthcoming Changes

Recent changes in Serbian advertising regulations for gambling focus on bolstering responsible advertising practices and ensuring clear boundaries to minimise potential harms. Under the updated laws, gambling advertisements must include visible messages promoting RG and discouraging underage gambling. Specific ads targeting – or appearing to target – minors are strictly prohibited, as is any content that could glamorise excessive gambling. Moreover, stringent limitations are in place for ads that could encourage addictive behaviours, or that frame gambling as a guaranteed means of financial success.

In addition to these content-related changes, technical measures are being implemented to control where and when these ads appear, particularly in relation to geo-targeting and time restrictions.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

In Serbia, when there is a change in control or acquisition involving a gambling company, spe-

cific disclosure and compliance requirements must be followed. The most critical requirement is to notify and obtain clearance from the Serbian Commission for the Protection of Competition (CPC), if certain thresholds that relate primarily to revenue and market share are met. Any transactions that significantly affect market dynamics, including those exceeding such thresholds, must receive CPC approval to proceed. This aligns with Serbia's merger control regulations, which closely follow EU competition standards.

Notification for merger clearance is mandatory if:

- the combined annual turnover of the involved entities exceeds the set threshold (EUR100 million and a Serbian turnover of at least one party exceeding EUR10 million, or EUR20 million and a Serbian turnover of more than EUR1 million of at least two parties); and
- the parties hold a significant local market share.

Controversial cases usually conclude within a month, as decided by the authorities.

The CPC can launch an in-depth review, which can take up to four months. In cases where a takeover bid is involved, disclosure to and approval from the Serbian Securities Commission are necessary, which can add up to 70 days to the overall process if competing bids emerge.

Failure to notify or attempting to close a transaction without clearance can lead to penalties of up to 10% of the company's local annual turnover, as well as corrective actions like forced divestitures to restore competition. There are limited exceptions for urgent public bids, where transactions may proceed under stringent conditions (eg, restricted voting rights until final clearance).

10.2 Change of Corporate Control Triggers

The main triggers of a change in corporate control for gambling companies include acquisition thresholds, mandatory reporting obligations and regulatory review processes. These requirements apply particularly when an acquisition involves a significant percentage of a company's share capital or voting rights, as this can impact the company's licensure and regulatory standing.

When changes in corporate control occur, Serbia's regulatory framework mandates disclosure to the relevant authorities, including the CPC if the transaction may affect market competition. For gambling companies, additional regulatory scrutiny may be involved, especially if the acquisition triggers a requirement for a "fit and proper" evaluation, which assesses the acquirer's suitability based on their financial standing, previous conduct and ability to uphold regulatory standards.

Transactions involving licensed entities often require the approval of the gambling regulator to ensure compliance with the Gambling Law and the AML Law, which can extend the review timeline. Additionally, Serbian legislation obligates companies to notify relevant bodies if there is a change in beneficial ownership beyond specified thresholds, ensuring that new ownership structures are transparent and compliant with existing regulatory obligations.

10.3 Passive Investor Requirements

The primary requirements for passive investors in acquisitions or control changes are as follows.

- **Notification of significant shareholding:** Passive investors acquiring a substantial portion of shares (typically more than 10%) may need to disclose their stake to regulatory authori-

ties, such as the CPC. This requirement ensures transparency and allows regulators to monitor potential impacts on market control.

- **Fit and proper requirements:** Even passive investors may need to undergo a fit and proper assessment if they cross certain ownership thresholds (eg, acquiring a stake that grants significant influence over company decisions). This assessment, overseen by Serbian gambling authorities, examines the investor's financial stability, legal standing and compliance history to ensure the investment aligns with regulatory standards.
- **Compliance with AML requirements:** Passive investors, particularly those gaining beneficial ownership, may have obligations under Serbian AML/FATF laws. They must provide documentation confirming the source of funds, particularly if they reach thresholds that could affect company control.
- **Non-interference assurance:** If a passive investor's stake approaches levels that could influence corporate governance, they may be required to provide written assurances to regulators that they will remain non-interfering, meaning they will not participate in strategic or operational decisions.

10.4 Recent or Forthcoming Changes

The obligation for all stakeholders, including passive investors, to maintain a certain level of share capital in cases of ownership changes has increased. Enhanced controls over investments, compliance with the gambling regulator's requirements and transparency of the ownership chain are some of the changes introduced to bolster transparency and financial accountability.

Further legislative developments are expected to continue refining these measures, supporting the Serbian goal of creating a robust regulatory

framework while fostering a safe and transparent gambling environment.

11. Enforcement

11.1 Powers

Gambling Regulator – The Games of Chance Administration

This authority is responsible for overseeing all gambling activities in Serbia, including issuing licences, enforcing compliance with the Gambling Law, monitoring RG practices and imposing sanctions for violations. It also supervises advertising in the gambling sector, ensuring that it aligns with regulatory standards.

AML Regulator – The Administration for the Prevention of Money Laundering

This body enforces Serbia's AML regulations. It requires gambling operators to comply with AML and counter-terrorist financing obligations, which include reporting suspicious transactions, conducting due diligence and maintaining transparency in financial activities. The AML regulator also audits and inspects operators to ensure compliance.

Data Protection Authority – The Commissioner for Information of Public Importance and Personal Data Protection

This authority oversees data privacy and ensures that gambling operators manage personal data responsibly, in compliance with Serbian data protection laws. It handles matters related to data breaches, consent for data usage and the rights of individuals regarding their personal information.

Advertising Regulator – The Regulatory Authority for Electronic Media

This authority monitors and regulates gambling advertisements across electronic media, ensuring they meet content standards, do not target minors and promote RG. In addition to its licensing and compliance role, it regulates gambling advertisements more broadly, including online and offline ads, enforcing content restrictions and compliance with ethical advertising standards specific to gambling.

11.2 Sanctions

Sanctions for violations in the Serbian gambling industry, including in relation to advertising, AML and RG, are generally enforced by the gambling regulator and other regulatory bodies, like the APML and the courts.

Enforcement actions typically involve administrative fines and licence suspensions – or revocations – for operators who do not adhere to regulations, including for advertising or AML. The most common sanctions are imprisonment, financial penalties, confiscation and warnings.

For example, in February 2024, the gambling regulator – along with police departments – uncovered illegal gambling operations in Belgrade and Kraljevo, detaining one individual and temporarily shutting down two facilities. Equipment for poker, bingo and sports betting was seized, and criminal charges were prepared for unauthorised operation. Earlier, in September 2021, the same co-ordinated operation led to the discovery of 17 illegal casinos in Smederevo. Authorities seized slot-machines, gambling equipment and a large sum of money, filing criminal charges against those responsible.

Historically, Serbia has actively enforced sanctions, especially under its evolving AML frame-

works aligned with FATF standards. Enforcement involves monitoring financial transactions related to gambling and imposing compliance obligations on casinos and betting operators to prevent money laundering and other illicit activities.

11.3 Financial Penalties

For misdemeanours such as unlicensed gambling marketing, failure to pay winnings and violating RG provisions, legal entities shall be fined amounts ranging from EUR852 to EUR17,000. A licensed gambling operator's responsible person can be fined amounts ranging from EUR43 to EUR1,278 for failure to pay winnings.

Please review **3.5 Key Offences** and **3.6 Penalties for Unlawful Gambling** for additional details of enforcement.

11.4 Recent or Forthcoming Changes

In 2020, the AML framework was updated to align with EU directives, introducing among other things fines for non-compliance that range from modest penalties to substantial fees depending on the nature and frequency of the infractions.

Additionally, the Serbian government recently adopted a national risk assessment to help guide enforcement and reduce money laundering risks in gambling and real estate. The Ministry of Finance and the State Lottery of Serbia conduct regular audits ensuring compliance, and penalties for violations include substantial fines, criminal charges and potential operational bans for businesses that fail to meet compliance standards.

12. Tax

12.1 Tax Rate by Sector

The following taxes are applicable to gambling operators:

- online gambling – 15% gross gambling revenue (GGR) for online betting and 10% GGR for online casinos and online slots, but not less than EUR10,000 per month;
- land-based casino – 3% of the income for games where players compete against each other (eg, poker), and 25% GGR for all other casino games;
- land-based sports betting – 15% GGR, but not less than EUR550 per month per betting shop; and
- land-based slot-machines – 10% GGR, but not less than EUR40 per month per slot-machine.

There is also a general 15% income tax for all businesses with Serbian tax residency.

12.2 Recent or Forthcoming Changes

More recent changes to taxation in the gambling field in Serbia – namely new tax amounts – came with the publication of the Draft Law in September 2024:

- online gambling – 15% GGR for all types of games (replacing the previously lower tax rate for online betting);
- land-based casino – tax for a new game sector (tournaments in arcades in which participants are in competition), 25% GGR for all types of games (replacing the previously lower tax rate for poker-like games) and a minimum fee of EUR2,000 for table games;
- land-based sports betting – 15% GGR, but not less than EUR1,000 (replacing the rate of EUR550); and

- land-based slot-machines – 15% GGR (instead of 10% GGR), but not less than EUR100 (instead of EUR50).

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Serbian gambling legislation does not regulate personal licences.

13.2 Application Process

Please see 13.1 Types of Authorisations and Licences.

13.3 Ongoing Annual Fees

Please see 13.1 Types of Authorisations and Licences.

13.4 Ongoing Requirements

Please see 13.1 Types of Authorisations and Licences.

13.5 Personal Sanctions

Please see 13.1 Types of Authorisations and Licences.

13.6 Recent or Forthcoming Changes

Please see 13.1 Types of Authorisations and Licences.

SINGAPORE

Law and Practice

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Rajah & Tann Asia is a leading full-service law firm in Singapore and one of the largest in South-East Asia. The firm has been at the leading edge of law in Asia, and has the region's leading gaming and gambling law practice. Rajah & Tann Singapore is a member firm of Rajah & Tann Asia, one of the largest regional networks, which brings together more than 800 fee earners from leading law firms in Cambodia, China, Indonesia, Lao PDR, Malaysia, My-

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1. Introduction

1.1 Current Outlook and Recent Changes

The Singapore government has traditionally viewed gambling as a social vice and has regulated the sector with a heavy touch. In recent years, the government has demonstrated its continued commitment to regulating gambling in Singapore. In April 2020, it announced that it would be reconstituting the existing Casino Regulatory Authority (CRA) into a new statutory board, the Gambling Regulatory Authority (GRA). The GRA would have the mandate to regulate the entire gambling landscape in Singapore, thus enabling a consolidation of resources and harmonisation in the regulatory approach across the different forms of gambling. The then current laws regulating gambling – the Betting Act, Common Gaming Houses Act, Private Lotteries Act and Remote Gambling Act – would all be repealed and replaced by a new consolidated legislation.

The Gambling Control Act (GCA) and the Gambling Regulatory Authority Act (GRAA) came into force on 1 August 2022 (save for Sections 137(1) and (2) which came into force on 1 June 2022).

In the wake of one of the biggest money laundering probes in Singapore in August 2023, the Singapore government has announced that they are reviewing Singapore's anti-money laundering legislation. See **8.3 Recent or Forthcoming Changes**.

On 6 August 2024, the Singapore government introduced the Casino Control (Amendment) Bill (CC(A)B) as part of a regular review to ensure that the Casino Control Act (CCA) keeps up with changes in the gambling industry. The CC(A)B was subsequently passed by parliament on 10 September 2024, but no concrete date has been

set as to when the new amendments will come into effect.

See **3.7 Recent or Forthcoming Changes**, **4.3 Recent or Forthcoming Changes** and **8.3 Recent or Forthcoming Changes**.

2. Jurisdictional Overview

2.1 Online

All forms of online gambling in respect of games of chance, public lotteries, horse racing and betting on sporting events, are generally prohibited in Singapore by the GCA, unless granted a licence by the GRA, or if covered by a class licence in respect of such gaming.

Presently, Singapore Pools (Private) Limited ("Singapore Pools") is the only gambling operator authorised to conduct and offer online legalised non-casino gambling services, including betting on horse racing, sports betting and public lotteries. Singapore Pools is wholly owned by the Singapore Totalisator Board (STB), a statutory board under the purview of the Ministry of Finance.

Currently, class licences are available for:

- games and lotteries conducted for the purpose of various eligible objects;
- games and lotteries conducted by an education provider to promote or further research undertaken by the education provider or to encourage participation in a market survey by the education service provider in relation to eligible subject matter concerning its business;
- games and lotteries conducted by an entity to encourage participation in a market survey in

- relation to eligible subject matter concerning the entity's or the entity's client's business;
- games and lotteries conducted primarily to promote trade in any goods or services;
 - lotteries conducted to raise funds for charities, exempt charities and institutions of public character;
 - games and lotteries conducted in the course of conducting a non-gambling event, as a form of entertainment or amusement for participants attending the non-gambling event (in-person or otherwise); and
 - interactive online games of chance which are either free to play and do not consist of certain prohibited mechanics or images, or allows for the winning of prizes which may be money equivalent that are designed primarily for use in another in-game microtransaction.

The class licence in respect of mystery boxes, ie, boxes which contain an unknown prize, with a prize cap of SGD100 to make this a lower-risk gambling product, has yet to be issued as of 1 October 2024.

Under Singapore law, bingo, fantasy sports and poker would be classified as games of chance and/or public lotteries, and hence would be prohibited if played for money or money equivalent, unless a licence is obtained.

Online social gaming is prohibited under the GCA if it allows the participants to win money or other valuable consideration.

2.2 Land-Based

All forms of land-based non-casino gambling in respect of games of chance, public lotteries, horse racing and betting on sporting events are generally prohibited in Singapore by the GCA, unless granted a licence by the GRA, or if cov-

ered by a class licence in respect of such gambling.

Singapore Pools is the only licensed gambling operator authorised to conduct and offer legalised land-based non-casino gambling services, including betting on horse racing, sports betting and public lotteries.

The class licences available for land-based non-casino gambling are similar to that for online gambling. The list of class licences may be referred to at **2.1 Online**.

All forms of land-based casino gambling are generally prohibited, unless a casino licence is obtained or the activity falls under an applicable class licence. In addition, under the GCA, certain forms of land-based social gaming are now permitted.

3. Legislative Framework

3.1 Key Legislation

Online Gambling and Land-Based Non-casino Gambling

The GCA regulates all forms of gambling activities save for land-based casino operations in Singapore as well as activities outside Singapore that are targeted at Singapore residents.

Key subsidiary legislation that has been gazetted to date is as follows.

- Gambling Control (Trade and Other Promotional games and Lotteries – Class Licence) Order 2022 – grants a class licence in respect of games and lotteries conducted: (i) for the purpose of various eligible objects; (ii) by an education provider to promote or further research undertaken by the education provid-

- er or to encourage participation in a market survey by the education service provider in relation to eligible subject matter concerning its business; (iii) by an entity to encourage participation in a market survey in relation to eligible subject matter concerning the entity's or the entity's client's business; and (iv) games and lotteries conducted primarily to promote trade in any goods or services.
- **Gambling Control (Fundraisers – Class Licence) Order 2022** – grants a class licence in respect of lotteries conducted to raise funds for charities, exempt charities and institutions of public character.
 - **Gambling Control (Minor Gambling – Class Licence) Order 2022** – grants a class licence in respect of games and lotteries conducted in the course of conducting a non-gambling event, as a form of entertainment or amusement for participants attending the non-gambling event (in-person or otherwise).
 - **Gambling Control (Remote Games of Chance – Class Licence) Order 2022** – grants a class licence in respect of interactive online games of chance which are either free to play and do not consist of certain prohibited mechanics or images, or allows for the winning of prizes which may be money equivalent that are designed primarily for use in another in-game microtransaction.
 - **Gambling Duties Act** – sets out the duties and taxes payable in respect of lawful betting, gaming and lotteries (including sweepstakes) by non-casino gambling operators.

Land-Based Casino Gambling

The CCA regulates the two licensed casinos in Singapore.

The key subsidiary legislation under the CCA includes the following.

- **Casino Control (Casino Licence and Fees) Regulations 2009 (CCCLFR)** – sets out the process and payable fees for operators looking to apply for a casino licence.
- **The Casino Control (Casino Marketing Arrangements) Regulations 2013** – regulates the conduct of casino marketing arrangements between the two licensed casinos and the international market agent (IMA) and their representatives, as the case may be.
- **The Casino Control (Conduct of Gaming) Regulations 2009** – governs the issuance, redemption and use of chips and chip purchase vouchers, together with the conduct of table games offered at the casino.
- **The Casino Control (Credit) Regulations 2010** – regulates the extension of credit for gaming in a casino by a casino operator to a casino patron who is neither a Singaporean nor a permanent resident (PR).
- **The Casino Control (Entry Levy) Regulations 2010** – impose levies on Singaporeans and PRs who enter casinos.
- **The Casino Control (Gaming Equipment) Regulations 2009** – stipulates the conditions for approval for manufacturers and suppliers of gaming machines and equipment, and the requirements for gaming machines and equipment to be complied with.
- **The Casino Control (Internal Controls) Regulations 2013** – requires the two licensed casinos to implement controls, policies, procedures and processes for the operations of a casino or operations relating to casino marketing arrangements.
- **The Casino Control (Licensing of Special Employee) Regulations 2009** – regulates the application and grant of special employee licences for various categories of such employees.
- **The Casino Control (Problem Gambling – Exclusion Orders and Visit Limits) Rules 2008**

– stipulates the procedures for the application of the various exclusion orders that can be imposed on individuals.

General Application

In respect of agreements by way of gaming or wagering, Section 5 of the Civil Law Act provides that all agreements by way of gaming or wagering will be null and void unless they are in respect of legalised gambling. However, contracts entered into by way of business and the making or performance of which constitutes an investment activity are deemed not to be gaming or wagering agreements.

3.2 Definition of Gambling

The term “gambling” is defined in the GCA as any of the following:

- betting;
- engaging in gaming activity; or
- participating in a lottery.

Betting is defined under the GCA as involving the payment or staking of any money or money equivalent or anything else of value on:

- the outcome of a race, competition, sporting event or other event or process, taking place in Singapore or elsewhere;
- the likelihood of anything occurring, or not occurring, in Singapore or elsewhere; or
- whether anything is or is not true.

Engaging in gaming activity is defined under the GCA as:

- playing a game of chance for a prize; or
- playing a gaming machine.

A game of chance is in turn defined as:

- a game that involves both an element of chance and an element of skill;
- a game that involves an element of chance that can be eliminated by superlative skill; or
- a game that is presented as involving an element of chance.

A lottery is defined as an arrangement or a scheme, competition or device, which may or may not involve multiple participants, for the distribution of prizes where:

- entitlement to participate in the arrangement, scheme, competition or device depends on the payment of or giving of any money or money equivalent or anything else of value by the participant; or the attendance or other qualification of the participant, without payment; and
- the distribution depends, at any stage of the arrangement, scheme, competition or device, on an element of chance (even if the arrangement, scheme, competition or device, in some other respects, involves a genuine or purported exercise of skill).

3.3 Definition of Land-Based Gambling

Land-based gambling would constitute all forms of gambling that are not carried out wholly or partially by remote communication.

3.4 Definition of Online Gambling

Online gambling would be considered as a form of remote gambling, which is defined as gambling in which a person participates by the whole or partial use of remote communication. Remote communication means communication done through the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.

3.5 Key Offences

Online Gambling and Land-Based Non-casino Gambling

- Unlawful conduct of betting operations, gaming or lotteries, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Unlawful conduct of betting operations, gaming or lotteries, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Conducting a betting operation, gaming or lottery outside of an approved gambling venue, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Conducting a betting operation, gaming or lottery outside of an approved gambling venue, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Gambling with an unlicensed gambling service provider or at an unlawful gambling place:
 - (a) a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding six months.
- Having a financial interest in an unlawful gambling service:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Conducting a betting operation, gaming or lottery where the scope and manner of the betting operation, gaming or lottery has not been approved and/or contravenes the conditions in which approval has granted, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Conducting a betting operation, gaming or lottery where the scope and manner of the betting operation, gaming or lottery has not been approved and/or contravenes the conditions in which approval has granted, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.

- SGD300,000 and imprisonment for a term not exceeding seven years.
- Owning or occupying a place and using or allowing said place to be used as an unlawful gambling place:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Organising or managing any unlawful gambling place, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Organising or managing any unlawful gambling place, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Financing an unlawful gambling place, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Financing an unlawful gambling place, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Being present in or entering or leaving an unlawful gambling place:
 - (a) a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding six months.
- Conducting gaming involving a prohibited gaming machine or using or operating such a machine for the purposes of gambling activities by another person, save where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Conducting gaming involving a prohibited gaming machine or using or operating such a machine for the purposes of gaming activities by another person, where this was conducted on behalf of or in accordance with arrangements made by another:
 - (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding five years; and
 - (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Playing a game of chance for a prize involving a prohibited/unapproved gaming machine:

- (a) a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding six months.
- Proxy gambling outside of a gaming machine room:
 - (a) a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding six months.
- Supplying prohibited/unapproved gaming machines:
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding seven years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding 12 years.
- Gambling by underaged individuals and excluded persons:
 - (a) for underaged individuals, a fine not exceeding SGD1,500; and
 - (b) for excluded persons, a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding 12 months.
- Inducing an underaged individual to gamble:
 - (a) a fine not exceeding SGD300,000 and/or imprisonment for a term not exceeding six years.
- Employing an underaged individual in gambling:
 - (a) a fine not exceeding SGD300,000 and/or imprisonment for a term not exceeding six years.
- Possession of an unlawful gambling instrument at or near a place where gambling games.
 - (a) for first time offenders, a fine not exceeding SGD500,000 and imprisonment for a term not exceeding four years; and
 - (b) for repeat offenders, a fine not exceeding SGD700,000 and imprisonment for a term not exceeding ten years.
- Providing credit for unlawful gambling:

- (a) for first time offenders, a fine not exceeding SGD200,000 and imprisonment for a term not exceeding four years; and
- (b) for repeat offenders, a fine not exceeding SGD300,000 and imprisonment for a term not exceeding seven years.
- Advertising unlawful gambling:
 - (a) a fine not exceeding SGD20,000.

Land-Based Casino Gambling

- Operating a casino without a valid licence:
 - (a) a fine not exceeding SGD200,000 and, in the case of a continuing offence, a fine not exceeding SGD20,000 per day or part thereof, as well as a fine of gross gaming revenues for the period of operation.
- Installing a linked jackpot arrangement:
 - (a) a fine not exceeding SGD200,000 and/or imprisonment for a term not exceeding five years.
- Organising or conducting a casino marketing arrangement involving the participation of any Singapore citizen or permanent resident:
 - (a) for first time individual offenders, a fine not below SGD30,000 and not exceeding SGD300,000 and with imprisonment for a term not exceeding four years;
 - (b) for repeat individual offenders, a fine not below SGD30,000 and not exceeding SGD300,000 and with imprisonment for a term not exceeding seven years; and
 - (c) in any other case, a fine not below SGD50,000 and not exceeding SGD500,000.
- Acting as an international market agent without a valid licence:
 - (a) for first time individual offenders, a fine not below SGD30,000 and not exceeding SGD300,000 and with imprisonment for a term not exceeding four years;
 - (b) for repeat individual offenders, a fine not below SGD30,000 and not exceeding

SGD300,000 and with imprisonment for a term not exceeding seven years; and

(c) in any other case, a fine not below SGD50,000 and not exceeding SGD500,000.

- Entry into a casino without paying the required entry levy or remains in the casino upon expiry of period for which an entry levy was paid:
 - (a) a fine not exceeding SGD1,000 as well as the amount of the entry levy payable for the overstay period.
- Proxy gambling outside casino:
 - (a) a fine not exceeding SGD10,000 and/or imprisonment for a term not exceeding 12 months.
- Cheating in a casino game:
 - (a) a fine not exceeding SGD150,000 and/or imprisonment for a term not exceeding seven years.

3.6 Penalties for Unlawful Gambling

See 3.5 Key Offences.

3.7 Recent or Forthcoming Legislative Changes

The CC(A)B was introduced to amend the CCA in order to:

- enhance the operational effectiveness of the casino regulatory regime;
- tighten the regulation of the casinos and licensees; and
- strengthen protection for vulnerable groups.

See 11.4 Recent or Forthcoming Changes.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The GRA is the main authority involved in regulating the gambling sector in Singapore.

The Ministry of Social and Family Development (MSF) also established the National Council for Problem Gambling (NCPG) to deal with the social aspects of gambling.

The Singapore Police Force may also prohibit a person from entering or remaining on any casino premises by a written exclusion order given to the person, as well as ban a person from entering and remaining in all gaming machine rooms, and/or engaging in general remote gambling by a written notice given to the person and the NCPG.

Under the previous regime, the NCPG and its committees were only allowed to revoke an existing Exclusion Order or Visit Limit and subsequently impose a new Exclusion Order or Visit Limit. The CC(A)B introduced a new streamlined regime where the NCPG is allowed to immediately substitute an Exclusion Order with a Visit Limit, and vice versa. This provides more protection to the individual as compared to the current regime, where there is a period of one to two months between the revocation of the Exclusion Order or Visit Limit and the imposition of the New Exclusion Order or Visit Limit, during which the individual would not be protected by any safeguards. The NPCG also has the flexibility to substitute safeguards with more stringent ones, like a Visit Limit with an Exclusion Order, to protect the individual.

Additionally, the CC(A)B has criminalised the breach of a Family Visit Limit to bring it in line

with the breach of an Exclusion Order by Law, Third Party Exclusion Order, Third Party Visit Limit and Family Exclusion Order.

4.2 Regulatory Approach

The Singapore government takes a strict approach to regulating gambling.

However, the Ministry of Home Affairs (MHA) has acknowledged that a broad definition of what constitutes gambling may result in activities or products which the MHA may have no intention of treating as gambling activities or products falling within the definition of gambling. The MHA has therefore evaluated various activities and products which it determined ought not to be classified as gambling, and has expressly carved out such activities and products from the definition of gambling. For instance, the MHA has recognised that investments in financial products already regulated by the Monetary Authority of Singapore (MAS) through other legislation should not be treated as gambling products and has provided for a carve-out at Section 5(2)(a) of the GCA to address this.

4.3 Recent or Forthcoming Changes

The CC(A)B has expanded the scope of activities that the GRA can regulate in the casinos to cover betting and lotteries. This has been done to pre-empt any future changes in the gambling landscape.

4.4 Types of Licences

Online Gambling and Land-Based Non-casino Gambling

Various types of licences may be granted by the GRA to allow for the provision of gambling services, including but not limited to licences in respect of:

- specified kinds of gambling operations, including the conduct of betting, gaming or lotteries;
- specified types of gaming machines;
- specified types of gambling articles (other than gaming machines) or prizes; and
- specified types of customers who may engage in gambling using the gambling service authorised by the class licence.

Class licences are also available for various activities as set out at **2.1 Online**.

Land-Based Casino Gambling

Casinos may only be built on sites designated by the Minister. Only the owners of such designated sites, or a person nominated by the owner, may then apply to the GRA for a casino licence. Only two casino licences have been granted in Singapore to date – to the operators of each of the casinos at the Marina Bay Sands (MBS) and Resorts World Sentosa (RWS).

Casino operators must apply for special employee licences on behalf of various categories of individuals that they wish to employ in their operations. These include employees who perform senior managerial or other executive functions, or whose role has a significant influence over the casino operations, or who provide technical support services relating to the maintenance, rectification or repair of gaming equipment in the casino premises.

IMAs looking to enter into casino marketing arrangements with casino operators must apply for an international market agent licence, or an international market agent representative licence if such agents use representatives for their marketing operations. As of 17 October 2023, there are no licensed IMAs in Singapore.

4.5 Availability of Licences

Section 46(1) of the CCA stipulates that only two casino licences are to be in force at any particular time, at least until 31 December 2030.

Given the strong anti-gambling stance adopted by the Singapore government, the prospect of licences being awarded to gambling operators that are not related to, or endorsed by, the Singapore government to conduct commercial gambling operations for an extended period is extremely low.

4.6 Duration of Licences

Online Gambling and Land-Based Non-Casino Gambling

The GCA does not prescribe the duration of licences for online gambling and land-based non-casino gambling. Such duration appears to be based on the nature of the gambling activity that is licensed, eg, whether it is recurrent or one-off. For example, the licence issued by the GRA to Singapore Pools under Section 54 of the GCA is effective from 25 October 2022 to 24 October 2025. It allows Singapore Pools to conduct betting operations (including betting on football, Formula One and horse races), gaming and lotteries.

Land-Based Casino Gambling *Casino operations*

Pursuant to the CCCLFR, a casino licence is valid for three years, or a shorter term if the GRA is of the opinion that the term of three years is not appropriate. Casino operators may apply to renew their licence for further periods, under Section 49B of the CCA and the CCCLFR.

Similarly, special employee licences granted in respect of certain categories of employees of the casinos are valid for three years.

International market agent licences will be valid for such period as the GRA may specify in the licence, up to a maximum of three years.

4.7 Application Requirements

Online Gambling and Land-Based Non-Casino Gambling

Applications for licences for betting, gaming and lotteries are to be made in the form prescribed by the GRA. Upon receiving an application for a licence or to renew a non-casino gambling licence, the GRA may carry out investigations or inquiries in relation to the application.

Prior to granting a licence or allowing the renewal of a licence for gambling operations under the GCA, the GRA will consider, inter alia, the following factors:

- whether the applicant, its licensees, responsible executives and/or key officers of the applicant is suitable to provide the gambling service in the application;
- whether the licensee has gambling service agents; and
- whether it is contrary to the public interest or national security of Singapore to grant the licence to the applicant.

For operators who have a licence to conduct betting, gaming and lottery operations, they are further required to obtain the GRA's approval for:

- the contents of the rules of any betting, game of chance or lottery conducted;
- any gaming machine, game used in a gaming machine, and peripheral equipment for a gaming machine; and
- any place or premises to be used in connection with providing gambling service.

For more details, see **5.1 Premises Licensing**.

For the various class licences, the licensee will have to fulfil various conditions prescribed by the various subsidiary legislation on class licences.

Land-Based Casino Gambling

Casino operations

The CCCLFR sets out the process and payable fees for operators looking to apply for a casino licence.

The main shareholders of the respective casino operators are not allowed, without GRA's prior approval, to divest any part of their stake for a period of ten years such that their stake becomes less than 20% of the total votes attached to all voting shares in the casino operator, or is equal to or less than the percentage of the total votes attached to the stake of any other stakeholder in the casino operator. Furthermore, no person other than the main shareholder may, without GRA's prior approval, acquire any stake in the casino operator to the extent that after acquisition, the percentage of the total votes attached to that person in the casino operator is equal to or more than 20% of the total votes attached to all voting shares in the casino operator, and is equal to or more than the percentage of the total votes attached to the main shareholder's stake in the casino operator. In addition, the main shareholder of each casino operator in Singapore is not allowed to acquire or hold any stake, or participate in the management or operation, or enter into any agreement for the management or operation, of the other casino operator in Singapore.

With the amendments under the CC(A)B, the power to approve the main shareholders of casino operators has now been transferred from the GRA to the Minister of Home Affairs.

4.8 Application Timing

Neither the GCA nor the CCA prescribes any timescale for applications for licences, exemptions and/or permits to be made. These applications are likely to be evaluated on a case-by-case basis, and the timelines would likely vary for each application.

4.9 Application Fees

There are currently no prescribed application fees for licences issued by the GRA in respect of online gambling and land-based non-casino gambling.

For an application for a land-based casino licence, the fees are as follows.

- Casino licence:
 - (a) application fee – SGD1,100; and
 - (b) licence fee – SGD24 million per annum.
- Renewal of a casino licence:
 - (a) application fee – SGD850; and
 - (b) licence fee – SGD24 million per annum.
- Application to redefine casino boundaries: SGD270.

For an application for a casino special employee licence, the fees vary based on which category the employee falls under:

- Category A (senior management) – SGD400 (fresh application), SGD350 (renewal);
- Category B (middle management) – SGD320 (fresh application), SGD300 (renewal);
- Category C1 (operations personnel) – SGD270 (fresh application), SGD240 (renewal); and
- Category C2 (technical support services) – SGD270 (fresh application), SGD240 (renewal).

For an application for an international market agent licence, the fees are SGD670 for a fresh application and SGD550 for a renewal. For an application for an international market agent representative licence, the fees are SGD320 for a fresh application and SGD300 for a renewal.

4.10 Ongoing Annual Fees

See 4.9 Application Fees.

5. Land-Based Gambling

5.1 Premises Licensing

Casino Operations

The boundaries of any casino premises are defined by the casino licence issued by the GRA. The GRA may occasionally redefine the boundaries of the casino premises on its own accord or on the application of the casino operator.

The Casino Control (Casino Layout) Regulations 2009 sets out the detailed requirements for a casino operator to adhere to, which will include submitting a casino layout plan to the GRA comprising detailed floor plans and a description of how the gaming areas will be clearly demarcated from ancillary areas.

Non-casino Operations

For operators who have a licence to conduct betting, gaming and lottery operations, they are further required to obtain the GRA's approval for a place or premises which the licensee will use in connection with providing the licensed gambling service.

In determining whether any place or premises can be an approved gambling venue, GRA would consider:

- the desirability of the proposed gambling venue in maintaining the cultural interest and social wellbeing of the community in the area concerned;
- the level of criminal activity in the vicinity of the proposed gambling venue; and
- whether it is otherwise contrary to the public interest for the approval to be granted to the applicant.

In granting a gambling venue approval to any licensee, the GRA may impose such conditions as the GRA deems fit, such as, inter alia:

- those requiring that surveillance systems for monitoring of operations in the approved gambling venue conform to applicable standards;
- those requiring that the location and orientation of facilities and equipment for that requisite surveillance system must be as approved by the GRA; and
- those requiring access control measures for underaged individuals and excluded persons.

5.2 Recent or Forthcoming Changes

On 5 June 2023, the Singapore government announced that horse racing in Singapore would come to an end with the final horse race event being the 100th Grand Singapore Gold Cup taking place on 5 October 2024. The land on which the Singapore Turf Club's Kranji race course sits will be handed back to the government in March 2027. Notwithstanding this, betting with Singapore Pools on overseas horse races will continue to be allowed.

6. Online Gambling

6.1 B2C Licences

Please see 4.4 **Types of Licences** on the available licences.

6.2 B2B Licences (Suppliers, Software, Etc)

Under the GCA, there are no specific licences or class licences available for B2B services. It is likely that B2B services may be provided, as long as such services do not fall within any of the offences prescribed under the GCA, and if the provision of such services does not amount to an abetment of any offences under the GCA.

6.3 Affiliates

Under Section 8(3) of the GCA, it is an offence for any person, such as agents or runners, to assist in gambling operations in accordance with arrangements made by someone else.

Under Section 21 of the GCA, it is an offence to have a financial interest in unlawful gambling. Financial interest in a gambling service means an entitlement to receive:

- any of the income from the gambling service; or
- a percentage or share from:
 - (a) any amount of any bet received, negotiated or accepted;
 - (b) any amount wagered on a game of chance conducted or to be conducted; or
 - (c) any amount of money or money equivalent paid or given by the participants of a lottery conducted or to be conducted, in the course of providing the gambling service.

6.4 White Labels

There is no applicable information in this jurisdiction.

6.5 Technical Measures

Under Section 117 of the GCA, an authorised government officer may notify the operator of an online location that unlawfully provides a remote gambling service or that promotes remote gambling to cease its unlawful activities within 14 days. If this is not complied with, the officer may then direct the Infocomm Media Development Authority (IMDA) to order an internet service provider to block access to that particular website.

Under Section 118 of the GCA, authorised officers may also block payment transactions by persons participating in unlawful remote gambling activity, by directing the MAS (which regulates the banking industry in Singapore) to issue payment blocking orders to the financial institution or financial transaction providers involved in the transaction.

6.6 Recent or Forthcoming Changes

See 1.1 **Current Outlook and Recent Changes** and 3.7 **Recent or Forthcoming Legislative Changes**.

The GCA allows for certain types of lower-risk gambling services to be offered under a class licence regime. Under a class licence regime, there is no need to apply for a licence from GRA. Subsidiary legislation relating to class licences to be issued under the GCA are being progressively released. Currently, the class licence conditions for six class licences have been released. The class licence in respect of mystery boxes remains unreleased.

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

7.1 RG Requirements

The MSF works with the NCPG and the GRA to reduce the harms caused by problem gambling in Singapore.

The Responsible Gambling Code of Practice (RGCP) was introduced in 2007 by the NCPG to minimise the potential harm gambling poses. Key measures in the RGCP include the provision of information about the risks of gambling, the availability of help services, and training of frontline and management staff to assist customers who show signs of problem gambling. A Responsible Gambling Forum was also established in June 2013 to promote a shared commitment and understanding towards responsible gambling.

The CRA (now the GRA) had released a Responsible Gambling Code for Casinos. Pursuant to the Casino Control (Responsible Gambling) Regulations 2013, casino operators must implement a responsible gambling programme approved by the GRA. The GRA conducts regular inspections and audits to ensure that the responsible gambling programme at each casino is implemented effectively.

The GRA has also set out certain RG measures in order to minimise the harms of social gambling, which include:

- a pre-commitment programme that enables patrons to set limits on their gambling expenditure or period of continuous gambling;

- mandatory training for the operator's employees to identify and assist any patron with signs of gambling related problems;
- the provision of responsible gambling materials at the operator's premise;
- assistance to patrons who seek help on RG matters or display signs of problem gambling; and
- patron education and help services.

7.2 Gambling Management Tools

The key gambling management tools are as follows.

Casinos

- Mandating that casinos implement a responsible gambling programme approved by the GRA.
- Imposing casino entry levies for Singapore citizens and PRs.
- Imposing a minimum age requirement of 21 years for casino entry.
- Mechanisms to limit or exclude persons from entering casinos managed by the NCPG.
- The Commissioner of Police may also prohibit a person from entering or remaining on any casino premises by a written exclusion order given to the person.
- The GRA may also issue an exclusion order to a person (either orally or in writing) to prohibit the person from entering or remaining on any casino premises in such circumstances as the order may specify.
- Regulations on casino advertising and promotions.

Online Gambling

- Imposing a minimum age of 21 years to create a remote betting account with Singapore Pools.

- Mechanisms to limit or exclude persons from using Singapore Pools' remote gambling platform.
- Mechanisms for patron-imposed loss limits on Singapore Pools' remote gambling platform.
- Mandating that Singapore Pools must implement a responsible remote gambling programme.
- Requiring all advertising and promotional materials to be approved by the MSF.
- The Commissioner of Police may ban a person from engaging in general remote gambling by a written notice given to the person and NCPG – the NCPG can also issue exclusion orders for general remote gambling.
- Availability of blocking access orders and payment blocking orders (see **6.5 Technical Measures**).

Private Clubs With Jackpot Machine Rooms

- Imposing a minimum age of 21 years for entry into jackpot machine rooms.
- Mechanisms to limit or exclude persons from entering jackpot-machine rooms.
- Restrictions on entry – only members of a club with membership terms of at least one year can enter the jackpot machine room and no guests are allowed.
- Prohibition on promotions.
- Prohibition on the presence of ATMs, credit card or other electronic funds transfer facilities in jackpot-machine rooms.
- Regular outreach programmes and broadcast of advertisements on local media by the NCPG to educate the public on the ills of gambling.
- Prohibitions on Singapore Premier League clubs from having jackpot operations from 31 October 2022 onwards.

Offline Gambling (Requirements Imposed on Singapore Pools)

- Training employees on responsible gambling measures.
- Player education and assistance on responsible gambling.
- Displaying responsible gambling messages and information on seeking assistance with problem gambling.
- Regular review of the responsible gambling programme.

7.3 Recent or Forthcoming Changes

From November 2022, the GCA mandated that private clubs with jackpot machines would have to implement responsible gambling measures such as:

- having a responsible gambling programme;
- providing patron education and assistance; and
- ensuring documentation of responsible gambling activities.

8. Anti-money Laundering (AML)

8.1 AML Legislation

Singapore does not have a single consolidated piece of legislation that deals with all anti-money laundering and countering the financing of terrorism (AML/CFT) issues; rather, they are dealt with in various industry-specific legislation/guidelines, including:

- the CCA – Section 139 requires casino operators to engage in customer due diligence measures to detect and prevent money laundering and the financing of terrorism;
- the Casino Control (Prevention of Money Laundering and Terrorism Financing) Regula-

- tions 2009 – sets out the various AML obligations of the casinos;
- the Organised Crime Act 2015 – provides for the making of financial reporting orders, organised crime prevention orders, disqualification orders and orders for the confiscation of gains derived from organised crime activity;
 - the Terrorism (Suppression of Financing) Act 2002 – allows for warrants to be issued for seizure and forfeiture of terrorist property;
 - the Corruption, Drug Trafficking and other Serious Crimes (Confiscation of Benefits) Act 1992 (CDSA) – provides for confiscation orders to be made to deprive offenders of benefits accrued from serious criminal conduct, including gambling-related offences; and
 - MAS Notices 626, PSN01 and PSN02, regarding the Prevention of Money Laundering and Countering the Financing of Terrorism, issued pursuant to Section 16 of the Financial Services and Markets Act 2022 (FSMA) – set out due diligence measures that banks and payment service providers (including digital payment token service providers) should take to monitor for, and report, suspicious transactions.

8.2 AML Requirements

Singapore's existing AML rules cover real estate professionals, financial institutions, registered businesses and single family offices, as well as precious stone and metal dealers, among others. For financial institutions such as banks, the MAS requires them to conduct rigorous KYC processes when accounts are opened, and to perform customer due diligence for transactions, as part of Singapore's defence against money laundering and terrorism financing.

If the customers' behaviour is suspicious, financial institutions are required to notify the Suspicious Transaction Reporting Office. For example, if customers refuse to provide relevant information or intentionally provides false or misleading information to circumvent the checks, the institutions will have to file suspicious transaction reports (STR). Failing to file an STR is an offence.

8.3 Recent or Forthcoming Changes

Following one of the biggest money laundering probes in Singapore in August 2023, which involved at least ten foreign nationals and more than SGD2.8 billion in assets that were seized or issued with prohibition of disposal orders, changes have been made to Singapore's anti-money laundering legislation.

New offences have been introduced under the CDSA to further emphasise the need for public vigilance and responsible behaviour in financial dealings. With effect from 8 February 2024, the CDSA has been amended to introduce (i) new offences involving rash and negligent money laundering, penalising individuals who proceed with suspicious transactions without conducting adequate inquiries; and (ii) an offence targeting individuals who assist others in retaining criminal proceeds through financial transactions.

The Computer Misuse Act 1993 has also been amended with effect from 8 February 2024, introducing new offences (i) targeting Singpass users who disclose their Singpass credentials to other persons knowing, or having reasonable grounds to know, that such disclosure is to facilitate the commission of an offence; and (ii) targeting individuals who obtain, supply, or make available another person's Singpass credentials for an illegitimate purpose.

To further combat the threat of money laundering, terrorism financing and proliferation financing, the MAS launched the Collaborative Sharing of Money Laundering/Terrorism Financing Information and Cases (COSMIC) on 1 April 2024, the first centralised digital platform to facilitate sharing of customer information among prescribed financial institutions (FIs). Participant FIs will be able to securely exchange information on COSMIC of customers who exhibit potential for financial crime, if the stipulated thresholds are met. Under the CC(A)B, casino operators will be required to share information of patrons directly with other casino operators, allowing them to overcome personal data protection restrictions and facilitate quicker action for the prevention and detection of money laundering and other criminal conduct.

On 18 October 2024, the MAS issued guidelines for use by prescribed financial institutions of the COSMIC platform. Key requirements include establishing robust internal policies for training staff, ensuring timely requests and disclosures of risk information, and documenting processes to avoid tipping-off relevant parties. Institutions must conduct risk assessments upon receiving information and maintain stringent record-keeping practices. The guidelines emphasise the importance of information accuracy, security and compliance with related regulations. Additionally, institutions should implement controls for accessing platform information and manage outsourced services effectively. Regular audits and compliance checks are encouraged to ensure adherence to these guidelines.

On 6 August 2024, the Anti-Money Laundering and Other Matters Bill (the “AML Bill”) was passed in parliament. The AML Bill seeks to:

- enhance the ability of government agencies to pursue and prosecute money laundering offences;
- clarify and improve processes for dealing with seized or restrained properties linked to suspected criminal activities; and
- align the framework for AML/CFT for casino operators with the international Financial Action Task Force standards, to better prevent and detect money laundering.

The AML Bill has also amended the CCA to require customer due diligence checks for cash deposits of SGD4,000 or more in a customer’s account, reducing the current threshold from SGD5,000.

9. Advertising

9.1 Regulatory/Supervisory Agency

In general, the Advertising Standards Authority of Singapore (ASAS) promotes ethical advertising in Singapore, and regulates the advertising industry through the Singapore Code of Advertising Practice (SCAP).

As regards gambling, all forms of advertising and promotion relating to licensed gambling are prohibited unless otherwise approved by the GRA. Unlawful gambling advertisements may also be reported to the GRA via an online feedback form.

Land-Based Casino Advertisements

The GRA regulates the publication or distribution of casino advertisements or carrying out of casino promotion. Prior approval has to be obtained from the GRA, and the casino advertisement must be publicised, distributed or carried out in the manner approved by the GRA.

9.2 Definition of Advertising

Under paragraph 2.5 (a) of the SCAP, an advertisement means any form of commercial communication for any goods or services, regardless of the medium used, including advertising claims on packs, labels and point of sale material.

Non-casino Gambling Advertisements

The GCA defines a “gambling advertisement” to mean any information or material that gives publicity to, or otherwise promotes or is intended to promote:

- a particular gambling service;
- gambling services in general;
- the whole or part of a trade mark relating to a gambling service;
- a domain name or URL of a particular gambling service, betting operation, game of chance or lottery; and
- any words that are closely associated with a particular gambling service, betting operation, game of chance or lottery (whether also closely associated with other kinds of services or products).

Remote Gambling Advertisements

See above on “Non-Casino Gambling Advertisements”.

Casino Advertisements

A casino advertisement is defined in the Casino Control (Advertising) Regulations 2010 as anything that:

- contains any express or implied inducement, suggestion or request to visit any casino;
- expressly or impliedly leads to, induces, urges, promotes or encourages the playing of any game in any casino; or

- is designed to publicise or to promote the casino or the playing of any game in the casino.

9.3 Key Legal, Regulatory and Licensing Provisions

The key legal, regulatory and licensing provisions in Singapore that are relevant to the gambling industry are:

- Division 3 of Part 6 of the GCA, which sets out the offence of advertising unlawful gambling, the applicable defences and corrective measures that can be taken relating to unlawful gambling advertisements;
- the Casino Control (Advertising) Regulations 2010, which prohibit the publication and distribution of casino advertisements and promotions unless specific approval is obtained from the GRA;
- the ASAS Advisory on Gambling Advertisements and Promotions, which sets out guidelines on gambling-related marketing communications;
- the ASAS SCAP, which sets out general principles and guidelines that all advertisements appearing in Singapore should follow; and
- the IMDA’s Internet Code of Practice (ICP), which sets out guidelines regarding advertising on the internet.

9.4 Restrictions on Advertising

See 9.3 Key Legal, Regulatory and Licensing Provisions.

9.5 Sanctions/Penalties

The sanctions and penalties for infringing advertising regulations are dealt with in the following legislation/guidelines.

Penalties for Breaching GCA Provisions

- Under Section 85(2) of the GCA, a person who advertises any unlawful gambling shall be liable on conviction to a fine not exceeding SGD20,000. This applies to advertising of unlawful gambling in or from Singapore or from outside Singapore to persons situated in Singapore.
- Under Section 87(1) of the GCA, the GRA may order a person who advertises any unlawful gambling to (i) stop the advertising with immediate effect; (ii) take reasonable and necessary measures to remove the advertisements that have already been published in Singapore; and (iii) publish a corrective advertisement in a manner specified by the GRA.

Penalties for Breaching Casino Advertising Regulations

- Casino operators will face disciplinary action under Section 54 of the CCA, which may result in cancellation or suspension of a casino licence, variation of the terms of a casino licence or the imposition of a financial penalty.
- Licensed IMAs will face disciplinary action under the Casino Control (Casino Marketing Arrangements) Regulations 2013.

Other Penalties

- Under the ASAS Advisory on Gambling Advertisements and Promotions, the ASAS is empowered to (i) request its members to sanction parties that violate the SCAP or the Gambling Advisory, including the withdrawal of facilities, rights or services from parties concerned; and (ii) publish details of the outcome of any investigation and name those who are in breach of the SCAP or the Gambling Advisory.
- Under the ASAS SCAP, the ASAS is empowered to ask an advertiser to (i) amend or

withdraw any advertisement that, in ASAS' opinion, is contrary to the SCAP; and (ii) withhold such advertisement until it has been modified or, where ASAS has requested further information so as to decide whether an advertisement is contrary to the SCAP, pending receiving such information and a decision.

- Under the IMDA's ICP, the IMDA may impose sanctions, including fines, on internet content providers that contravene the ICP.

9.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Casinos

The CCA governs the acquisition and disposal of shares in the casino operators, and allows only approved persons to be main shareholders, substantial shareholders, or controllers of the casino operators.

An acquisition or change of control of a casino operator would be considered a "major change" under Section 61(1) of the CCA. A casino operator must ensure that such a change takes place only with the prior approval in writing of the GRA, or, where this is not applicable, notify the GRA in writing of such a change within three days of becoming aware of the change.

If there is a change in the situation of an associate of the casino operator (where such an associate is, in the opinion of the GRA, able to exercise significant influence over the management or operation of the casino business of the casino operator), the associate must notify the

GRA of the change in writing within 14 days after it takes place.

Non-casino Gambling Companies

The GCA does not provide for disclosure requirements for non-casino gambling companies, although such requirements may be contained in the licences or approvals granted to such companies.

10.2 Change of Corporate Control

Triggers

Casinos

The CCA prescribes two corporate control triggers that will require the corporate shareholder to obtain the approval of the Minister before effecting any changes of corporate control:

- where a person becomes a substantial shareholder of the casino operator or enters into any agreement or arrangement to control voting shares of an aggregate of 5% or more of the total voting shares in the casino operator; and
- where a person becomes a 12% controller, 20% controller, or an indirect controller of the casino operator.

Non-casino Gambling Companies

The GCA does not provide for a similar change of corporate control trigger for non-casino gambling companies.

10.3 Passive Investor Requirements

Casinos

If there is an acquisition or change of control concerning investors who are not substantial shareholders of a casino operator, it would be considered a “minor change” under Section 61(1) of the CCA. The casino operator must notify the GRA in writing of such a change within

14 days of becoming aware that the change has occurred.

Non-casino Gambling Companies

The GCA does not provide for similar requirements pertaining to passive investors in the case of non-casino gambling companies.

However, as mentioned above at **6.3 Affiliates**, under Section 21 of the GCA, it is an offence to have a financial interest in unlawful gambling. Financial interest in a gambling service means an entitlement to receive:

- any of the income from the gambling service; or
- a percentage or share from:
 - (a) any amount of any bet received, negotiated or accepted;
 - (b) any amount wagered on a game of chance conducted or to be conducted; or
 - (c) any amount of money or money equivalent paid or given by the participants of a lottery conducted or to be conducted, in the course of providing the gambling service.

10.4 Recent or Forthcoming Changes

The CC(A)B, which was passed by parliament on 10 September 2024, seeks to transfer powers related to the approval of associated divestments and acquisitions by the main shareholders of the respective casino operators from the GRA to the Minister for Home Affairs. This is because the Minister would be better placed than the GRA to take into account whole-of-government considerations in deciding whether or not to approve divestments and acquisitions relating to main shareholdings.

11. Enforcement

11.1 Powers

The GRA is empowered under the GCA and CCA to mete out regulatory sanctions against casino operators and licensed gambling service providers for regulatory contraventions or non-compliances (eg, breach of licence conditions), including financial penalties, suspension or revocation of licences, issuance of directions for the rectification of the contravention or non-compliance.

The GCA vests the SPF and compliance officers appointed by the GRA with various enforcement powers, including the power to:

- enter (by force, if necessary) and search premises where unlawful gambling and/or other gambling-related offences proscribed under the GCA are suspected to have taken place;
- seize and retain any equipment, documents or other things that may serve as evidence of the relevant offence;
- require persons suspected to have committed an offence to furnish evidence of their identity, records, documents or any other information;
- seize gambling winnings from underaged individuals or persons who are excluded or banned from participating in gambling activities; and
- arrest without warrant persons who are suspected to have committed an arrestable offence under the GCA.

Notably, under the CC(A)B, the power to approve associated divestments and acquisitions has been transferred from the GRA to the Minister for Home Affairs (see **10.4 Recent or Forthcoming Changes**). On the other hand, the

power to approve persons as controllers and substantial shareholders or to exempt them from any requirement under the CCA has now been transferred from the Minister for Home Affairs to the GRA. However, appeals against the GRA's decisions can be submitted to the Minister for Home Affairs.

See also **6.5 Technical Measures** in respect of the IMDA's powers to issue access blocking orders and the powers of the MAS to issue payment blocking orders.

In the case of casinos, the CCA confers GRA inspectors with broad powers to enforce the provisions of the CCA, such as:

- requiring persons suspected to have committed an offence to furnish evidence of their identity, records, documents or any other information;
- arresting without warrant persons who are suspected to have committed an arrestable offence under the CCA; and
- entering without notice any premises of a casino operator to investigate any offence or contravention of the CCA, search the premises and take possession of anything that may be connected to the commission of the offence or contravention.

11.2 Sanctions

Regulatory contraventions or non-compliances are enforced by the GRA, and such enforcement actions are typically published by the GRA.

Offences under the GCA are dealt with in the same way as other criminal offences, ie, through initial investigations, followed by the crafting of charges against the persons suspected of committing the offence, the giving of the green light by the Attorney-General's Chambers to proceed

with the institution of criminal proceedings, and the criminal trial itself.

For larger-scale illegal gambling operations, the authorities have conducted raids on these operations, seizing equipment and other property, freezing assets, arresting individuals and charging them under the relevant gambling laws. Recent examples include the following.

- Arising from gambling suppression operations conducted between 2 and 10 May 2024, the SPF initiated investigations against 32 persons for their suspected involvement in illegal gambling activities. Officers from the Criminal Investigation Department froze more than ten bank accounts that were believed to have been used to facilitate illegal gambling.
- During a joint operation conducted between 21 August 2024 and 22 August 2024, simultaneous raids were conducted in various locations across Singapore, resulting in the arrest of 16 persons for suspected involvement in illegal gambling activities. During the operation, cash amounting to more than SGD48,000, computers and other gambling paraphernalia were seized as case exhibits.

The authorities have also been quick to issue blocking orders against remote gambling websites. An MHA press release published on 12 June 2024 stated that the GRA has blocked more than 3,400 illegal gambling websites, over 260 bank accounts and more than SGD36 million in payments linked to illegal remote gambling services.

11.3 Financial Penalties

Financial penalties are imposed and enforced as a criminal sanction on offenders, as discussed in **3.5 Key Offences**. Financial penalties may also be imposed by the GRA on casino operators or

licensed gambling service providers for regulatory breaches pursuant to its enforcement powers, as discussed in **11.1 Powers**.

The amendments introduced by the CC(A) B regarding financial penalties allow the GRA to implement the following relating to after a licence is cancelled/surrendered/expired/invalid (as applicable) (see also **11.4 Recent or Forthcoming Changes**):

- to continue proceedings and impose financial penalties on casino operators even after their licence is cancelled, surrendered or expired;
- to continue proceedings and impose financial penalties on special employees despite their licence becoming invalid; and
- to establish regulations for financial penalties against former licensed international market agents and their representatives.

11.4 Recent or Forthcoming Changes

The changes correspond to **11.1 Powers**.

To future-proof the regulatory regime, the CC(A) B empowers the GRA to do the following.

- Regulate betting and lotteries in the casinos, in addition to games of chance: this expanded mandate is to pre-empt any future changes in the gambling landscape, although there are currently no plans to allow casinos to carry out betting and lotteries.
- Approve gaming software independent of gaming hardware: this allows the GRA to approve gaming software only, eg, software for deployment on mobile devices such as tablets.
- Expand the definition of “casino chips”: this new definition would include both instruments that have fixed and non-fixed dollar wagering

value, allowing for new wagering instruments (eg, virtual credits) to be used in the future.

Other key changes introduced by the CC(A)B include the following.

- In the continuing assessing of a casino operator's suitability to hold a casino licence, the GRA will take into account additional considerations of whether the casino operator conducted business in a manner which is unethical or will bring discredit to casino gambling in Singapore; and whether the casino operator has poor corporate governance practices or weak internal controls.
- The GRA is now empowered to take disciplinary action against licensees (ie, casino operators, special employees, international market agents and international market agent representatives) for regulatory breaches even after their licences have lapsed. Notably, this already applies to other gambling licensees regulated under Section 89 of the GCA (thus bringing the CCA in line with the GCA in this regard) and ensures licensees do not avoid punishment for failing regulatory requirements, despite their licenses lapsing.
- Currently, it is an offence for persons who are excluded from casinos to enter, remain or take part in gambling in a casino. However, to prosecute such persons, GRA has to prove that the excluded person was aware of their exclusion status when they entered the casino, which can be hard to prove. Hence, to address this, the CC(A)B has now provided that an excluded person would be liable for entering, remaining or taking part in gambling on casino premises if they know or ought reasonably to know that they are an excluded person.
- Three new offences have been introduced.

- (a) It is an offence to withdraw bets after the result of the game is known: subject to a fine not exceeding SGD150,000 or to imprisonment for a term not exceeding seven years, or both.
- (b) It is an offence to use a device to record non-card games: if convicted of this offence, (i) an individual shall be liable to a fine not exceeding SGD150,000 or to imprisonment for a term not exceeding seven years, or both, while (ii) a corporation shall be liable to a fine not exceeding SGD300,000.
- (c) It is an offence to destroy or falsify key documents required to be produced under the CCA: subject to a fine not exceeding SGD100,000 or to imprisonment for a term not exceeding two years, or both.

12. Tax

12.1 Tax Rate by Sector Casinos

Casino tax is payable on the casino operators' gross gaming revenue (GGR). As of 1 March 2022, the casino tax structure has been revised to a tiered tax structure with a ten-year moratorium period, as follows.

- Premium gaming: Tier 1 – first SGD2.4 billion of GGR of the IR, tax rate of 8%; Tier 2 – GGR of the integrated resort (IR) in excess of SGD2.4 billion, tax rate 12%.
- Mass gaming: Tier 1 – first SGD3.1 billion of GGR of the IR, tax rate of 18%; Tier 2 – GGR of the IR in excess of SGD3.1 billion, tax rate of 22%.

However, the above tiered tax structure applies only if the casino operator meets its investment

commitments to expand and enhance the IR; failing which, a flat tax rate of 12% or 22% will apply on the GGR derived from premium gaming and non-premium gaming respectively.

Non-casino Gambling Activities

Taxes on non-casino gambling activities are now prescribed under the Gambling Duties Act 2022. The taxes payable on non-casino gambling activities are as follows.

- Sports and horse betting – a 25% duty is payable on the gross betting profit generated from the bets received in connection with horse racing and sports betting less the goods and services tax (GST) payable on such bets.
- Other totalisator bets (excluding sports and horse betting) – a 30% duty is payable on the gross amount of all monies wagered or staked in all such bets.
- Other general bets, such as pari-mutuel betting and credit/cash betting (excluding sports and horse betting and totalisator bets) – a 30% duty is payable on the gross amount of all monies wagered or staked in all such bets.
- Sweepstakes, lucky draws or raffles, or any other lottery (excluding trade promotion lotteries): a duty of 30% is payable on the total amount of money paid or agreed to be paid into the prize pool for the sweepstake, lucky draw or raffle or other lottery (as the case may be).
- Gaming machines (including jackpot machines or fruit machines): a duty of 9.5% is payable on the gross amount of all money or money equivalent wagered or staked in the relevant period by every player of any such gaming machine in order to play the gaming machine.

12.2 Recent or Forthcoming Changes

There is no applicable information in this jurisdiction.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

See 4.4 **Types of Licences** on the types of licences, which also applies to individuals. Regarding the casino special employee licence under Section 80 of the CCA, there are four categories of employee licences, as set out in the First Schedule of the Casino Control (Licensing of Special Employees) Regulations 2009 (see 4.9 **Application Fees**).

See also 4.5 **Availability of Licences**, and 4.6 **Duration of Licences**.

13.2 Application Process

See 4.7 **Application Requirements**, 4.8 **Application Timing** and 4.9 **Application Fees**.

13.3 Ongoing Annual Fees

See 4.9 **Application Fees**.

13.4 Ongoing Requirements

The GCA sets out conditions to be complied with for licences, class licences, gambling venue approval and gaming machines. For example, for the various class licences as set out in 6.6 **Recent or Forthcoming Changes**, the licensee will have to fulfil various conditions prescribed by the various subsidiary legislation on class licences. As for conditions imposed by the GRA in granting a gambling venue approval to any licensee, some of these conditions are set out in 5.1 **Premises Licensing**. These conditions may also be modified by GRA. Breach of such licence

conditions could lead to sanctions, including financial penalties, suspension or revocation of licences, and issuance of directions for the rectification of the contravention or non-compliance.

13.5 Personal Sanctions

In so far as a natural person is licensed as a gambling service provider, they may be subject to regulatory sanctions imposed by GRA for regulatory non-compliances or contraventions, as discussed in **11.1 Powers**.

In addition, if a person is licensed as a special employee or international market agent representative for a casino operator, they may be subject to individual sanctions imposed by the GRA for any misconduct, including but not limited to financial penalties and suspension/revocation of licences.

13.6 Recent or Forthcoming Changes

Please refer to **3.7 Recent or Forthcoming Legislative Changes**, **4.3 Recent or Forthcoming Changes** and **8.3 Recent or Forthcoming Changes** regarding the CC(A)B, since the amendments cover both natural persons and corporations.

SOUTH AFRICA



Law and Practice

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Contributed by: Wayne Lurie, Lurie Inc

Lurie Inc is the oldest niche gambling law practice in South Africa, having been founded over 21 years ago. The firm is held in high regard by operators and regulators and has consulted extensively on the drafting of gambling legislation in South Africa and abroad. In addition, it has consulted at the highest levels of government in several African jurisdictions on gambling law reform. Lurie Inc has also been involved in licens-

ing applications and consulting on operating aspects in numerous international jurisdictions such as the UK, Malta, Germany and other EU member states. The firm has an excellent track record of success in the management and referral of disputes surrounding gambling laws and challenging their mistaken application, as well as in dispute resolution and litigation covering all aspects of the gambling industry.

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ATTORNEYS

1. Introduction

1.1 Current Outlook and Recent Changes Online Growth

The South African online betting market gallops ahead, encouraged by consistently strong demand that appears to have no ceiling in sight especially in a broader national economy showing encouraging signs of growth buoyed by an optimism brought on by the recent government of national unity. Crash betting games are most definitely the flavour of the last 12 months and new variants and providers are entering the market rapidly. Casino-style contingency games remain popular and a number of live-dealer style products are also making a resurgence. Traditional sports-betting remains strong and can only be carried higher by the likes of the fourth victory of the Springbok team in the Rugby World Cup championship this year.

Technical Challenges

The Western Cape regulator remains the only significant one offering online-only bookmaker licences on demand although there are whispers surrounding the opening of licences on demand in one or two other very significant online jurisdictions.

The author previously reported that the Western Cape regulator, the Western Cape Gambling and Racing Board, was struggling with delays in the technical compliance process and whilst a long awaited and much welcomed increase in its staff complement has brought some respite, the technical compliance process may still prove frustratingly long for some in getting new content to market.

In addition, there have been reports of increasing frustrations in terms of technical compliance approvals and processes in the other major

“online regulator”, the Mpumalanga Economic Regulator.

This remains partly a product of the outdated and somewhat archaic and inadequate national certification standards applicable to gambling technologies, the SANS1718 suite of standards. It is ever more apparent that reform and a revamp of the overarching national technical standards is dramatically required in order to evolve the approach to new games and content to an international standard.

Crypto

Interest is being shown in the crypto sector and whether this is a form of betting to be regulated as a form of gambling or whether it falls within the remit of the financial services regulator.

Lottery Bets

A court case that commenced in 2016 in Mpumalanga surrounding whether a handful of bookmakers could lay online fixed-odds bets on the outcome of lotteries, as had been permitted by their gambling regulator, or whether this constituted an actual lottery in and of itself has finally found itself in the highest court of the land, the Supreme Court of Appeals (SCA). The SCA warned interested parties that it is likely to pronounce a judgment on the matter that will impact the betting industry nationally and invited interested parties that ostensibly wish to make their own cases to formally express their interest to the court during 2023. This led to a spate of interest from the broader gambling industry from around the country, resulting in the SCA directing that parties formally lodge motions with it by the end of August 2024. At the time of publication, numerous bookmakers and betting associations have lodged their applications and one would expect to see these applications argued in the SCA during the course of 2025.

It remains expected that this will be a critical case for the future of the betting industry, as betting on the outcome of lotteries has become popular and constitutes a significant portion of revenues derived by many bookmakers.

What may add colour and complexity to this case is the anticipated, possible suspension of the National Lottery for an extended period during 2025. The new operator licence was supposed to be awarded during September 2024 but has been further delayed by allegations of corruption and threats of litigation. The current operator may not legally extend its trading beyond May 2025 and the new awardee will need at least six months to “gear up” to provide the lottery. Speculation is rife that a minimum suspension of the lottery of 6–12 months is on the cards.

Land-Based Stagnation

Land-based casinos remain in steady freefall in terms of interest by walk-in punters and just about all of the large terrestrial casino groups appear to be focusing their marketing and efforts on their online betting sites, offered under the auspices of their bookmaker licences where they offer casino-style games online.

Terrestrial Low Denomination/Low Payout Machines

These appear to be showing stable growth with occasional new sites and licences emerging.

2. Jurisdictional Overview

2.1 Online

The gambling sector in South Africa is prescribed in the constitution as the subject of concurrent competency between the national government and the nine provinces.

Conducting a lottery is a specific carve-out and is the subject of national legislation only and the administration by a national regulator, the National Lotteries Commission (NLC). Currently, there is only one national licensee appointed by the NLC but (with the severe delays in the re-awarding of this licence – see **1.1 Current Outlook and Recent Changes**) the lottery may be at risk of suspension for a significant period. In this sense, when discussing “gambling” or “betting” in the local context this generally is not thought of as including “lottery”.

South Africa is a quasi-federal state that for most practical purposes functions as a unitary state in most matters of law, except in certain specific areas benefitting from constitutional carve-outs as mentioned above. Gambling is one of these sectors. Whilst the constitutional mandate is “concurrent competency”, the provinces enjoy a good deal of autonomy in determining their respective approaches to gambling provided that such approaches remain within the broad parameters of the national legislation.

Given the broad definitions of gambling both in the national and provincial context; the aging nature of all applicable gambling statutes (both national and provincial) of between 20 and 30 years old; and the relative freedom of discretion that each provincial regulator has in administering the sector, approaches have ranged from conservative to liberal in the various provinces in so far as “online betting” is concerned.

Notwithstanding that provincial regulators may differ in the latitude offered to licensees and/or policies and approaches thereto, a de facto and time-honoured comity has developed between the provincial regulators – such that cross-border, or inter-province, transactions between bookmakers outside of any given province and

punters within other provinces are afforded freedom in transacting with one another, provided that the gambling falls under the regulation of “one of” the provincial gambling regulators.

In understanding the landscape around online gambling in South Africa, it is very important to understand the constitutional and regulatory framework described above but it is even more important to understand that all available online betting in South Africa falls under the sole category of a licence awarded to bookmakers, being a bookmaker’s licence. Not all provinces have effectively opened the way for online gambling via a bookmaker’s licence and, even then, some have inextricably linked the provision of such to a compulsory land-based betting outlet, meaning one needs to operate a terrestrial retail shop in order to have an online presence.

The Western Cape Gambling and Racing Board and the Mpumalanga Economic Regulator, the respective gambling regulators for the Western Cape and Mpumalanga provinces, have over the past few years become viewed as the vanguards in facilitating online betting and gambling. The Western Cape is a particularly attractive province due to its “licence on demand” regime for bookmaker applicants and not requiring a terrestrial retail presence in order to operate an online betting site. The Northern Cape and Eastern Cape have seen some shifts by operators to the online space and are jurisdictions to watch in coming years.

Currently and broadly dependent on the jurisdiction selected by potential entrants, the following activities are permitted online:

- betting – a wide range of sports betting and betting on contingencies (see **3. Legislative Framework**);

- casino-style games – approved as “contingencies”;
- fantasy sports – approved as “contingencies”;
- poker – two provinces have recently permitted this in terms of their statutory framework but specific consultation and guidance is recommended as generally the South African legislative regime is prohibitive in so far as peer-to-peer gambling is concerned and careful consideration of this must take place in conjunction with equally careful structuring;
- social gaming – with equally careful consideration being given to the challenges pertaining to poker; and
- online lotteries are not permitted and nor is the participation by South African citizens in foreign lotteries, however, for many years several provincial gambling regulators have permitted the laying of fixed odds bets on the outcome of the local and foreign lotteries, which offers punters similar odds for similar stakes on such lotteries – this has become contentious and has become the subject of litigation for the past seven years culminating in the escalation of the issue to the highest court in the land (see **1.1 Current Outlook and Recent Changes**).

2.2 Land-Based

The following activities are legal in the land-based sector with the appropriate licensing.

Licences are generally limited and are available sporadically, sometimes with many year intervals between RFAs (request for applications) for the following activities.

- Bookmakers – retail with an online associated licence for the most part with some exceptions like the Western Cape where they are still available on demand and for online only.

- Casino – includes poker but the national maximum for casino licences is statutorily 40 spread across the provinces; no more are available for application and have not been for many years.
- Bingo – both in terms of traditional paper-based bingo and terminals which are similar to the Class II gaming machine, looking like a traditional slot machine but having bingo algorithms at the core.
- LPMs (limited payout machines) – low stakes, low payout slot machine halls and pub adjuncts to a limited number are available usually in response to occasional RFAs or via the acquisition of existing sites.
- Manufacturer licence – to manufacture, supply, distribute and maintain all manner of gambling equipment and software used in licensed gambling activities.

3. Legislative Framework

3.1 Key Legislation

The National Gambling Act of 2004 is the national legislation outlining the broad definitions of legal gambling types, standards and policies. The 2004 Act made minor reform to the 1996 post-apartheid legislation following the legalisation of gambling in South Africa in 1995. The major feature of this statute was to prescribe that further provisions for interactive gambling should be finalised within two years of its promulgation. To this end, a special statutory committee was to be formed to advise the Minister of Trade and Industry of draft legislation within one year.

The author formed part of this committee and the duty of that committee was discharged at the end of 2005 with the publication of a comprehensive report. In 2008, a draft amendment to the national legislation, not featuring many of

the committee's recommendations, was promulgated. The 2008 amendment was contingent on the further promulgation of regulations. To date, there are no such regulations, and the amendment is effectively redundant, leaving no effective national legislation on the topic of online gambling other than a general one-line ban on "interactive gambling", which is inapplicable to the provincial licensing regimes surrounding bookmaker licences and online betting that to all intents and purposes facilitate online or interactive gambling with national reach across provincial borders.

This dichotomy causes major confusion at every turn, even with local banks and media partners in South Africa that are on the one hand aware of the national "ban" but do not fully comprehend the differences in the provincial approach and the legitimacy thereof in terms of the constitutional imperative granting concurrent competency to national and provincial governments respectively. This leads to challenges in areas like marketing and payment processing. Based on this apparent contradiction the, albeit lucrative, South African gambling market is a veritable minefield to navigate for potential entrants without the proper guidance and advice.

Each of the nine provinces have their own gambling statutes that all essentially hark back to the 1995 legalisation on gambling in South Africa. Prior to 1995, betting on horse racing was the only legal form of gambling allowed – save for the casinos in the "homelands", which were deemed independent territories within South African borders and therefore not forming part of the Republic legally.

The nine provincial statutes are:

- the Eastern Cape Gambling and Betting Act, 1997 (No 5 of 1997);
- the Free State Gambling and Liquor Act, 2010 (No 6 of 2010)
- the Gauteng Gambling Act, 1995 (No 4 of 1995);
- the KwaZulu-Natal Gaming and Betting Act, 2010 (No 8 of 2010);
- the Limpopo Gambling Act, 2013 (No 3 of 2013);
- the Mpumalanga Gambling Act, 1995 (No 5 of 1995);
- the Northern Cape Gambling Act, 2008 (No 3 of 2008);
- the North West Gambling Act, 2001 (No 2 of 2001); and
- the Western Cape Gambling and Racing Act, 1996 (No 4 of 1996).

Whilst some of these statutes have been “overhauled” as recently as 2013, in essence the content of the statutes has remained the same, in terms of core concepts, since the late 1990s.

This leaves much of the adaptation of the respective statutes and their application to the discretion of the respective regulators and their interpretation of 20–30-year-old statutes in the light of present circumstances and technological innovations.

3.2 Definition of Gambling

Generally, across all statutes, gambling is determined to be an activity which involves staking or betting anything of value on an (at the time of placing the bet) unknown outcome with the expectation of receiving something of value in return.

The unknown outcome is generally defined as being a “contingency” or contingent event, which is generally understood as “any event or occurrence of which the outcome is uncertain or unknown to any person until it happens”.

There is of course nuance and slight variation to this from province to province but an understanding of the concept of staking something for value on the unknown outcome of any event goes a long way to understanding the concept of gambling in South Africa.

3.3 Definition of Land-Based Gambling

Each of the ten applicable statutes define gambling per type or licence, and reference should be had to the content at 2.2 **Land-Based** explaining these gambling types and where more specific content is required to the relevant statute itself.

3.4 Definition of Online Gambling

The National Gambling Act defines an interactive game as a “gambling game played or available to be played through the mechanism of an electronic agent accessed over the internet other than a game that can be accessed for play only in licensed premises, and only if the licensee of any such premises is authorised to make such a game available for play” and then proceeds to deem such to be unlawful. However, as mentioned at 2.1 **Online**, online betting with a provincially issued bookmaker licence permits operators to accept bets online in all manner of contingency thus creating a thriving online gaming environment, which very often may even appear and function similarly to what is traditionally recognised as an “online casino”.

3.5 Key Offences

Key offences are essentially any statutory breach of the various statutes and facilitating or participating in illegal gambling.

3.6 Penalties for Unlawful Gambling

All offences are subject to a maximum penalty of ZAR10 million and/or ten years' imprisonment at the discretion of the court presiding. The penalties are applicable to both the provider and consumer of unlawful gambling.

3.7 Recent or Forthcoming Legislative Changes

Since the weak attempt at modernisation and reform of national law to cater for technological innovation in 2008, followed by the appointment of another commission in 2011 to revisit the topic of reform, there has been no meaningful attempt by national government to adapt legislation to keep up with technology and new forms of gaming.

The provinces have also made little progress in formally adapting statutes to keep abreast of the times and new technologies, however, with varying degrees of effort, they have attempted to implement policies, procedures and standards at an administrative level to cope with changing times.

This places an enormous burden on the regulators as executive functionaries to interpret and adapt often ill-suited statutes to the subject matter for which they were never intended.

In 2015, a private member's bill was introduced in parliament by the Shadow Minister of Trade and Industry, in the formal opposition party, to bring all interactive gambling to a central national regulator with a refreshed and more appropriate approach and legal framework. The bill never progressed.

In 2022, a senior member of the opposition, Dean Macpherson, reintroduced the same bill with minor but significant changes primarily to

deal with interactive gambling on a national level, with delegated responsibilities to the provinces and with a refreshed and more appropriate technological approach and legal framework. Mr Macpherson was elevated to become the national Minister of Public Works and Enterprise under the new government of national unity in mid-2024 and after some delay, a Member of Parliament, Toby Chance, has in recent weeks (as of mid-November 2024) published a notice of intention to reintroduce the same bill. It is unclear why Mr Chance is reintroducing the bill but it is thought that this might be to "reboot" the process and give the bill renewed attention after having become stagnant for some time.

Notwithstanding this announcement, the author's view remains that the outlook for any change in legislation in the next year, or even longer, remains pessimistic, especially since in the universal tradition of South African legislation format, substantial secondary legislation – in the form of regulations – would be required to be formulated and promulgated to give the proverbial bones of the new act their meat.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

In addition to the National Gambling Commission, each of the nine provinces in South Africa has its own regulator, namely:

- the Eastern Cape Gambling and Betting Board;
- the Free State Gambling, Liquor and Tourism Authority;
- the Gauteng Gambling Board;
- the Kwazulu-Natal Gambling and Betting Board;

- the Limpopo Gambling Board;
- the Mpumalanga Economic Regulator;
- the North West Gambling Board;
- the Northern Cape Gambling and Liquor Board; and
- the Western Cape Gambling and Racing Board.

Lotteries are separately regulated by the National Lotteries Commission.

4.2 Regulatory Approach

The general approach of South African regulators is one of business enablement and certainty of the law. Generally, the various regulators are not punitive at the outset when issues arise or looking to sanction regulators for minor administrative defaults, however, occasionally certain regulators have been known to adopt this type of approach.

For the most part, new applications are dealt with as swiftly as possible, however, in recent times the busier regulators have found themselves very stretched by workload ostensibly outstripping resource.

In addition, given the archaic legislation and even technical standards applicable to new products, the online-centric regulators bear the additional burden of having to remain apace of new games, content and contingencies and the administrative approval processes around these.

4.3 Recent or Forthcoming Changes

The Western Cape Gambling and Racing Board had announced in 2023 that it was reviewing the technical standards applicable to online betting content and contingencies/games that bookmakers may present to punters for betting/play and also the regime around certificates of suitability (certificates generally provided to

third party content providers that wish to integrate their products into the offerings of locally licensed manufacturers). At the date of publication of this updated guide, the review outcomes remain unpublished by the Western Cape Regulator.

4.4 Types of Licences

See, *inter alia*, 2.2 Land-Based.

4.5 Availability of Licences

Generally, licences are limited and, as mentioned in 2.1 Online and 2.2 Land-Based, subject to the issue of an RFA by the respective regulators. Online only bookmaker licences are available on demand in very few provinces but most notably in the Western Cape, which is the predominant “online regulator” currently followed by Mpumalanga – which province differs in that licences are not available on demand.

Most land-based or terrestrial licence types are restricted and subject to tender process or RFA; currently, there are no significant tenders or RFAs out.

4.6 Duration of Licences

In general, licences are not issued for a finite period and are “in perpetuity” subject to annual renewal with major probity of the licensee occurring every three years or so.

4.7 Application Requirements

The application requirements for all licence types comprise an application form accompanied by very detailed and in-depth disclosure documents for all business entities and/or individuals involved in the ownership of the applicant through to the ultimate beneficial owner level, notwithstanding the layers or complexity of structure involved.

Disclosure thresholds are generally 5% of ownership or more but the regulators may elect to probe shareholders holding a lesser stake – in practice, this is rare.

The same individual disclosures are required of key management personnel.

The paperwork is more or less uniform across the provinces.

Applicants are expected to disclose detailed financial and tax information and to provide a business plan demonstrating sufficient planning and financial liquidity to execute upon the business associated with the licence type.

In addition, applicants are expected to comply with the statutory Broad-Based Black Economic Empowerment (BBBEE) regime determined by the BBBEE Act, No 53 of 2003. The fundamental objective of the Act is to advance economic transformation and enhance the economic participation of black people in the South African economy.

Accordingly, black ownership is a substantial and complex part of BBBEE (BEE) with varying requirements and levels expected to be achieved by the respective provincial regulators.

Regulators require that all new applicants submit BEE plans with their applications, which should set out the applicant's transformation and enterprise development strategies as well as its strategy for introducing black ownership.

Gaming lawyers in this arena are generally versed with the requirements of BBBEE and – working with experts in the area – are able to assist in advising thereon.

4.8 Application Timing

Timing varies from jurisdiction to jurisdiction, as the assessment and committee processes may vary slightly but generally one may expect to wait anywhere from 4-12 months for an outcome of an application.

For most licence types, one will be expected to advertise the licence application in both the Provincial Gazette concerned as well as local newspapers, allowing 21-30 days (depending on jurisdiction) for potential objections to be lodged.

4.9 Application Fees

Fees vary depending on licence type and jurisdiction, and potential applicants would be best advised to obtain the current fee schedules of the regulators concerned. In planning one's fees, one should look beyond the fees payable to the regulator to those of the attorneys and consultants that an applicant will generally need to engage in applying for and maintaining a gambling licence.

4.10 Ongoing Annual Fees

Much like the application fees across nine provinces and with certain national licence types (eg, national manufacturer), the renewals will vary but generally a licence holder might expect to pay roughly 75% of the original licence fee upon renewal annually.

5. Land-Based Gambling

5.1 Premises Licensing

This will vary per licence type in terms of floor space and the like but there are general rules and restrictions surrounding the location of all gambling premises, for instance proximity to schools, places of worship and liquor outlets.

A description of the details of each premises per licence type is beyond the scope of this Q&A, particularly where most licences in this regard are the subject of a tender process and the regulator concerned may stipulate specific requirements in each tender.

5.2 Recent or Forthcoming Changes

The land-based sector is static and possibly even in decline with the impact of land-based casinos in particular experiencing dwindling footfall.

6. Online Gambling

6.1 B2C Licences

In the online space, as mentioned at 2.1 Online, the only licence type is the bookmaker licence, which might be obtained provincially from the respective regulator in the province where one establishes a presence, dependent upon the availability of such licence “on demand”. If bookmaker licences are not freely available (which is the current situation in the Western Cape, for instance) then potential applicants have the option of either waiting for a tender process or attempting to purchase one from an existing operator.

In the event of a purchase of a licence by an acquirer, the purchaser is still required to apply to the regulator for approval of the acquisition of the licence, which is identical to the application for a new licence.

6.2 B2B Licences (Suppliers, Software, Etc)

The primary B2B licence type is the manufacturer licence, which might be obtained provincially from the respective regulator, or nationally under the auspices of the National Gambling Commis-

sion, albeit via the provincial regulator within the province where one establishes or intends to establish a presence.

The term “manufacturer” and the parameters of the licence type are very broad, with such licence permitting the manufacture, licensing, distribution, supply and maintenance of gambling equipment or devices including software for online betting.

6.3 Affiliates

The issue of affiliates is dealt with by application of existing legislation. There is no uniform policy on this but the Western Cape regulator, for example, views these arrangements as “gambling-related contracts” between a bookmaker and a “supplier”. Each affiliate arrangement must be approved by the regulator via its mechanisms and forms relating to this type of contract.

6.4 White Labels

There are no provisions to deal with white labels as such, but this type of arrangement might conceivably be approached via the manufacturer licence provisions, where the content is brought in by or via a licensed manufacturer, bearing in mind the very broad scope that such licence affords.

In addition, and allied to the concept of “gambling related contracts”, there is specific provision for third-party content or “components” to be integrated into an existing offering by a manufacturer in the form of an application by the third party for a “certificate of suitability”, which is a lighter process than a full-blown manufacturer licence application that permits such provider to “shelter” under the licence of an existing manufacturer.

This process is not considered ideal for several reasons and is furthermore being reviewed by the regulator as the origin of the process is over 20 years old and was originally intended for the integration of components in the land-based industry.

6.5 Technical Measures

See 3.7 Recent or Forthcoming Legislative Changes.

6.6 Recent or Forthcoming Changes

There are currently no government or regulatory direct technical measures in operation.

Consumer protection is expected to be implemented by the operators in accordance with broad statutory principles.

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

7.1 RG Requirements

RG is an area provided for as a matter of national policy in the National Gambling Act and carried through in the provincial statutes. There is not a great deal of detail or stipulation in terms of measures to be applied and reference is made to the South African Responsible Gambling Foundation, a quasi-governmental body tasked with providing guidelines to operators and assistance to problem gamblers. In general, the guidelines have been fairly broad and static for over 20 years and operators are expected to formulate and maintain their own policies and standards for detecting and dealing with problem gamblers, which has been aided by technology in recent years.

The National Gambling Board is tasked statutorily with maintaining a self-exclusion register for problem gamblers, however, many complain of the accessibility, currency and/or functionality of such register.

7.2 Gambling Management Tools

As mentioned in 7.1 RG Requirements, the area is rather static.

7.3 Recent or Forthcoming Changes

See 7.1 RG Requirements – in essence, this is largely left to the operators themselves.

8. Anti-money Laundering (AML)

8.1 AML Legislation

AML is the subject of a separate national statute being the Financial Intelligence Centre Act, No 38 of 2001 (FICA).

The structure and provisions of FICA are in line with the international Financial Action Task Force (FATF) guidelines, and a strict degree of compliance is expected of gambling licensees in line with a schedule specifically applicable to gambling institutions.

The relevant regulator via which an operator holds its licence is expected to act as the “supervisory body” in ensuring compliance with FICA by operators.

Enforcement and fines for non-compliance are strictly and actively applied.

8.2 AML Requirements

Directives are issued by the Financial Intelligence Centre periodically, although there has not been a specific directive applicable to the gambling industry for almost five years (since the

publication of Public Compliance Communication 20 (PCC20)).

Licensees can expect stricter audits and compliance inspections in the future due to the broader pressure on the South African government following its recent international grey-listing.

8.3 Recent or Forthcoming Changes

FICA requires a full KYC to be conducted on the establishment of the business relationship with a customer.

There has been some debate as to when the business relationship is established in the context of an online betting customer with some suggesting this is upon registration of the customer with the operator and others suggesting this is only when the first deposit of real money is received from the customer.

This matter and others are left to a large degree to the operator's devices in formulating a risk management and compliance programme (RMCP) as they are required to do by FICA.

The trouble is that operators may not know for certain if their RMCPs comply with FICA until an audit is conducted and non-compliance comes with a rather heavy sanction regime.

9. Advertising

9.1 Regulatory/Supervisory Agency

All advertising in South Africa is subject to the standards stipulated by the Advertising Standards Authority (ASA), a governmental agency.

In addition, certain regulators such as the Western Cape one stipulate requirements that no

advertising may be published by their licensees unless prior approval has been obtained.

All advertising must be accompanied by prescribed responsible gambling warnings, in a fixed proportion to the advertising medium concerned.

The focus on restricting gambling advertising surrounds the prevention of under-age gambling and the over-stimulation of gambling.

9.2 Definition of Advertising

The definition of advertising follows the guidelines stipulated by the ASA without any specific definitions in the gambling statutes themselves.

9.3 Key Legal, Regulatory and Licensing Provisions

See 9.1 Regulatory/Supervisory Agency.

9.4 Restrictions on Advertising

See 9.1 Regulatory/Supervisory Agency.

9.5 Sanctions/Penalties

Distasteful or inappropriate advertising is generally the subject of takedown notices but in more serious cases, including disobedience in so far as advertising compliance is concerned, the general sanctions under the respective gambling statutes can extend to fines of up to ZAR10 million or even incarceration.

9.6 Recent or Forthcoming Changes

The area is static and there have been no recent changes; similarly, no forthcoming changes are forecast.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosures are generally required in the circumstances described in **10.2 Change of Corporate Control Triggers** and are of the same level of detail as required in brand new applications (in so far as the new acquirers are concerned).

10.2 Change of Corporate Control Triggers

Generally, any acquisition of financial interest over 5% triggers a post-transaction reporting and filing of detailed disclosures apropos the acquirer. The timelines for the filing and fees for the same vary from province to province but are fairly modest.

10.3 Passive Investor Requirements

If the passive or investment amounts to either a direct or indirect acquisition of more than 5% of the direct or indirect interest in the licensee, the filings referred to in **10.2 Change of Corporate Control Triggers** are still required to be made.

10.4 Recent or Forthcoming Changes

South Africa universally remains a post approval acquisition jurisdiction. There have been no changes in the process and none that are anticipated either.

11. Enforcement

11.1 Powers

All of the gambling statutes stipulate potential criminal conviction and sanction for breaches of their provisions, where via the criminal justice system offenders might receive substantial fines of up to ZAR10 million and face custodial sentences of incarceration of up to ten years.

Where regulators generally lack teeth is that their enforcement is usually dependent on the co-operation of the over-stretched South African Police Service together with the National Prosecuting Authority. Gambling regulators are often frustrated in obtaining this co-operation from the police and prosecuting authorities, both in minor instances and in more complex cross-border infringements that might require international co-operation and liaison such as in cases of illegal online gambling.

Via exchange control and banking legislation there are provisions aimed at consumers using their banking instruments, such as credit cards, to bet online and offshore illegally; unfortunately, some of the more successful enforcement has occurred via these channels and has been directed at (often unwitting and ignorant) individuals versus the illegal operators themselves.

11.2 Sanctions

See **11.1 Powers**.

11.3 Financial Penalties

See **11.1 Powers**.

11.4 Recent or Forthcoming Changes

The threat of illegal offshore online casinos and betting sites exploiting South African citizens grows exponentially year-on-year, with some even offering what appear to be “South African” brands or iconography and the response from the authorities remains somewhat weak and ineffectual with a possible lack of co-operation and resources from the national law enforcement authorities.

A recent concern of the licensed industry surrounds sponsorships of sports teams on the local scene by gambling brands that are not licensed within South Africa.

It is anticipated that demand and pressure will continue to mount from the regulated industry, that pays very substantial taxes to the provincial regulators for licensed gaming activity, precipitating and increased focus and effective policy formulation to address this very real threat – both to the licensed industry and punters.

12. Tax

12.1 Tax Rate by Sector

The land-based industry is taxed according to licence on a table that may be obtained from the relevant regulator, and it does vary from regulator to regulator. Generally, casinos are the highest taxed with an average of 10–15% on gross gaming revenue.

The tax rate in the online betting industry is generally between 6% and 7% of winning bets or net gaming revenue.

12.2 Recent or Forthcoming Changes

The tax rates for betting remain static and unchanged. There is no change to this on the horizon, although South African gaming tax remains very low comparatively to other regional and international jurisdictions.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Individual licensing revolves around and is bound to entity licensing. Generally shareholders of any gaming licence applicants must complete substantial personal history disclosure documenta-

tion where they own, directly or indirectly, any shares in excess of 5%.

Furthermore, for non-shareholders that wish to be appointed or recognised as “key employees” (decision makers) similar applications are required.

13.2 Application Process

In general, personal licence applicants must be of adequate financial standing, of modest debt, free of a criminal past and having their tax affairs in order.

The applications associated with gambling licences usually run within the same timelines as those licences take to be granted. Key employee applications might take anywhere from 1–4 months to be processed and a dispensation exists for temporary key employee licences.

13.3 Ongoing Annual Fees

These are generally very modest and in the region of less than ZAR5000 (USD250).

13.4 Ongoing Requirements

The ongoing renewal investigations are generally focussed on the requirements at **13.2 Application Process** being maintained on an ongoing basis.

13.5 Personal Sanctions

Licences may be suspended or revoked based on acts of misconduct in terms of the prevailing gambling legislation.

13.6 Recent or Forthcoming Changes

No changes are anticipated with respect to personal approvals and licensing.

Trends and Developments

Contributed by:

Garron Whitesman
Whitesmans

Whitesmans was founded by Garron Whitesman in 2006 and specialises in the gambling industry in South Africa and internationally. Whitesmans represents local and international online, mobile and land-based bookmakers, betting exchanges and casino, poker, bingo, skills games, sweepstakes, competition and lottery (messenger and secondary) operators; software and games providers and manufacturers; and service companies within the gambling industry, many of whom are the leading and/or largest participants in the industry in South Africa and/or internationally. The firm has substan-

tial experience in gambling licensing, regulation and compliance and commercial, corporate, corporate finance and litigation within the gambling industry. Garron Whitesman is principal attorney at the firm and is assisted by Jeanne Pauw, who has been an associate attorney at Whitesmans for the past decade. A number of consultants to the practice specialise in litigation, employment and cryptocurrency, Web3 and blockchain technologies. The firm has longstanding relationships with other expert parties who are necessary to advise clients on black economic empowerment and tax matters.

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WHITESMANS

Growth in the Online Market in South Africa Regarding Gambling

The South African online gambling market continues to grow. As with many jurisdictions, online gambling received a significant “shot in the arm” during and after the COVID-19 pandemic.

In its recently released 2023/24 Annual Report, the National Gambling Board (NGB) reported the following.

- The gambling industry has continued to show growth due to continuous technological change and innovation.
- Betting (which is dominated by online betting) has a 61% market share in gross gambling revenue terms, followed by land-based casinos with a 29% share and Limited Payout Machines and the Bingo sector having a 7% and 3% share, respectively. Betting had in fact overtaken casinos as a percentage of total GGR around 2019/2020. It must be noted that online betting includes casino contingencies and betting on numbers (lotteries).
- The national incidence of gambling rose from 30.6% in 2017 to 65.7% in 2023, with some provinces having an incidence as high as 79%.
- Gamblers are equally split between males and females, with most gamblers being between 25 and 34 years of age.
- There has been a large increase in problem gambling from 5.8% in 2017 to 31% in 2023.
- During the 2023/24 financial year, gross gambling revenue amounted to ZAR59.3 billion, a 25.7% increase from the previous year, with online betting having generated 60.5% of the total. Total gambling turnover is reported as having been ZAR1,142,683,922,400 (over ZAR1.1 trillion). There has been a commensurate increase in betting taxes collected.

- The province of the Western Cape accounted for the highest GGR generated across the provinces at 31.7% thereof, followed by Gauteng (22.1%) and Mpumalanga (21.9%). It is noteworthy that the majority of online bookmakers are primarily licensed in the Western Cape followed by Mpumalanga. Gauteng is largely regarded as having the more dominant retail market. ([National Gambling Board, Annual Report 2023/24.](#))

Responsible gambling

In keeping with the growth being reported in problem gambling, the NGB has intimated that it is considering increasing responsible gambling requirements for operators. Whilst there are most certainly meaningful obligations placed upon operators in this regard, such requirements have not necessarily kept pace with the increased responsible gambling and social responsibility requirements in certain other leading jurisdictions.

It is expected that operator obligations will be enhanced at some stage or another; however, it is not possible at this juncture to determine the extent thereof and when this will be imposed. It is unlikely that some of the more extreme requirements seen in other markets in relation to affordability checks, for example, will be imposed either to the degree seen elsewhere or at all.

Western Cape and Mpumalanga

By far the vast majority of online only bookmakers are primarily licensed in the Western Cape Province. Some, including a few very successful online-only bookmakers, are primarily licensed in Mpumalanga. Some bookmakers are licensed in both provinces and operate a multi-provincial online offering. A model of this nature permits online only bookmakers to effectively offer cer-

tain contingencies that may not be permitted by certain of its regulators and other contingencies that may not be permitted by other of its regulators. Alternatively, it may permit a greater number of contingencies to be made available in aggregate.

As is apparent from the NGB's most recent Annual Report, the Western Cape generates the highest GGR across the nine South African provinces by some margin. This is partly as a result of the Western Cape (i) having the highest number of online bookmakers in the country; (ii) having a relatively expansive view on what contingencies it is comfortable to authorise for its bookmaker licensee; and (iii) having an open application process. In the latter regard, an applicant for a bookmaker licence may apply at any time in the Western Cape. The vast majority of other provinces only accept applications for licences in response to a request for applications. Whilst there have been intimations for quite some time that the Western Cape may cap the number of bookmaker licences that it issues, it has not yet done so and it is unlikely to do so in the near future. In Mpumalanga, one can only acquire a bookmaker licence through the acquisition of an existing bookmaker licensee.

De Facto and De Jure Online Gambling Regime

Both the Western Cape and Mpumalanga Regulators (the Western Cape Gambling and Racing Board (WCGRB) and the Mpumalanga Economic Regulator (MER), respectively) permit their online bookmaker licensees to offer a wide range of contingencies including live casino games, RNG-based casino games, RNG-and-historical virtual games and lucky number games. Whilst other provincial regulators do not permit certain of these contingencies to be offered by bookmakers licensed by them, Western Cape and

Mpumalanga licensed bookmakers may make such contingencies available to residents in any province in the country, irrespective of the position taken by the provincial regulator in such province on what contingencies may be offered by its bookmaker licensees. There is a continued increase in the number of games and types of contingencies being permitted, particularly through the MER, whilst the WCGRB has been slightly more conservative in the pace at which it authorises casino games.

For all intents and purposes, the market has evolved into a de facto and de jure online gambling jurisdiction through an expansive and evolutive approach adopted by certain regulators on what is permitted under applicable legislation. Fortunately, this has resulted in a growing market whilst, unfortunately, causing a fair bit of confusion on what is lawful to make available to the market or not. This confusion is further exacerbated by disagreement between regulators on what is permitted or not.

Remote Gambling Bill

There is, therefore, a meaningful need for the creation of a national regime for online gambling and betting in South Africa. This appears to be widely acknowledged by both industry participants and regulators. There also seems to be growing political will to consider implementing a national regime. The implementation of a national regime would almost certainly ameliorate much of the confusion mentioned above.

During the course of April 2024, Dean McPherson, MP, who at the time was the Shadow Minister for Trade and Industry for the official opposition in parliament, proposed a private member's bill ("Bill") to create a permissive national regime for the licensing of online casinos, poker, betting, betting exchanges and the like. The Bill started to

make its way through the parliamentary process but ground to a halt as a result of McPherson having been appointed as the Minister of Public Works and Infrastructure under the Government of National Unity after the May 2024 elections. The Bill has been recently revived by another Democratic Alliance member who sits on the Parliamentary Portfolio Committee for Trade and Industry (the “Portfolio Committee”) under the current parliament. Public comments have been called for on the Bill by 7 December 2024. It is expected that the Bill will thereafter make its way to one or more public hearings in the Portfolio Committee at a date yet to be determined. Before the Bill can ultimately become law (if it progresses that far), it will require a fair number of amendments, regulations which the Bill contemplates will need to be settled (including regulations about the applicable tax rate(s)) and the Bill will need to be agreed by both the National Council of Provinces and the National Assembly. At best, the Bill would ultimately become law in a number of years’ time.

The “Lottostar” case

The question of whether bookmakers may accept bets on the outcome of lotteries is currently playing itself out in the Supreme Court of Appeal in the matter of Lottostar (Pty) Ltd and two others vs Ithuba Holdings (Pty) Ltd and three others.

The primary import of the matter is that the vast majority (if not all) of bookmakers in South Africa have been authorised by their provincial regulators to accept bets on the outcome of lotteries. Indeed, this has been the case for many years. Offering bets on contingencies of this nature has proven exceptionally lucrative for both online and land-based bookmakers, with some reportedly earning a majority of their revenue therefrom. In fact, many variations of numbers games includ-

ing live draw and RNG-generated outcomes and secondary lotteries are offered to punters.

The further import of the matter is that it has put bookmakers and provincial regulators four-squarely at odds with the NGB.

A brief history of the matter is necessary to contextualise the current state of play

Lottostar holds a bookmaker licence in Mpumalanga and has, for many years, been at the forefront of offering bets on the outcomes of lotteries. In or around 2016, the National Lotteries Commission (who are responsible for the oversight and regulation of lotteries and sports pools in South Africa) and Ithuba (the current National Lottery operator (albeit not for much longer)) applied to the High Court in Mpumalanga for an order declaring that in terms of applicable Mpumalanga legislation as read with the Lotteries Act 57 of 1997, the offering by Lottostar of bets on the lotteries was unlawful. For a number of reasons other than a consideration of the ultimate merits, the Mpumalanga High Court found in favour of Lottostar.

Ithuba and the NLC appealed the judgment of the court of first instance to a full bench of the Mpumalanga High Court, who found in favour of Ithuba and the NLC.

Lottostar appealed against the judgment to the Supreme Court of Appeal (SCA). At that stage the NGB sought leave to intervene in the matter and plead that, as national regulator for gambling and betting, it supported the position adopted by the NLC and that in its view the offering of bets on lotteries by South African bookmakers is unlawful, notwithstanding that this activity has been authorised by the provincial gambling boards for many years. This intervention moved the import of the matter firmly from one

that affected only MER licensees to bookmaker licensees and provincial gambling boards across the country.

As a result, all affected parties who were not originally parties to the dispute have been given an opportunity to seek leave to intervene in the matter. Many provincial gambling boards and bookmakers have done so.

It is uncertain at the time of writing whether the SCA will ultimately determine the matter or not. The SCA is not a trier of fact unlike the lower courts. A number of complex legal matters arise from this situation. The SCA may choose to hear the matter and permit further factual evidence to be led by the intervening parties on the basis that it is just and equitable to do so (but this would be exceptional), determine the matter on the legal principles alone or refuse to hear the matter and remit the matter (with all intervening parties joined) back to the Mpumalanga High Court for hearing. If it does so, the matter will likely, in any event, after having run through the lower superior courts, end back in the SCA for determination. This matter may therefore be decided within a few months or within a few years.

It is also possible that some aspects of the dispute may be appropriate for resolution in the South African Constitutional Court. A brief explanation is necessary in this regard. Under the South African Constitution, the National and Provincial governments have concurrent legislative competence over the gambling industry. This has the potential to create conflict between the NGB and the provincial gambling authorities. The provincial gambling boards argue that determining whether their licensees may or may not accept bets on the outcome of lotteries lies within their exclusive purview. The NGB on the other hand argues that if it is unlawful at a national level, the contingency cannot be authorised as lawful by the provincial gambling boards. The dispute is likely ripe for ultimate determination by the Constitutional Court.

SOUTH KOREA

Law and Practice

Contributed by:

Hyun Ho Eun, Brian Tae-Hyun Chung and Won Kim
Kim & Chang



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Kim & Chang has a practice that consists of approximately 30 specialists, including Korean and foreign-licensed attorneys, patent attorneys, tax accountants and security experts, all with significant expertise in the gaming industry. **Kim & Chang** has the largest practice group dedicated to the laws and regulations affecting the gaming industry in South Korea, and it has handled most of the disputes, regulatory matters and general corporate matters in the industry. The practice covers the entire

spectrum of gaming companies' business, including government regulations on the gaming industry, foreign companies' entry into the Korean gaming market, mergers and acquisitions, protection of personal information, tax, patent and IP-related work, and disputes between gaming companies. Based on such expertise, the gaming practice provides clients with carefully planned, practical, solution-oriented legal services.

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1. Introduction

1.1 Current Outlook and Recent Changes

On 27 February 2023, the National Assembly passed amendments to the Game Industry Promotion Act (GIPA) that require game providers to disclose certain information on the probabilities of the loot boxes in order to protect the game users from recurring issues relating to loot boxes, such as failure to disclose, or providing false information on, the probabilities. Subsequently, on 13 November 2023, the Ministry of Culture, Sports and Tourism (MCST) issued a legislative notice on the proposed amendments to the Enforcement Decree of the GIPA, with the detailed guidelines about the disclosure requirements relating to the probabilities under the amended GIPA. The amendment to the Enforcement Decree of the GIPA became effective on 22 March 2024 requiring the game service providers to disclose the probabilities relating to the loot box items.

The MCST also announced that it would actively co-operate with the Korea Fair Trade Commission (KFTC) in the inspection process as the KFTC has been making efforts to investigate loot box cases. Game providers are likely to be subject to strict enforcement of applicable laws and regulations. It is advisable for game providers to keep an eye on the developments and implications of the proposed amendments and internally inspect compliance status to prevent non-compliance with the disclosure requirements.

On 1 May 2024, the government announced the Comprehensive Plan for the Promotion of the Game Industry (2024-2028) (the “Comprehensive Plan”). Prepared in accordance with Article 3 of GIPA and Article 6 of the Act on Promotion of e-Sports, the Comprehensive Plan includes

sub-plans for the period from 2024 to 2028. The key details of the Comprehensive Plan are as follows.

- Streamline the GIPA regulations: in the context of streamlining the current GIPA regulations, the Comprehensive Plan seeks to expand the authority and autonomy of the private sector by improving the identity verification system, switching from the optional shutdown system to the self-regulatory mechanism, amending the game ratings system, and relaxing the reporting obligations for game content revisions.
- Improve the regulatory system to protect the rights and interests of users: in the context of improving the regulatory system to protect the rights and interests of users, the Comprehensive Plan discusses the establishment of a centre for the protection of users’ rights and interests (the “Game User Protection Centre”), the introduction of a collective damage relief system (such as provisions setting forth special cases concerning legal proceedings under the GIPA, a collective dispute mediation system, and a consent decree system), and the creation of a system for disclosure of loot box information.
- Provide support for console games and reinvigorate e-sports: the Comprehensive Plan includes sub-plans to provide support for the Korean console game sector that currently has only a small share in the global market and to reinvigorate e-sports.

As the Comprehensive Plan includes various sub-plans that are premised on amendments to applicable laws, including the GIPA and the E-Commerce Act, relevant government agencies are likely to try to amend the applicable laws in the forthcoming phases. Therefore, it is advisable for game service providers to monitor the

legislative and regulatory developments within the relevant agencies.

2. Jurisdictional Overview

2.1 Online

Under Korean gaming law, whether certain games are permitted, prohibited or restricted is not specifically determined by the game type or genre, but instead is determined by whether there are speculative activities (ie, can be considered gambling). In general, real-money betting is prohibited, and bingo, casino, lotteries and fantasy sports are often prohibited because of their speculative elements.

Under the Game Industry Act, a speculative game refers to a game that:

- either:
 - (a) involves betting or allotment; or
 - (b) decides the outcome by coincidence; and
- causes monetary gain and loss.

Furthermore, according to the Act on Special Cases Concerning Regulation and Punishment of Speculative Acts, etc (the “Speculative Acts Regulation Act”), a “speculative act” is “an act of causing profit or loss of property by collecting property or monetary gain from many persons and determining the profit or loss by coincidental means”.

South Korean court precedents also consider two major factors in determining if a game involves speculative activities:

- whether the outcome is determined by coincidence, and depending on the outcome of the game; and

- whether it is possible to directly obtain monetary gain.

Games with speculative elements are prohibited under the Game Industry Act, the Speculative Acts Regulation Act, and the Korean Criminal Code, and relevant conduct is punishable by imprisonment or a criminal fine.

Therefore, regardless of the type, games will be evaluated on a case-by-case basis for speculative activities, and the Game Rating and Administration Committee (GRAC) may refuse to provide an age rating or cancel a previous rating for the game. Even if there is no element of real-money betting or monetary gain, it is often the case that the game receives an 19+ rating when it is determined to be speculative, such as when it is similar to gambling or includes betting on goods within the game. In addition, as the GRAC tends to determine whether a game is speculative based on stricter standards than those by the courts, games need to be reviewed on a case-by-case basis as they may be subject to rejection of rating on the grounds of their speculative nature.

The GRAC’s age rating categories are as follows:

- for all ages;
- 12+;
- 15+; and
- 19+.

The distribution of games without an age rating is punishable by imprisonment of up to five years or a fine. Among the games rejected for game ratings, speculative games account for the largest portion.

2.2 Land-Based

General

South Korean gaming laws generally do not differentiate between online gaming and land-based gaming, and the same rules for speculative games apply as those set out in **2.1 Online**. There are certain land-based gaming licence requirements for internet cafes (ie, a PC bang, which is a gaming centre in which patrons can play multiplayer games for a fee) and casinos, which are further discussed in **5.1 Premises Licensing**.

Sports Betting

Sports betting, which is regulated by the National Sports Promotion Act, is permitted for a number of sports, including domestic and international football, basketball and golf. Sports betting is only allowed at facilities that are exclusively operated by the Korea Sports Foundation.

3. Legislative Framework

3.1 Key Legislation

The Game Industry Act generally applies to all types of games. The Korean Criminal Code and the Speculative Acts Regulation Act also apply to games with speculative elements.

3.2 Definition of Gambling

As mentioned in **2.1 Online**, the Game Industry Act and the Speculative Acts Regulation Act regulate the scope of prohibited games (eg, gambling) for being “speculative” in nature. Furthermore, gambling is punishable under the Korean Criminal Code.

Although the Korean Criminal Code does not provide a specific definition of “gambling”, the Korean Supreme Court has defined “gambling” as an act of achieving monetary gain or

loss through the wager of property on a game or activity based on chance; eg, the Supreme Court held that golf betting games constitute gambling, because even if an individual golfer’s skills affect the winning or losing outcome, there is still an element of chance.

The Korean Criminal Code prohibits all forms of gambling and lotteries, and their business operations, with the exception of certain types of permissible betting activities pursuant to separate legal provisions. Therefore, a game with gambling content may be punishable under the Korean Criminal Code as a form of gambling.

3.3 Definition of Land-Based Gambling

See **3.2 Definition of Gambling** for a general definition of gambling.

However, casinos and internet cafes require certain licences for operation, as specified in **5.1 Premises Licensing**. Under the Tourism Promotion Act, licensed casinos are not allowed to permit the entrance of South Korean nationals, with the exception of a facility in Gangwon Province.

3.4 Definition of Online Gambling

South Korean gaming laws do not differentiate between online gambling and land-based gambling. See **3.2 Definition of Gambling** for a general definition.

3.5 Key Offences

Key offences include unlawful gambling and habitual unlawful gambling under the Korean Criminal Code, and unlawful speculative activity under the Speculative Acts Regulation Act.

3.6 Penalties for Unlawful Gambling

Unlawful gambling is generally regulated by the Korean Criminal Code. According to Article 246 of the Korean Criminal Code, unlawful gambling

may be punished by a fine not exceeding KRW10 million, and habitual unlawful gambling is subject to imprisonment for not more than three years or a fine not exceeding KRW20 million.

According to Article 30 of the Speculative Acts Regulation Act, the operation of a business with speculative activity without obtaining prior permission (ie, a licence) is punishable by imprisonment with labour for not more than three years or by a fine not exceeding KRW20 million.

3.7 Recent or Forthcoming Legislative Changes

See **1.1 Current Outlook and Recent Changes**.

In addition, there are ongoing discussions and proposed Bills on whether games using blockchain or cryptocurrency technology are subject to gambling regulations.

Generally, the GRAC does not rate any P2E (play-to-earn) games, including blockchain or cryptocurrency games, and has recently revoked ratings for blockchain games on the grounds that blockchain technology enables easy exchange and transactions outside of games, which, in turn, can result in high risks of speculative use. Since game services must be suspended if (i) they do not receive ratings or (ii) their ratings are revoked, the relevant game companies filed administrative appeal and a petition for stay order against the GRAC for this rating revocation. However, the court sided with the GRAC and confirmed the GRAC's revocation decision on the P2E games that pay winners with non-fungible tokens (NFT) or cryptocurrency.

Notwithstanding the court's decision, there are ongoing discussions on how to regulate P2E games using blockchain or cryptocurrency technology and whether the GRAC's position is appropriate from a policy perspective.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The MCST and the GRAC are the key regulatory authorities applicable to the gambling sector.

4.2 Regulatory Approach

The South Korean government adopts a prescriptive approach to regulation. Games that are not permitted, such as speculative games, are set out in advance and specific licences and age ratings are required for gaming business operators to provide or distribute games.

4.3 Recent or Forthcoming Changes

See **1.1 Current Outlook and Recent Changes**.

In South Korea, different regulations apply to rating classification and anti-immersion measures depending on game platforms (eg, mobile, PC or console). As cross-play, which can be played simultaneously on various platforms, has become more common, the MCST has announced its plan to introduce an integrated rating system. While no specific plan has been established yet, a change in the regulatory system remains a possibility.

4.4 Types of Licences

For gaming business operators to provide or distribute games through their own channels, the following licences are required:

- game manufacturer or publisher registration under the Game Industry Act; and
- value-added telecommunications business report under the Telecommunications Business Act (for the online distribution of games).

For in-app purchases or any relevant sales regarding games, an online retailer report is also required.

Age Rating

Games distributed in South Korea are subject to age rating requirements, and must obtain a rating from the GRAC or a self-rating entity (eg, Google or Apple) before release. However, 19+ games must be rated by the GRAC. For games registered with the GRAC, an amendment report on the modification of gaming content is required within 24 hours of the implementation of such changes. After reviewing the changes, the GRAC determines whether a different age rating is required within seven days and notifies the gaming business operator.

4.5 Availability of Licences

Game manufacturer, publisher registration and value-added telecommunications business report licences are readily available. There is no statutory limit on the number of licences.

While there are no restrictions under the applicable laws and regulations, in practice it is difficult for overseas business operators to obtain certain licences, including game manufacturer and publisher registration licences.

Furthermore, age ratings by the GRAC are scrutinised and determined on a case-by-case basis by the GRAC.

4.6 Duration of Licences

There is no set duration of the licences and the relevant laws are silent on an expiry date.

However, as mentioned in 4.4 **Types of Licences**, amendment reports on changes to gaming content must be filed with the GRAC within 24 hours of the change.

4.7 Application Requirements

As mentioned in 4.5 **Availability of Licences**, it is often recommended for overseas gaming business operators to establish a local entity (or a local subsidiary) because, in practice, it is difficult for them to obtain certain licences.

Through a local entity, overseas gaming business operators must obtain a business registration certificate for their gaming services. Either of the following is possible, depending on a gaming business operator's game release schedule:

- companies can obtain the relevant licences and then newly register with those licences and obtain a business registration certificate; or
- companies can first file for a business registration certificate for a different type of business and, after obtaining the licences, file for an amendment to the business registration certificate.

As a separate matter, overseas gaming business operators without a local entity will not have a tax identification number in South Korea.

4.8 Application Timing

The processing period for game manufacturer or publisher registration licences is three days, and for a value-added telecommunications business report licence, the processing period is within three hours on a business day.

The processing period for a business registration certificate is around three days, and around two days for amendments.

4.9 Application Fees

The application fee for a game manufacturer or publisher registration licence is KRW30,000.

There is no application fee for a value-added telecommunications business report licence or a business registration certificate.

4.10 Ongoing Annual Fees

There are no separate annual fees for licences.

5. Land-Based Gambling

5.1 Premises Licensing

Internet Cafes – Venues That Provide Internet Computer Games

Internet cafes – defined as businesses that make gaming products available to the general public with necessary infrastructure, such as computers – are required to register for a licence as a provider of internet computer game facilities.

Casinos

Land-based casinos not located in Jeju Island are subject to the Tourism Promotion Act and the Casino Business Rules of the MCST. However, more than half of the casinos in South Korea are currently located in Jeju Island and a separate Ordinance on Management and Supervision of Casino Business in Jeju applies. These rules and regulations are much stricter than the rules and regulations for non-Jeju casinos.

For a casino business licence, the casino must be a part of an ancillary facility to a tourist hotel or international conference facility, or a passenger ship of a certain size that travels between South Korea and foreign countries. According to the Ordinance on Management and Supervision of Casino Business in Jeju, casinos in Jeju Island must be at a five-star hotel business facility located in an area where foreign investments are made.

Video Game Arcades

Any business that provides gaming products for public use (including juveniles) with necessary facilities at a certain physical location is required to register for a licence as a juvenile-game-providing business.

Businesses With Speculative Activities

Any business that makes speculative activities available to users needs to meet certain facility requirements – eg, the inside of the facility is not visible from the outside – and receive permission for business operation from the province or city police department.

5.2 Recent or Forthcoming Changes

Due to COVID-19 and concerns over physical gatherings at entertainment-related facilities, casinos in South Korea have argued for the permission to start online betting. The MCST is reviewing such proposals, but currently there are no notable changes or legislative motions.

6. Online Gambling

6.1 B2C Licences

As mentioned in 2.1 Online, in principle, speculative online gambling is prohibited. Therefore, on the premise that the online gambling is not speculative, game manufacturer, publisher registration and value-added telecommunications business report licences can be considered B2C licences.

6.2 B2B Licences (Suppliers, Software, Etc)

Game manufacturer and publisher registration licences can be considered B2B licences. A game publisher licence is required to distribute any gaming content manufactured overseas within South Korea.

6.3 Affiliates

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 Technical Measures

There are technical measures for unlawful gambling, including IP blocking. The Korea Communications Commission (KCC) is known to block access to non-Korean websites that enable unlawful gambling.

As mentioned in **3.5 Key Offences**, unlawful gambling is subject to criminal punishment.

6.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes to online gambling.

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

7.1 RG Requirements

Under the Game Industry Act, gaming business operators, with limited exceptions, are required to take measures to prevent game addiction. Such preventative measures include:

- verification of real name and age at the time of creating an account and identification;
- securing consent from legal guardians, including parents, when juveniles create accounts;
- restrictions on the method of using gaming products and the time of using gaming prod-

ucts upon a request from juveniles or their legal guardians;

- notification to juveniles and their legal guardians of basic matters, including the characteristics, rating and payment policy of game products, and details of their use of gaming products, such as the duration of use and payment information;
- posting warnings to prevent excessive use of gaming products; and
- indicating on the game screen the time a user has spent playing a game.

Gaming business operators are also required to set limits for responsible gambling, including monthly payment limits, to receive age ratings.

7.2 Gambling Management Tools

As mentioned in **2.1 Online**, in principle, online gambling with a “speculative” nature is prohibited. See **7.1 RG Requirements** regarding game-related management tools that do not fall under speculative online gambling.

7.3 Recent or Forthcoming Changes

There is no applicable information in this jurisdiction.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The Financial Services Commission (FSC) considers illegal gambling and speculative activities as major threats to financing in South Korea. General South Korean AML legislation applies to the gambling sector. The key pieces of AML legislation are:

- the Act on Reporting and Use of Information Concerning Certain Financial Transactions

- (the “Financial Transactions Reporting Act”, or the FTRA); and
- the Act on Regulation and Punishment of Concealment of Crime Proceeds (the “Proceeds of Crime Act”, or the POCA).

The FTRA regulates money-laundering activities carried out by way of financial transactions by establishing a reporting scheme to enable the analysis of certain information relating to financial transactions.

The Korea Financial Intelligence Unit (KoFIU) was established as the primary national agency responsible for the regulation of AML operations and the control of suspicious transactions in order to effectively implement the AML system. The KoFIU is also responsible for establishing AML policies, the implementation of such policies, and the education of subject entities.

8.2 AML Requirements

Obligations under the FTRA apply to casino operators, as well as financial institutions, electronic financial business operators (eg, money transmitters, payment gateway service providers, and issuers of prepaid electronic payment means) and certain loan business operators.

Under the FTRA, the above entities are required to:

- designate persons responsible for the reporting and the establishment of an internal reporting system;
- prepare and implement procedures and work guidelines with which the management and the employees shall comply, while discharging their duties to prevent money laundering and the financing of terrorism; and

- educate and train the management and the employees to prevent money laundering and the financing of terrorism.

There are also reporting requirements under the FTRA and the following cases must be reported without delay to the KoFIU:

- where there are any reasonable grounds to suspect that an asset given or received in relation to a financial transaction is illegal;
- where there are any reasonable grounds to suspect that the other party to a financial transaction engages in money laundering, such as engaging in the financial transaction with a borrowed name;
- where an employee of a financial institution reports to the competent investigative agency under the Act on the Regulation and Punishment of Criminal Proceeds Concealment, for example; and
- where there are any reasonable grounds to suspect that a customer is dividing transaction amounts for the purpose of evading the currency transaction reporting obligation.

The POCA prohibits any person from receiving criminal proceeds or assets that originated from crime proceeds while such person has knowledge of the criminal nature of the proceeds or assets.

Anyone who conceals criminal proceeds may be subject to imprisonment for up to five (5) years or a criminal fine of up to KRW30 million.

Anyone who receives criminal proceeds while having knowledge of the criminal nature of the proceeds may be subject to imprisonment for up to three years or a criminal fine of up to KRW20 million.

For violations committed by its representatives, officers, employees or agents during the course of its business, the employer may be held criminally liable and punished with a criminal fine of up to KRW30 million (for anyone who conceals criminal proceeds) or a fine of up to KRW20 million (for anyone who receives criminal proceeds while having knowledge of the criminal nature of the proceeds).

For reference, according to the Act on Prohibition Against the Financing of Terrorism and Proliferation of Weapons of Mass Destruction, anyone who transacts with a person on the financial transaction prohibited list announced by the FSC without an approval by the FSC may be punished by imprisonment for up to three years or a criminal fine of up to KRW30 million.

8.3 Recent or Forthcoming Changes

There is no applicable information in this jurisdiction.

9. Advertising

9.1 Regulatory/Supervisory Agency

The GRAC and the KFTC regulate false or misleading advertising.

9.2 Definition of Advertising

The general definition of advertising applies to gaming laws. According to the Fair Labelling and Advertising Act (FLAA), “advertising” means any public distribution or presentation of matters concerning a product through various methods, including newspapers, online newspapers, periodicals, broadcasting and telecommunication.

9.3 Key Legal, Regulatory and Licensing Provisions

Under the Game Industry Act, all games, with limited exceptions, have disclosure requirements and must indicate their age rating, content information according to descriptors defined by the GRAC (eg, sexuality, violence, language, and gambling), and the name of the game manufacturer or publisher.

The Game Industry Act prohibits certain game-related advertisements and promotional materials regarding age ratings and speculative activities, including advertisements with content that is different from the disclosed information.

9.4 Restrictions on Advertising

The following advertisements or promotional materials are prohibited under the Game Industry Act:

- advertising content of a game that differs from the content of the actually rated gaming product;
- advertising that shows a game rating that differs from the actual game rating of the product;
- advertising disclosing game content information differently; and
- advertising content inducing speculation, such as providing gifts.

Furthermore, the FLAA generally prohibits false, exaggerated or misleading advertising, and is hence applied to unfair advertisements, such as those in which there is a false indication of the probability of random events in the game.

9.5 Sanctions/Penalties

The MCST may order the removal of the advertisement or promotional materials as a corrective measure. Gaming business operators can be

subject to an administrative fine not exceeding KRW10 million for such charges.

If the mechanism of paid loot boxes is advertised differently, the KFTC may raise issues about false, exaggerated or misleading information on the odds or other information and impose a corrective order or an administrative fine.

9.6 Recent or Forthcoming Changes

Since the amendment to the Enforcement Decree of the GIPA became effective on 22 March 2024, the requirements for disclosing loot box item probabilities for game service providers have been further strengthened, and certain disclosure requirements also apply to advertisements. The GRAC can request game service providers that fail to comply with the disclosure requirement to correct their non-compliance. Companies that do not make the requested correction can be subject to a corrective order issued by the MCST under Article 38 of the GIPA, and failure to comply with such corrective order can result in imprisonment for up to two years or a criminal fine of up to KRW20 million under Article 45 of the GIPA.

In addition, if the probability information disclosed by game providers is allegedly false, the MCST also can conduct inspections pursuant to Article 31 of the GIPA.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

There are no specific disclosure requirements for acquisitions or changes of control of gaming and gambling companies; instead, general rules on merger control in South Korea apply. A company with assets or revenues of KRW300

billion or more, if the assets or revenues of the target company are KRW30 billion or more, is required to file a business combination report to the KFTC. Listed companies are obligated to disclose acquisitions and change of control.

10.2 Change of Corporate Control Triggers

There are no separate change of corporate control triggers for gaming and gambling companies. As mentioned in **10.1 Disclosure Requirements**, general rules apply and change of control triggers would include assets or revenues standards.

10.3 Passive Investor Requirements

There are no passive investor requirements regarding acquisitions or changes of control of gaming and gambling companies.

10.4 Recent or Forthcoming Changes

The amendment to the Monopoly Regulation and Fair Trade Act (FTA), reflecting the reforms in merger notification and review legislation, came into effect on 7 August 2024. According to the amended FTA and its subordinate regulations, the changes related to the acquisitions and changes of control can be summarised as follows:

- expansion of the exemption scope for merger notifications for transaction types with low competition concerns;
- introduction of a pre-consultation system for merger reviews; and
- introduction of a voluntary corrective measures submission system for mergers.

11. Enforcement

11.1 Powers

Regulatory bodies – as mentioned in 2.1 Online, 3.5 Key Offences and 9.5 Sanctions/Penalties – can enforce criminal punishment or a fine.

11.2 Sanctions

Under the Game Industry Act, a gaming business operator with a game manufacturer or publisher registration licence may be subject to business suspension (for a period of up to six months) or business closure for several violations, including:

- false registration of a licence or using fraudulent means to register;
- failure to register important licence changes;
- violation of the obligations of gaming business operators under the Game Industry Act (eg, receive education on distribution; do not have, or let others engage in, gambling or other speculative acts using gaming products; do not promote speculation through operating methods, devices or equipment; and do not permit juvenile use at juvenile-game-providing businesses); and
- the distribution of unlawful speculative games.

11.3 Financial Penalties

Most of the financial penalties under the relevant laws and regulations, including the Game Industry Act and the Criminal Act, are determined within the statutory limits, taking into account the seriousness of the violation and number of violations. On the other hand, administrative fines may be imposed in the case of violation of specific laws such as the FTA, the FLAA, or the E-Commerce Act, which are calculated by multiplying a certain percentage of the revenue related to the violation. The KFTC has a history of imposing administrative fines for unfair busi-

ness practices, including false or misleading advertising.

11.4 Recent or Forthcoming Changes

There are no recent or forthcoming changes to the enforcement issue.

12. Tax

12.1 Tax Rate by Sector

There are no separate tax rates for gambling, and the general corporate income tax in South Korea will apply.

For reference, casinos licensed under the Tourism Promotion Act are required to make payments to promotional funds for tourism.

12.2 Recent or Forthcoming Changes

There are no recent or forthcoming changes to the tax issue.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

The regulations discussed in this article generally apply to all individuals and entities involved in the gaming industry. While individuals may directly be involved in certain regulated activities, such as self-publishing a game, they are required to comply with applicable gaming regulations. No additional personal authorisations or licences are required for individuals in their personal capacities, even if they are the directors, owners, senior officers or shareholders of the entities that publish game products in Korea.

13.2 Application Process

This issue does not apply in Korea.

13.3 Ongoing Annual Fees

This issue does not apply in Korea.

13.4 Ongoing Requirements

This issue does not apply in Korea.

13.5 Personal Sanctions

This issue does not apply in Korea.

13.6 Recent or Forthcoming Changes

There are no recent or forthcoming changes.

SPAIN



Law and Practice

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Asensi Abogados is a boutique law firm specialising in the gaming and gambling sector. It represents and advises a large number of international gaming companies with interests across the Spanish and Latin American markets. The firm works for the largest online betting and casino operators, software providers, skill games operators, affiliates and payment-solution providers, as well as land-based operators, slot-machine manufacturers and suppliers. Asensi Abogados has offices in Madrid, Mallorca and Bogotá, and is part of the Spanish Digital Gam-

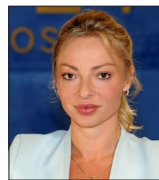
ing Association (Jdigital). A team of two partners and nine associates operates in Spain, while the Colombian office is composed of one partner and three associates. Recent work by the firm includes licensing procedures at both online and land-based levels, providing detailed advice on the practical application of the new regulatory developments for online operators in Spain, and assisting international operators in relocating to Ceuta and Melilla, Spain's two gambling business-friendly jurisdictions.

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1. Introduction

1.1 Current Outlook and Recent Changes Regulatory Trends

The regulatory regime for gambling in Spain is aimed at reinforcing:

- the protection of players;
- public order; and
- the prevention of addictive behaviour, fraud and money laundering.

In this sense, the trend for protecting public health, minors, consumers and society as a whole has been clearly expressed and strengthened by the most recent and relevant developments in the sector – ie, with the approval of one of the most restrictive regimes on gambling advertising through the entry into force of Royal Decree 958/2020, of November 3rd, on commercial communications for gambling activities and the publication of Royal Decree 176/2023, of March 14th, aimed at the development of safer gambling environments. This latter regulation seeks to offer a comprehensive protection framework for all participants in a game and establishes an enhanced protection model for certain groups of players based on their specific characteristics.

Gambling Sector Growth

According to the latest quarterly report (Q2 2024) issued by the Spanish gambling regulator, the online gambling industry showed a growth of 10.39% in gross gaming revenue (GGR) compared to the same quarter of 2023. While this does not represent a significant increase, the key point is that the GGR continues to rise annually.

Recently, the data for the Spanish gaming market in 2023 was published, showing GGR figures of:

- EUR1.1701 billion for regional private gaming;
- EUR1.2367 billion for federal private gaming (online); and
- most notably, EUR4.994 billion for state lotteries and betting (public gambling).

2. Jurisdictional Overview

2.1 Online General Regulation

Gambling regulation in Spain is divided between online gambling that is offered at a federal level and land-based or online gambling that is offered within one region. Online games offered at a federal level require a federal licence that entitles the holder to operate online in the whole territory. However, land-based gambling or online games offered at a regional level (in one or several regions) require the relevant licence from the relevant autonomous region.

Therefore, online gambling in Spain is regulated at both a federal and regional level; the applicable regulation, and which gambling products will be legally approved, depends on whether these are commercialised at a national level or only at a regional level in one or several autonomous regions in Spain.

Online gambling at a national level is regulated by the Spanish Gambling Act (*Ley 13/2011, de 27 de mayo, de regulación del juego*), and each gambling product has its own regulation approved by a ministerial order. A game is not permitted if it is not regulated or is not covered under any of the regulations in force.

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The following games have been regulated so far, and are therefore permitted to be offered at a federal level:

- pools on sports betting;
- fixed-odds sports betting;
- pools on horse racing;
- fixed-odds horse racing;
- other fixed-odds betting;
- exchange sports betting;
- exchange horse racing;
- other exchange betting games;
- contests;
- poker;
- bingo;
- roulette;
- complementary games;
- blackjack;
- baccarat; and
- slots.

Land-based gambling and online gambling at a regional level are regulated by each of the 17 autonomous regions in Spain and the autonomous cities of Ceuta and Melilla.

Sector-Specific Regulation

Loterías y Apuestas del Estado (LAE) and the National Organisation of the Blind in Spain (ONCE) maintain the monopoly on lotteries offered at a federal level. Only charitable organisations can organise lotteries, which are therefore a restricted product.

Fantasy sports can be offered at a federal level if they fit under any of the single licences approved by the regulation. Depending on the autonomous region, they can also be offered at a regional level; in both cases, they are subject to licensing.

Social gaming is permitted, and these games are not subject to any licence, at a federal or regional

level. Games of skill are outside the scope of the current Spanish regulatory framework and thus are not subject to licensing.

2.2 Land-Based

Betting, poker, bingo, casinos and gaming machines are permitted and subject to licensing.

LAE and ONCE maintain the monopoly on lotteries offered at a federal level, and only some regions allow lottery operators.

As explained in 2.1 Online, land-based gambling (and online gambling at a regional level) is regulated by each of the 17 autonomous regions in Spain and the autonomous cities of Ceuta and Melilla, and therefore each autonomous region has its own catalogue of approved and permitted games. There are certain differences between the regions, but the following gaming products are generally permitted:

- roulette;
- blackjack;
- boule;
- trente et quarante;
- craps;
- baccarat;
- poker;
- slots and other machine gaming;
- bingo;
- raffles;
- tombola or charity raffles;
- betting;
- sports betting;
- horse racing; and
- Wheel of Fortune.

It is important to highlight that the various formats of gambling products approved and listed above might be permitted in different forms, at

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both the federal and regional levels (different forms of blackjack, roulette, poker, etc).

3. Legislative Framework

3.1 Key Legislation

Federal Legislation

The key legislation for online gambling at a federal level is as follows:

- the Spanish Gambling Act;
- Royal Decree 958/2020, of November 3rd, on commercial communications for gambling activities (*Real Decreto 958/2020, de 3 de noviembre, de comunicaciones comerciales de las actividades de juego*);
- Royal Decree 176/2023, of March 14th, developing safer gambling environments (*Real Decreto 176/2023, de 14 de marzo, por el que se desarrollan entornos más seguros del juego*);
- secondary regulation on licences, authorisations and gaming registries (*Real Decreto 1614/2011, de 14 de noviembre, por el que se desarrolla la Ley 13/2011, de 27 de mayo, de regulación del juego, en lo relativo a licencias, autorizaciones y registros del juego*);
- secondary regulation approving technical requirements (*Real Decreto 1613/2011, de 14 de noviembre, por el que se desarrolla la Ley 13/2011, de 27 de mayo, regulación del juego, en lo relativo a los requisitos técnicos de las actividades de juego*);
- resolutions of the General Directorate for Gambling Regulation (*Dirección General de Ordenación del Juego* – DGOJ); and
- ministerial orders approving each type of game subject to a single licence.

Regional Legislation

The key legislation for land-based and online gambling at a regional level is approved by each of the 17 autonomous regions in Spain and the autonomous cities of Ceuta and Melilla, so each autonomous region has its own Gambling Act and secondary regulations developing the Gambling Act.

3.2 Definition of Gambling

The Gambling Act defines gambling as an activity in which amounts of money or economically measurable objects are put at risk on uncertain and future events – dependent at least to some extent on chance – and that allows these sums to be transferred between the participants, regardless of whether the level of skill of the players is decisive in the results or whether they depend wholly or fundamentally on luck or chance. The prizes can be in cash or in kind, depending on the type of game.

For clarification purposes, the definition contains three essential components, which are “chance”, “pay-to-play” and “prize”. If any of these elements is absent, the game will fall outside the scope of gambling; thus, the corresponding gambling regulation will not be applicable (for example, pure skill games will be excluded or so will prizes in virtual currency with no monetary value).

3.3 Definition of Land-Based Gambling

There is no specific or separate definition for land-based gambling.

3.4 Definition of Online Gambling

The Gambling Act defines online gambling as games performed through electronic channels, IT and interactive systems, when any device, equipment or system is employed to produce, store or transfer documents, data or information,

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including through any public or private communications network. The communications network can include television, the internet, landlines, mobile phones or any other interactive communications system, in real time or recorded.

3.5 Key Offences

Given the regulatory distinction regarding the gambling sector in Spain, infractions and the related sanctioning regime are approved by the Spanish Gambling Act and by each autonomous region with respect to its territory and competence.

In both cases, administrative infractions are divided into three groups: very serious, serious and minor. From the different regulations, the key offences can be summarised as below.

Very serious infractions include:

- operating without the necessary licence;
- the organisation, commercialisation, exploitation or promotion of illegal games;
- transferring a licence without the prior consent of the relevant gaming authority;
- the manipulation of technical systems or the use of systems or terminals not authorised by the relevant gaming authority;
- the unjustified and repeated non-payment of prizes to gambling participants; and
- the supply of technical support to unlicensed operators.

Serious infractions include:

- the granting of loans to participants;
- permitting access to gambling to individuals who are prohibited from taking part in it (for example, minors and the self-excluded);
- carrying out unauthorised advertising;
- non-processing of participants' claims;

- lack of collaboration with the gaming authority or inspection controls;
- non-compliance with the requirements and obligations regarding responsible gaming and the protection of players established in the regulations in force; and
- promoting or facilitating the participation from Spain in gambling activities through websites other than those legally authorised by gambling operators with a licence in Spain.

Minor infractions include:

- non-compliance with the obligations contained in the applicable regulations, provided that they are not explicitly typified as serious or very serious infractions;
- not properly informing the public about the prohibition on participation or access for minors and persons included in the General Game Access Interdiction Register;
- a lack of mandatory information being provided from the operator to players; and
- the participation from Spain, through the use of Spanish territorial IP address-masking techniques, in gambling activities offered through websites other than those legally authorised by gambling operators with a licence in Spain.

3.6 Penalties for Unlawful Gambling

Unlawful gambling is classified as a very serious infraction at both a federal and regional level.

Unlawful gambling is sanctioned under the Gambling Act with a fine of between EUR1 million and EUR50 million. In addition to the fine, the regulator is entitled to:

- revoke the licence of the entity carrying out the unlawful gambling;

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- disqualify it from carrying out gambling activities for a maximum of four years; or
- close the media through which information society services were delivered and that supported the unlawful gambling activities.

Each regional gaming regulation – both online and land-based – approves its own sanctioning regime; however, in most of them, unlawful gaming is sanctioned with a fine of up to EUR600,000. In addition to the fine, regulators are entitled to revoke the licence or to impose a temporary removal of the licence for a maximum of five years.

3.7 Recent or Forthcoming Legislative Changes

With the regulation on online gambling advertising published in 2020 and the Royal Decree on safer gambling published in 2023, the legal regime for online gambling at a federal level was duly consolidated. Regarding recent legislative changes, although they will be addressed in more detail in other sections of this chapter, the authors would like to highlight the following.

- Entry into force of the Protocol of action developed by the DGOJ – in collaboration with the Spanish Tax Agency and the State Security Forces – for taxpayers who may have been victims of identity theft on gambling platforms.
- Publication of the Supreme Court's ruling 527/2024. This ruling voids several articles of the Royal Decree on commercial communications.
- Publication of the new Data Model and modification of the Resolutions of 6 October 2014 and of 12 July 2012, on 6 June 2024. Its entry into force is expected on 22 March 2025.

Regarding forthcoming legislative changes, the most relevant (already included in the previous edition and currently in the process of approval) is the draft Royal Decree amending Royal Decree 1614/2011, of November 14th, developing the Gambling Act and introducing a system of joint deposit limits among licensed operators and for the Royal Decree on safer gambling.

At the regional level, the most relevant pending legislation in most autonomous regions is still the regulation on advertising and responsible gambling.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The regulatory authority for online gambling at the federal level is the DGOJ. Since November 2023, this authority has been put under the umbrella of the new Ministry of Social Rights, Consumer Affairs and Agenda 2030 (prior to this, it was under the umbrella of the Ministry of Consumer Affairs for almost four years and under the Ministry of Finance before that). At the federal level, it is competent to:

- issue federal licences;
- draft regulation;
- supervise games; and
- supervise the enforcement and sanctioning of gambling activities.

The regulatory authority for regional gambling – both online and land-based – depends on each autonomous region. These authorities are usually under the umbrella of the relevant regional departments of finance or the interior.

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4.2 Regulatory Approach

Before discussing the approach to gambling regulation in Spain, a differentiation should be made between:

- regulation at a federal level, which only refers to online gambling; and
- regulation at a regional level, which includes both online and land-based gambling.

Online Gambling

Online gambling can be offered at a federal or regional level. Customarily, entities apply for federal licences, since this way they can offer online gambling in the whole territory without having to apply for licences at a regional level.

The aim of the Gambling Act is to regulate all those types of games that take place at a federal level in order to protect public order, combat fraud, prevent addictive behaviour, protect minors and safeguard players' rights, without affecting what is established in the regional regulations.

To offer online gambling in Spain at a federal level, entities must obtain a general licence for each category of game (betting, contest or other games) and a single licence for each type of game included in its general licence category.

Land-Based Gambling

The regulatory approach to land-based gambling is based on the licensing or authorisation regime approved by each autonomous region. The requirements and conditions vary depending on the region and type of licence that an entity is interested in applying for.

4.3 Recent or Forthcoming Changes

Please refer to sections 3.7 Recent or Forthcoming Legislative Changes, 5.2 Recent or Forth-

coming Changes and 6.6 Recent or Forthcoming Changes for discussion of developments in the Spanish gambling sector. Other than these, there have been no significant changes to the licensing and regulatory framework in Spain over the past year.

4.4 Types of Licences

Federal Level

At a federal level, the available licences are classified as follows.

- General licence for betting, which covers the following single licences:
 - (a) pools on sports betting;
 - (b) pools on horse racing;
 - (c) fixed-odds sports betting;
 - (d) fixed-odds horse racing;
 - (e) other fixed-odds betting; and
 - (f) exchange betting.
- General licence for contests, which also covers a single licence for contests.
- General licence for other games, which covers the following single licences:
 - (a) poker;
 - (b) blackjack;
 - (c) bingo;
 - (d) slots;
 - (e) roulette;
 - (f) baccarat; and
 - (g) complementary games.

For example, an entity that wishes to commercialise bingo, baccarat and poker will need one general licence (other games) and three single licences (bingo, baccarat and poker). In other words, general licences per se are not valid to offer games; to do so, the entity will also need to obtain a single licence for each type of game within its category. General licences can only be obtained through a public tender process announced by the DGOJ. Entities can apply for

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single licences together with the general licence or at any other time, provided that they have already been granted and still hold the relevant general licence.

Regional Level

Each region has competence to establish its own licences and its own licensing procedure and regime.

4.5 Availability of Licences

There have been three public calls for general licences for online gambling at the federal level since the approval in 2011 of the Spanish Gambling Act: in 2011, 2014 and 2017. None of the three public tenders limited the number of operators that could be granted a licence, nor the number of licences to be granted. In other words, all those operators that met the requirements established within the tender obtained the licence.

The Spanish regulation permits any interested party to request a new call for gambling licences at least 18 months after the previous call.

The processes for regional land-based licences are approved by each autonomous region and, depending on the type of licence and region, there can be limits on the number of licences available (for example, licences for betting shops in the Canary Islands) or the licences can be limited to one and subject to a public tender process (as is the case, for example, for licences for land-based casinos).

4.6 Duration of Licences

Online Gambling at Federal Level

General licences are valid for ten years, extendable by another ten. Single licences have a minimum duration of one year and a maximum duration of five, depending on the type of gambling

product, and these are also extendable by successive periods of the same duration. The expiry of the general licence that the single licence is linked to implies the expiry of the single licence as well.

Regional Level

The duration of licences depends on each region and type of licence. Customarily, licences are valid for ten years, extendable by another ten.

4.7 Application Requirements

Although there are differences between the application requirements for land-based operators (with slight differences among the regions) and online operators subject to the Gambling Act, the requirements are always divided into three sections to prove legal, economic and technical solvency.

The main application requirements are as follows.

- It must be a corporate entity with minimum share capital and an exclusive corporate purpose.
- There must be corporate documentation in order to accredit compliance with all the requirements. Among these documents, both the regional and federal regulator requests the submission of an official public deed identifying the ultimate beneficial owner.
- If the entity is not based in Spain, it must have a permanent representative in Spain for notification purposes.
- It must be up to date with the Tax Agency and social security authorities.
- To prove economic solvency, notwithstanding the submission of other documentation, the applicant must deposit an economic guarantee and provide annual accounts or other declarations in this regard.

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- Other documentation must also be submitted, such as:
 - (a) an anti-money laundering (AML) policy;
 - (b) the responsible gambling policy;
 - (c) a business plan;
 - (d) agreements with providers; and
 - (e) a fraud prevention manual.
- Certain declarations must be signed by the directors and shareholders of the applicant entity (ie, that they have not been convicted of a criminal offence).

The Spanish Gambling Act also requires the directors and shareholders of the applicant entity to disclose information about their relatives (spouse, cohabitant, ascendants and descendants older than 18) in order to inscribe them in the registry of individuals linked to the operator, since these individuals cannot gamble on the relevant operator's website.

4.8 Application Timing

The timing of the application process depends on the applicable regulation, type of licence and conditions approved by the corresponding public tender, if applicable. For instance, the last window to apply for general licences for online gambling at a federal level was opened for one year, with interested parties being entitled to apply for their licences between December 2017 and December 2018. The DGOJ had a term of six months from the submission of the relevant applications to issue or refuse the licences.

Initially, the licences are granted with a provisional nature. To obtain definitive licences, operators must submit the definitive certification report of the technical systems to the DGOJ within a maximum term of four months from the provisional granting. Once the certification documentation is submitted, the DGOJ proceeds with the review and the granting of the definitive licences within

a maximum term of two months. Operators can start operating with the provisional licence.

The duration of regional licences depends on each regional regulation and, if applicable, on the conditions of the public tender process. Customarily, it takes between three and six months from the submission of the application for the regulator to review and proceed with the granting of the relevant licence.

4.9 Application Fees

For online gambling licence applications at a federal level, entities must pay the following administrative fees:

- EUR10,615.20 for each general and single licence that the entity is applying for;
- EUR2,653.81 for each general and single licence for the inscription in the General Registry of Gaming Licences; and
- a one-off fee of EUR40,337.76 for the homologation of the licences by the DGOJ.

For regional licence applications, the cost depends on the region and the type of licence applied for.

4.10 Ongoing Annual Fees

For online gambling licences at a federal level, there is an annual fee of 0.075% of turnover, which operators need to pay by January 31st each year.

For regional licences, the ongoing annual fee depends on the region and type of licence.

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5. Land-Based Gambling

5.1 Premises Licensing

Each region has its own regulation for each type of premises licensing: casinos, gaming halls, bingos and betting shops. Therefore, the requirements for licensing depend on the premises and the autonomous region in question.

While the approach in some regions – regarding requirements such as the number of slots/betting terminals, establishments or installations, or the minimum size (in square metres) – is more restrictive, in others it is more flexible. Also, in some cases (casino premises for example), licensing is subject to a public tender process.

Notwithstanding the above-mentioned regional variation, in general terms the requested documentation aims to prove the legal, technical and economic solvency of the applicant. The main requirements and differences that can be identified are as follows.

- Corporate form – some regions request a specific form for the corporate entity; the region of Madrid, for instance, requests the corporate form of an SA (equivalent to a standard PLC) for casino licence applications, while in Catalonia there is no specification regarding the corporate form for casinos or gaming halls.
- Minimum share capital – most of the regions require a minimum share capital for betting shops and casinos; for example, in Aragon or the Basque Country, the minimum share capital for a betting shop is EUR1 million. In Madrid, the minimum share capital for casinos is EUR12 million.
- Economic guarantees – these also vary by region and type of premises licence; for example, the bank guarantee for a casino in

Catalonia is EUR601,012.10 and EUR60,000 for a gaming hall; in the Balearic Islands, the guarantee is EUR30,000 for a gaming hall and EUR1 million for betting shops.

- Certification reports proving compliance with technical requirements.
- Certificates and documents proving legal solvency (for instance, articles of association and deeds of incorporation of the company).
- Certificates and documents proving economic solvency (for instance, annual accounts and certificates that prove the entity is up to date with the Tax Agency and the social security authorities).

5.2 Recent or Forthcoming Changes

The land-based gambling sector is still implementing certain changes, with the aim of reinforcing the protection of vulnerable individuals and tightening the regulation of gambling advertising. The main changes in this regard are as follows.

Approval of New Regulations in the Canary Islands and Castilla y León

Canary Islands

In 2023, the government of the Canary Islands presented a draft law to modify their previous Gambling Law, 8/2010, with the aim of strengthening gambling regulations and enhancing minors' protection.

In July 2024, a new Royal Decree, 7/2024, was approved in the Canary Islands, imposing significant restrictions on the location of gambling establishments.

In September 2024, the Canary Islands Parliament approved the draft law to modify their previous Gambling Law, 8/2010. This approval complements Royal Decree 7/2024, introducing further restrictions, such as limitations on gam-

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bling advertising and specific measures to control minors' participation in gambling activities.

Castilla y León

On 15 March 2024, Law 2/2024 was approved in Castilla y León, which modified their previous Gambling Law.

This new regulation introduces significant changes, including specific measures for gambling establishments, players and business owners, along with advertising regulations.

Key updates involve increasing the minimum distance between gambling establishments to 300 metres and 150 metres from educational centres. Each establishment will now require a visitor registry and access control services similar to those mandated for casinos. This new law also contemplates the implementation of a strategy for preventing and treating gambling addiction, and provides a framework for enhanced advertising control.

Moreover, the law establishes a new sanctioning regime, directing the revenues from fines toward funding prevention programmes and rehabilitation initiatives for gambling addiction.

These measures reflect a concerted effort to address gambling-related issues and to align regional regulations with modern societal need.

Advertising

The recent ruling by the Spanish Supreme Court voiding several provisions of Royal Decree 958/2020 on commercial communications of gambling activities represents a warning to the autonomous communities – although they still have the competence to set their own regulations, they will have to do so within certain limits.

In response to rising concerns about gambling addiction, particularly regarding minors' protection, various autonomous communities are reinforcing their own laws to impose stricter measures on advertising. Regions such as Castilla y León, Galicia and the Balearic Islands are actively enhancing their local regulations to protect vulnerable populations.

Therefore, while the federal framework is changing, local authorities retain the competence to implement stringent measures that reflect their specific policy priorities.

6. Online Gambling

6.1 B2C Licences

Spanish gambling regulation does not distinguish between B2C and B2B licences, nor between the law applicable to the operations of one operator and of another.

The definition of “gaming operator” states that an operator needs to obtain a licence in Spain in the following cases.

- If it conducts gambling activity, either wholly or partly, and if its income is linked to gross or net revenue, commissions and any other amounts related to gaming services.
- If it concurrently undertakes any commercialising gambling activity, such as:
 - (a) determining the prizes for tournaments;
 - (b) managing players' rules, transactions and payment settlements; and
 - (c) managing the gaming platform or the registration of users.

Entities that meet the above requirements and that also manage gaming platforms in which they are members, or that other gaming opera-

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tors join, pooling together stakes coming from their respective users, will be considered as gaming operators and gaming co-organisers.

6.2 B2B Licences (Suppliers, Software, Etc)

Spanish gambling regulation does not make any distinction between B2B and B2C operators.

The regulation provides a definition of “gaming operator”. If a B2B operator meets the requirements established by the regulation, it is subject to licensing and, technically speaking, will be considered a gaming operator.

Consequently, the inclusion of a B2B operator within the definition of a gaming operator, and its requirement to be licensed, depends on the services that said operator intends to provide within Spain, along with the conditions related to that service.

In practical terms, experience has shown that the Spanish regulator understands that a B2B company falls under the definition of “gaming operator” only in exceptional circumstances, such as when:

- offering network jackpots;
- offering shared liquidity; or
- providing all gaming services to a white-label company that only provides the “look and feel”.

6.3 Affiliates

Affiliates do not need to hold a licence in Spain as long as they do not register clients or maintain an agreement or gaming account with them.

6.4 White Labels

White-label arrangements in a B2B scenario are permitted provided the provider operating

behind the website is duly licensed, since in this case the B2B operator is categorised as a “gaming operator”. The new regulation on advertising establishes a new requirement by which an operator is prohibited from using brands or trade names that are not owned by said operator or by the business group to which such operator belongs, to identify and differentiate itself from other operators.

In addition, depending on the activity developed by the white-label operator (which provides the look and feel), an entity may also be categorised as a “gaming operator”. Consequently, it may also be subject to licensing.

6.5 Technical Measures

The regulation does not contain specific technical measures to protect consumers from unlicensed operators. However, the DGOJ is entitled to request that internet service providers and financial entities adopt blocking measures within sanctioning procedures initiated against illegal operators. In this sense, blocking access from Spanish IP addresses and payment-blocking are the most common measures. Indeed, the DGOJ has committed to continuing to intensify the existing policy of domain name system (DNS) blocking and monitoring payment traffic to identify the main black market operators targeting the Spanish market.

6.6 Recent or Forthcoming Changes Protocol of Action for Taxpayers Who May Have Been Victims of Identity Theft on Gambling Platforms

During 2024, the DGOJ has – in collaboration with the Spanish Tax Agency and the State Security Forces – developed a protocol of action for taxpayers who may have been victims of identity theft on gambling platforms.

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The need for this protocol arises from the increasing number of complaints from users whose identities were allegedly stolen to evade the tax implications of potential winnings.

This protocol provides a secure mechanism for victims of identity theft in online gambling that allows them to request a certificate of gaming activity from gambling operators, detailing all transactions and accounts fraudulently opened in their name. To obtain this certificate, the victim must file a complaint before the State Security Forces and must provide a reference number assigned by the DGOJ to the operator. This certificate is crucial for responding to tax requests from the Spanish Tax Agency and for proving that the accounts were created without the consent of the victim.

Voidness of Several Articles of Royal Decree 958/2020 on Commercial Communications of Gambling Activities

On 10 April 2024, the Supreme Court circulated its ruling 527/2024 on the appeal made against Royal Decree 958/2020 on commercial communications of gambling activities.

This ruling has marked a turning point in advertising, which had been exceedingly restrictive since the Royal Decree came into effect.

This topic will be further developed in **9.6 Recent or Forthcoming Changes**.

Resolution Approving the New Data Model and Modifying Annex I of Two Resolutions

On 22 June 2024, the Resolution of 6 June 2024 issued by the DGOJ was published in the Spanish Official Gazette (BOE), approving the Data Model and modifying the Resolutions of 6 October 2014 and 12 July 2012 relating to technical specifications and to the identification of partici-

pants in games, as well as the control of subjective prohibitions on participation regarding the gambling activities foreseen in the Gambling Act.

The most relevant changes approved by this Resolution are as follows.

- The reduction for the data retention periods from six to four years.
- The Internal Control System of operators (technical element in charge of registering the transactions of the technical system, through which the DGOJ monitors the gaming activities undertaken by operators) can be located anywhere in the EU. Previously, it had to be located in Spain (the remaining technical elements of the system can be located anywhere in the world).
- A new Data Model is approved that will introduce, among others:
 - (a) the incorporation of a detailed user registry, including a field for the special player profile according to the player categorisation established by the Royal Decree on responsible gambling; and
 - (b) the incorporation of the gambling session for other games also established in the Royal Decree on responsible gambling.

The purpose of these modifications is to adapt the existing Resolutions to recent regulatory changes – most notably, the Royal Decrees on commercial communications of gambling activities and responsible gambling, which have imposed additional obligations on operators that could be monitored by the DGOJ, through the introduction of the necessary changes to the data model of the monitoring system.

The new Resolution shall enter into force nine months after its publication in the Spanish Official Gazette (ie, 22 March 2025).

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Draft Royal Decree for Introducing a System of Joint Deposit Limits

Primary amendments in this draft Royal Decree include:

- a proposed framework to delineate an aggregate limit on deposits made by a single user across accounts linked to multiple operators; and
- changes in the guarantee required from operators associated with general licences.

The aim of this system of joint deposit limits is to limit player deposits in a universal manner – ie, by establishing a system of deposit limits per player applicable to all operators licensed in Spain.

This new system introduces mandatory caps on the amount players can deposit, set at a maximum of EUR600 per day and EUR1,500 per week, and will be enforced and monitored by the DGOJ to ensure that these limits are strictly adhered to and to prevent players from exceeding them. This new measure aims to promote responsible gambling and to enhance player protection by controlling excessive spending across multiple gambling platforms.

This draft is currently in the notification phase to the European Commission (TRIS), and it is expected to be published in the Spanish Official Gazette in 2025 (the system of joint deposit limits is planned to enter into force 12 months after its publication).

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

7.1 RG Requirements

The gambling sector is fully committed to the detection of participation in gambling activities by minors and vulnerable groups. The aim of the responsible gambling requirements is to prevent and correct the negative effects of gambling through the application of different measures.

Most of the responsible gambling requirements are compulsory for online operators. The requirements for land-based operators vary by region and premises, and some land-based operators apply additional responsible gambling measures in their businesses, at their own initiative.

Key requirements include:

- the prohibition of loans to players;
- the need to provide clear and accurate information to participants;
- accessible customer service for player complaints; and
- the facilitation of a customer support hotline by online operators at the federal level.

Operators are also obliged to inform players about the General Register of Gambling Access Bans (RGIAJ) and to offer self-exclusion options. Responsible gambling tests are also mandatory to detect potential gambling issues.

In this sense, the regulation of gambling activities requires the following.

- Identification of participants – operators must establish systems and mechanisms that allow the identification of the participants in the

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games. This is a measure applicable to online and land-based operators.

- Deposit amount limits by default – this is a preventative measure and a mandatory requirement for online operators licensed at the federal level. It also applies to land-based businesses such as casinos. However, “default limits” can be reduced by the participant at any time and can be directly applicable; they can also be increased or removed (when fulfilling certain conditions). The limits by default in online gambling are:
 - (a) EUR600 daily;
 - (b) EUR1,500 weekly; and
 - (c) EUR3,000 monthly.
- Particular requirements for slot games – for example, a minimum duration approved for the slot spin on land-based terminals (eg, five seconds in Madrid but three in the Basque Country and online).
- The regulation applicable to online gambling at a federal level establishes specific responsible gambling requirements for the games grouped under the “Other games session” where players must configure their session before its start, including a limit for the time and money to be spent, and in-play betting products, a special rule regarding the amounts to bet.
- The regulation applicable to online gambling at the federal level also sets forth the obligation for operators to establish mechanisms and protocols that make it possible to detect risky behaviours in registered players.

7.2 Gambling Management Tools

As detailed throughout 7. Responsible Gambling (RG), Also Known as Safer Gambling (SG), the Spanish authorities have created different tools for operators and citizens in order to promote responsible gambling.

RGIAJ

Through an inscription in the RGIAJ, an individual is fully prohibited from accessing gambling activity (applicable to online and land-based gambling). The register is formed of the data of citizens who voluntarily do not wish to exercise their rights to gamble and of those who are declared incapacitated by a legal ruling.

Player Verification Service

The DGOJ offers online operators a tool to proceed with the ID verification of their customers resident in Spain. Operators can also check whether the customer is registered with the RGIAJ with this tool, and whether the data provided by the customer corresponds to a minor or to individuals included in the Civil Registry as deceased.

Phishing Alert

The DGOJ has launched a service addressed to all citizens in order for the operator to detect and communicate an attempt of activation of a user registration when the identity data provided matches the data of an individual who is registered with this service.

7.3 Recent or Forthcoming Changes

The Royal Decree on responsible gambling was finally published on 14 March 2023, and recently, in March 2024, certain new requirements resulting from this regulation entered into force. The most significant are the following:

- young participants (players aged 25 years or less) may not receive any kind of promotional activity whose purpose is unrelated to the gambling activity carried out on the operator’s platform;
- the prohibition of depositing funds with credit cards by customers with intensive gambling behaviour;

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- players with risky behaviour may only use payment methods in their name (nominative) and under their ownership, and will not be able to deposit funds with credit cards either;
- the implementation of the “Other games session”, where players must configure their session before its start, including a limit for the time and money to be spent;
- the sending of a self-assessment message of mandatory reading at least every 60 minutes during the “Other games session”; and
- the implementation of the in-play betting limits.

8. Anti-money Laundering (AML)

8.1 AML Legislation

No specific AML guidance relevant to the gambling sector is available in Spain, nor has anything been published in this regard by the DGOJ or the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences (SEPBLAC).

Given that the central state has competence over AML regulation, the main applicable AML regulation is composed of:

- Federal Law 10/2010, of April 28th, on the prevention of money laundering and terrorist financing; and
- Federal Royal Decree 304/2014, of May 5th, developing the regulation of the Spanish AML Act.

8.2 AML Requirements

The Spanish AML regulation establishes the instructions, proceedings and duties that online and land-based gambling operators need to apply for the prevention of money laundering.

The main requirements and obligations are as follows.

- Approving a suitable manual for the prevention of money laundering and ensuring its availability to SEPBLAC.
- Applying due diligence measures as per the Spanish AML Act, when a customer engages in transactions amounting to EUR2,000 or more – in a single operation or multiple linked operations – either upon the collection of winnings, the wagering of a stake or both (for online gambling operators), or at the time of receiving gains or purchase or sale of gaming chips (for land-based operators). The operator should implement the corresponding due diligence measures thorough monitoring and investigation into the nature and intention of the business transaction, and not merely through customer ID verification.
- For land-based casinos, ensuring the identification and documentary verification of individuals seeking to enter the establishment. Records of the collected documentation must also be maintained. These establishments must also identify individuals intending to conduct specific transactions including:
 - (a) exchanging of chips for cheques;
 - (b) funding of transfers at customer request; and
 - (c) issuing of certificates regarding customer gains.
- Maintaining records of the documentation gathered for compliance with the Spanish AML Act for a period of ten years, after which the records should be eliminated. Five years after termination of business relationships with the customer, the documentation should only be accessible to the operator’s internal control bodies, including its technical prevention units and the legal defence personnel.

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- Appointing a representative on behalf of the operator before SEPBLAC.
- Establishing an adequate internal compliance unit responsible for implementing the AML policies and procedures.
- Reporting suspicious transactions and collaborating with SEPBLAC.
- Approving a yearly training plan for employees, which must be approved by the internal control body.
- Undergoing an annual external expert review of the operator's manual for the prevention of money laundering.

8.3 Recent or Forthcoming Changes

On 19 June 2024, the European legislative package – including the Regulation establishing the new European authority AMLA, the Regulation harmonising AML rules across the EU, and the 6th AML/CFT Directive – was published in the Official Journal of the European Union. However, generally speaking (that is, with certain exceptions), the first Regulation will not be applicable until 2025, while the other two will be applicable starting in 2027.

9. Advertising

9.1 Regulatory/Supervisory Agency

Contrary to what happens in the UK, for instance, in Spain there is no specific regulatory or supervisory agency for advertising.

Despite this, in the case of online gambling at the federal level, the DGOJ supervises compliance with the applicable advertising rules by the gambling operators and sanctions them if they breach those regulations. For audiovisual communication service providers rendering services to gambling operators, the authority to launch proceedings and to sanction lies not only with

the DGOJ but also with the National Commission of Markets and Competence (CNMC).

9.2 Definition of Advertising

Article 2 of General Advertising Law 34/1988 defines advertising as “any form of communication made by a natural or legal person, public or private, in the exercise of a commercial, industrial, craft or professional activity, in order to directly or indirectly promote the hiring of movable or immovable property, services, rights and obligations”.

Royal Decree 958/2020, of November 3rd, on commercial communications for gambling activities defines commercial communications as “any form of advertising carried out by a natural or legal person, public or private, disseminated through any media or format, meant to promote, either directly or indirectly, the gambling activities defined within the scope of application of Law 13/2011, of May 27th, or the entities that carry out such communications. Broadcasting of game draws or the purely informative dissemination of their results shall not be considered commercial communications”.

9.3 Key Legal, Regulatory and Licensing Provisions

The key legal provisions can be divided into the following groups.

Operator Licensing

Gambling operators must be duly licensed by the regulator to advertise their products. According to Article 7.1 of the Gambling Act, to carry out gaming activities on audiovisual programmes, news media or websites, gaming operators must have an authorisation (ie, the corresponding gambling licence). The same is true at a regional level.

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Advertising Providers' Requirement to Check Licensing

Any advertising third-party provider must confirm that its client (gambling operator) is duly licensed according to Article 7.3 of the Gambling Act. This involves verifying that the advertiser, whether a media entity or service provider, confirms their client's legitimate licensing from the DGOJ. Infringements in the Gambling Law fall into two categories:

- unauthorised promotions, sponsorships, advertisements or intermediary actions concerning games under this law, regardless of methods used, and breaches in compliance with permit conditions and existing rules; and
- the failure to fulfil requirements for information or cutting off the provision of services as required by the DGOJ and directed towards payment service providers, audiovisual communication service providers, information society services or electronic communication providers and social media.

Both infractions are qualified as serious infractions and are therefore subject to fines of between EUR100,000 and EUR1 million and to the suspension of activity in Spain for a maximum period of six months.

Each autonomous region individually approves sanctions for regional land-based and online gambling.

9.4 Restrictions on Advertising Key Legislation

The current legislation applicable to the advertising of gambling operators – and their products – is as follows:

- the General Advertising Act 34/1988, dated November 11th;

- Royal Decree 958/2020, dated November 3rd, on commercial communications for gambling activities;
- the Unfair Competition Act 3/1991, dated January 10th;
- Legislative Royal Decree 1/2007, dated November 16th, approving the recast text of the General Act for the Defence of the Consumers and Users and other complementary laws;
- the Information Society Services and Electronic Commerce Act 34/2002, dated July 11th;
- the General Audiovisual Communications Act 13/2022, dated July 7th;
- the Gambling Act 13/2011, dated May 27th;
- regional gambling regulations for land-based and online gambling at a regional level; and
- the Code of Conduct Regarding Commercial Communications of Gambling Activities issued by Autocontrol (the Association for Advertising Self-regulation), in collaboration with the DGOJ, although this is only binding for companies that adhere to it.

Restrictions

The most important restriction is that gambling products can only be advertised by licensed operators.

The present restrictions on gambling advertising aim to shield consumers. The main principles include legality, honesty, identification, veracity, societal responsibility, responsible gaming and underage protection, especially enforcing restrictions during watershed hours.

Royal Decree 958/2020 on commercial communications of gambling activities was introduced and implemented on 4 November 2020, following publication in the Official Spanish Gazette.

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After the Supreme Court's ruling, the main restrictions regarding advertising are as follows:

- sponsorship bans on shirts or sports equipment;
- restricted commercial communications on audiovisual media services between 1am and 5am;
- specific requirements for advertising on social media;
- restrictions on accounts/channels on video-sharing platforms (as gambling commercial communications can only be placed in those accounts/channels whose main activity consists of offering information on gaming activities); and
- a requirement stating that free-to-play demo games must be linked to the operator's platform and are only available to registered and documentarily verified users.

Please note that social gaming products can generally be advertised without the restrictions applicable to gambling products.

9.5 Sanctions/Penalties

In terms of advertising for online gambling regulated at the federal level, Articles 40 d) and e) of the Gambling Act state the relevant applicable infractions, which are subject to the same sanctions:

- a fine of EUR100,000 to EUR1 million; and
- the suspension of activity in Spain for a maximum period of six months.

9.6 Recent or Forthcoming Changes

On 25 May 2024, the Supreme Court's ruling 527/2024 on the appeal made against Royal Decree 958/2020 on commercial communications of gambling activities was published in the Spanish Official Gazette.

This ruling voided certain essential restrictions for the operator's marketing possibilities. To be precise, the Administrative Chamber of the Supreme Court concluded that certain limitations or prohibitions established in the regulation lack the necessary legal coverage and, in some of the cases, infringe the principle of proportionality in relation to the free enterprise right.

In particular, the following restrictions have been lifted.

- Prohibition of offering welcome bonuses and restrictions on advertising and offering promotions.
- Prohibition of appearance of well-known people/celebrities in advertising.
- Prohibition of the display of commercial communications through information society services.
- Restrictions for gambling advertising on accounts/channels on video-sharing platforms. It should be highlighted that, although such restrictions on video-sharing platforms were voided by the ruling, the General Audiovisual Communication Act already refers to this restriction, so this requirement would remain in place.
- Restriction on the targeting rules for addressing gambling advertising on online social networks, and restrictions for gambling advertising on accounts/channels on such networks.

The basis of the Supreme Court's arguments were:

- the lack of legal coverage, as these regulatory restrictions can only be approved either by a legal text with force of law or by a secondary regulation if it is duly supported by a legal text with force of law; and

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- the lack of the principle of proportionality, since some of the general prohibitions that were approved are not proportional to the purpose of the regulation.

In addition, it should be noted that the Code of Conduct Regarding Commercial Communications for Gambling Activities also includes certain restrictions as to bonuses (maximum limit of EUR200 on welcome bonuses) and advertising with famous individuals (ie, no famous individuals under the age of 25); thus, the adhering operators must comply with its stipulations.

Regarding the upcoming actions from the DGOJ's side, it should be noted that, recently, the left-wing parties introduced a number of amendments to the Draft Law amending the General Law on Public Health in order to incorporate the provisions voided by amending certain provisions of the Spanish Gambling Act.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Acquisitions and changes of control are not subject to the prior approval of the regulator. However, it should always be taken into account that if, as a result of said acquisition, any of the conditions of the operator company that were disclosed to the regulator at the time of applying for the relevant licences were affected or changed (for instance, the solvency of the group, the intercompany agreements for the provision of services or the directors of the operator company), the operator company must then not only notify the regulator of the change of control (within one month from its completion) but must also file the documents evidencing any

of those material changes that have taken place as a result of the acquisition.

Even though a change of control does not require the prior approval of the regulator, it is always advisable to contact the regulator before completing the change of control to ascertain any possible concerns it might have regarding the transaction.

10.2 Change of Corporate Control Triggers

The relevant threshold is set around the concept of the "significant" shareholder, which is defined by the corresponding domestic law of the operator company. For instance, in Spain, a "significant shareholding" of a listed company would be 3% or more of the shares, and for a non-listed company it is a percentage with which the relevant shareholder could effectively, even directly or indirectly, control the company.

Any "significant" change of control should be notified to the regulator within one month of its completion.

10.3 Passive Investor Requirements

No distinction is made for passive investors.

10.4 Recent or Forthcoming Changes

No recent changes have been published on this subject.

11. Enforcement

11.1 Powers

Regulatory bodies are legally allowed not only to impose economic sanctions but also to revoke or suspend licences. Regulators could even suspend gambling licences or seize any assets

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or documents related to, and needed for, the licensed activity as a precautionary measure.

11.2 Sanctions

Economic sanctions may be enforced through the exercise of the relevant guarantees submitted by the operators before the regulator to cover their liabilities and potential consequences that arise as a result of a breach of their obligations as operators. If these guarantees are not enough to cover a certain liability, the sanctions imposed by the regulator could be enforced through common civil remedies (the seizure of assets, goods, shares, deposits, etc).

Additional sanctions such as activity suspension and limitations on licence applications may be directly imposed by the regulator or the Ministry of Tax for severe infractions, without requiring further measures beyond the sanction's announcement.

Since 2022, the DGOJ publishes those “serious” and “very serious” sanctions against online operators on its website.

11.3 Financial Penalties

As mentioned in **11.2 Sanctions**, financial penalties are normally first enforced by the execution of the guarantees deposited by the operator before the regulator, and by the seizure of assets of the sanctioned operator company if the guarantees are not sufficient to cover the relevant liability.

11.4 Recent or Forthcoming Changes

No recent changes have been published on this subject.

12. Tax

12.1 Tax Rate by Sector

The tax rate for online gambling at the federal level, subject to the Gambling Act, is 20% on GGR or the total amount of money wagered minus the amount won for all gambling products. This tax rate is 10% on GGR if the licensed operator at the federal level is domiciled in Ceuta or Melilla.

The tax rate for online gambling at a regional level, subject to each regional regulation, is 10% on GGR in most of the regions.

The tax rate applicable to the land-based sector is approved by each regional regulation and therefore varies depending on the region. As an example, in the region of Madrid, the applicable taxes are as follows:

- 20% on GGR general tax rate;
- 15% on GGR for bingo, and 30% on GGR for electronic bingo;
- 10% on GGR for online games developed in the Madrid region; and
- 13% on GGR for betting games and 10% on GGR for sports betting, horse racing and other betting games.

The tax rate applicable to land-based casinos depends on the tax base:

- 22% if the tax base is less than EUR2 million;
- 30% if the tax base is between EUR2 million and EUR8 million;
- 35% if the tax base is between EUR8 million and EUR15 million; and
- 40% if the tax base is more than EUR15 million.

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In Andalusia, for instance, the applicable tax rates are as follows:

- 15% if the tax base is less than EUR2 million;
- 35% if the tax base is between EUR2 million and EUR3.5 million;
- 48% if the tax base is between EUR3.5 million and EUR5 million; and
- 58% if the tax base is more than EUR5 million.

In addition, there are fixed rates that apply to operating betting terminals or automatic appliances suitable for the development of games. The amount depends on the applicable regulation, but the fee generally ranges from EUR3,000 to EUR4,000 per year for terminal type B/AWP and from EUR4,000 to EUR5,500 per year for terminal type C/casino machines.

12.2 Recent or Forthcoming Changes

No recent changes have been published on this subject.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

In Spain, no authorisations or licences are granted to individuals, as licences and authorisations are issued to gambling operators. Therefore, this section is not applicable under the Spanish regulatory framework.

13.2 Application Process

No information is available on this subject.

13.3 Ongoing Annual Fees

No information is available on this subject.

13.4 Ongoing Requirements

No information is available on this subject.

13.5 Personal Sanctions

No information is available on this subject.

13.6 Recent or Forthcoming Changes

No information is available on this subject.

Trends and Developments

Contributed by:

Santiago Asensi, Alla Serebrianskaia, Sofía García-Carpintero and Marta de Francisco

Asensi Abogados

Asensi Abogados is a boutique law firm specialising in the gaming and gambling sector. It represents and advises a large number of international gaming companies with interests across the Spanish and Latin American markets. The firm works for the largest online betting and casino operators, software providers, skill games operators, affiliates and payment-solution providers, as well as land-based operators, slot-machine manufacturers and suppliers. Asensi Abogados has offices in Madrid, Mallorca and Bogotá, and is part of the Spanish Digital Gam-

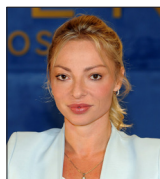
ing Association (Jdigital). A team of two partners and nine associates operates in Spain, while the Colombian office is composed of one partner and three associates. Recent work by the firm includes licensing procedures at both online and land-based levels, providing detailed advice on the practical application of the new regulatory developments for online operators in Spain, and assisting international operators in relocating to Ceuta and Melilla, Spain's two gambling business-friendly jurisdictions.

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SPAIN TRENDS AND DEVELOPMENTS

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This piece aims to examine and analyse the significant developments that have marked 2024 in the Spanish online gambling market, together with regulatory changes and pending updates, and to highlight any major innovations.

Hot Topics in 2024

The Regulator's fight against fraud

In 2024, the Directorate General for the Regulation of Gambling (DGOJ) has placed significant emphasis on combating fraud, particularly through a protocol developed in collaboration with the Spanish Tax Agency and State Security Forces. The aim is to address cases of identity theft on gambling platforms where individuals use the personal data of third parties to open gaming accounts. The need for this protocol arose from a significant increase in complaints from individuals whose identities were misused to evade tax liabilities on potential winnings.

Among other things, this protocol aims to clarify the type of information that operators must provide when a data subject whose identity has been misused requests access to account data, as this enables them to prove to the Spanish Tax Agency that the accounts and winnings attributed to them were not legitimate.

While the fight against identity theft is hugely valid, the practical implementation of this protocol has given rise to much discussion, since the need to disclose certain sensitive information raises concerns regarding data protection.

Also related to fraud, operators facing a major challenge for many years in that fraudulent players cause substantial financial losses, which has a considerable economic impact for the Spanish gambling market. Yet no specific regulatory measures have been taken to address this situation. It would seem that operators are often

overlooked, and it is equally important to adopt measures that consider the protection of operators and foster the growth of the legal market.

Recent implementation of certain responsible gambling requirements

Technical updates by operators

While most of the content of the Royal Decree developing safer gambling environments entered into force back in September 2023, there were still measures and requirements that required specific technical application on the operators' side. The regulator therefore allowed a year from the publication of the regulations in the Official Spanish Gazette, in March 2023, for operators to proceed with the technical updates. As a result, in March 2024, operators were required to adjust their platforms accordingly.

Certain elements of this latest set of restrictions have sparked considerable debate. For instance, operators were required to ensure that players up to age 25 would not be exposed to promotional activities unrelated to the gambling activities offered on their platform so as not to underplay gambling activity for this category of players through the offer of trips, dinners or tickets to shows or football matches, for example.

However, as is the case with other restrictions aimed at young players, these limitations tend simply to be based on the assumption that young participants are not capable of gambling healthily. This could be seen as a discriminatory measure, affecting the right of adults over the age of eighteen to manage and spend their money as they wish and see fit. Furthermore, the restrictive nature of the limitations, together with the fact that those under the age of 25 are the group with the greatest access to – and mastery of – technology, could lead to the displacement

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of this age group towards the illegal gambling market, where they would lack protection.

Given that all players are of legal age, it is appropriate that they be treated equally, with their pattern of play, history of activity and other characteristics the elements considered when defining measures, limitations and restrictions applicable – not simply their age.

Payment methods imposed upon “risky” players

From last March players exhibiting risky behaviour – a definition which has yet to be developed by the regulator – were obliged to use only methods of payment in their name (nominative payment methods) and under their ownership. (Note that this requirement applies only to risky players under Spanish regulations.) In addition, these players and those deemed to demonstrate intensive gambling behaviour were prohibited from depositing funds using credit cards.

Suspension of accounts used by third parties

One of the key gambling-related Royal Decrees includes provisions for the precautionary suspension or closure of a gaming account when it is found to be used by third parties. This would demonstrate that Spanish regulations explicitly prohibit the use of a gaming account by anyone other than the account holder. This measure currently only targets players exhibiting risky behaviour, although it would be logical and appropriate for it to be applied universally to all customers, as it represents an effective due-diligence and customer-identification measure. Operators could choose to implement this measure more broadly by incorporating a prohibition into the terms and conditions that govern their contractual relationship with players.

Spending and time restrictions on gaming sessions

With respect to the implementation of the “other games session”, also one of the recent measures that entered into force last March, operators have had to adjust their platforms to ensure that players set up their gaming session with spending and time limits for all gambling products under the general licence for other games, with the exception of tournament poker.

Although the implementation of the other games session was mandated for March 2024 and operators were required to comply with all associated requirements from that point, they have been unable to submit the necessary files and information related to the session to the DGOJ as the reporting model approved by the latter, which governs the exchange of information between operators and the regulator, was not updated until June 2024. The new reporting obligations outlined in the updated model will not take effect until March 2025, providing operators with additional time to fully comply with the new reporting requirements.

Significant news on gambling advertising

In April 2024, the Spanish Supreme Court issued ruling 527/2024 partially granting the appeal filed by the Spanish Association on Online Gambling (Jdigital) against the Royal Decree on commercial communications for gambling activities and declaring void key restrictions provided by this regulation, basing its decision on a lack of legal coverage and proportionality with the right of free enterprise.

As a result, the advertising framework for gambling has been relaxed. Notable implications include the following.

- Welcome bonuses are allowed.

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- There are no specific requirements governing the offering of promotions to customers.
- The restrictions on the advertising of promotional activities have been lifted.
- The prohibition of advertising with famous or publicly notorious individuals is voided.
- The general prohibition on the display of commercial communications on the internet has been annulled, meaning that there are no regulatory limits on the specific channels where advertising is allowed.
- Following this ruling, the requirements as to the advertising of gambling operators or products on the accounts or channels on social networks and video-sharing platforms have been removed. However, although such restrictions on video-sharing platforms are voided, the General Audiovisual Communication Act already refers to this restriction, since it foresees that audiovisual commercial communications on video-sharing platforms can only be included in accounts/channels whose main activity consists of offering information or content on gaming activities, so this requirement would remain in place.
- The targeting rules for addressing the advertising to specific individuals in social media has been annulled, meaning that there is no restriction in this sense.

In summary, despite the continued enforcement of significant restrictions, such as the restrictions related to sponsorship activities and the time restriction for advertising on television, radio and certain gambling advertisements on video-sharing platforms from 1am to 5am, the Supreme Court's ruling has been received by the industry as a positive development. It presents a valuable opportunity to enhance the visibility of the gambling sector in Spain.

It was not all good news, however, as, by the end of September 2024, left-wing parties proposed the reinstatement of the provisions that were nullified by incorporating them into the Spanish Gambling Act through the Draft Law that seeks to modify the General Law on Public Health – which has absolutely nothing to do with either gambling or advertising.

Upon reviewing the proposed amendments, it has been observed that the absolute ban on welcome bonuses has not been included. This particular remedy could be viewed as legally insufficient, in any case, since many of the annulled provisions were invalidated due to their disproportionate impact on the right of free enterprise. Therefore, although this would not have been the legislator's intention, the content of such limitations could need revising and redrafting.

Notwithstanding the above, the legislative process for amending a law is inherently complex, leading us to believe that, in the short term, no further developments are likely to occur in this regard.

Upcoming joint deposit limits regime

One of this year's hot topics has undoubtedly been the system of joint deposit limits that is set to be introduced in Spain soon.

By way of background, operators are currently required to establish economic limits on the deposits that they receive from each participant on a daily, weekly or monthly basis in different games. There is a series of maximum amounts that may not exceed the deposits made by players in these time periods. These deposit limits may be lowered immediately, or they may be increased, or even removed, provided that the player meets certain responsible gambling criteria.

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These limits, as they are configured, are set independently for each operator, which means that the total volume of deposits that can be made by a participant in the gambling market ultimately depends on the number of operators with which it operates and maintains an open gaming account. Thus, the current model of deposit limits is not fully satisfactory from the responsible gambling perspective.

The DGOJ has therefore proposed a framework that introduces an aggregate deposit limit for individual users across accounts held with multiple operators. This system is intended to function independently while complementing the existing deposit-limit control mechanisms already upheld by each operator.

As is well known in the gambling sector, this system has already been implemented in other countries, including Germany and Sweden. However, the Spanish regulator has clarified that the technical framework that it is developing is neither based on nor inspired by these existing models, but will be entirely new.

This is intended to increase the level of protection for players and strengthen the tools available to them to manage their spending and, ultimately, prevent the emergence of addictive behaviour. However, it is widely acknowledged that applying such interventionist measures to control users' gambling habits may lead to players becoming disenchanted with regulated gambling options and drive them towards the less restrictive alternatives offered by unlicensed or illegal operators.

On the system itself, we found the report published by the National Commission on Markets and Competition (CNMC), following its analysis of the project, to be particularly insightful.

While the relevant authority concluded that, in broad terms, the proposed system did not present unjustified restrictions on competition, as it was based on a compelling reason of general interest (prevention of addictive or pathological behaviours) and it was properly aligned with the principles of good regulation, it made a series of considerations. Particularly, that:

- users will have reduced incentives to switch operators, especially multi-operator users (around 30% of players in Spain), who will likely concentrate their activity with their main operator due to the decreasing marginal utility of having multiple accounts; and
- this will lead to greater market concentration among gambling operators. Smaller operators, with a smaller player base, might see their business models threatened.

It should be added that, while the DGOJ foresees an ex-post evaluation of the functioning of the new system of joint deposit limits per player, this evaluation will be carried out two years after the entry into force of the measure. Thus, the CNMC understood that it seemed reasonable to shorten this period as far as possible in order to be able to draw potential conclusions earlier.

To conclude this overview of the upcoming joint deposit limits model, it should be noted that, although the publication of this system in the Spanish Official Gazette is planned for 2025, operators are expected to be granted a one-year period to adapt to the new deposit limits model.

Changes to financial guarantee requirements for operators

Mortgages on properties located in Spain are to be removed as an option to put before the DGOJ as a financial guarantee option. The required amounts for these guarantees are also set to

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increase significantly increase – for the initial period of about two years from EUR2 million to EUR2.4 million; and after that period, from EUR1 million to EUR1.2 million.

Although the DGOJ justifies the increase in the guarantee amounts as necessary to preserve their real value, this increase would appear excessive, as it further illustrates a clear trend towards imposing increasingly stringent burdens on operators.

While the removal of the mortgage option is expected to take effect the day following the publication of the relevant Royal Decree in the Spanish Official Gazette (expected in 2025), the updates on the guarantees amounts are expected to take effect on 1 January of the year following the publication.

Recent developments regarding loot boxes

In recent years, Spain has made many unsuccessful attempts to regulate loot boxes. Loot box products or the random reward mechanism is understood to be “any virtual functionality that can be activated using legal tender or through a virtual item, such as a code, key, in-game currency, cryptocurrency, or another element acquired directly or indirectly with money. The outcome of such activation is uncertain and consists of obtaining a virtual item that may be exchanged for money or other virtual items”.

In June 2024, the Spanish Council of Ministers approved the Preliminary Draft of the Organic Law for the protection of minors in the digital environment. This draft introduces new provisions, including a ban on loot boxes for minors. This regulation is still in its early stages, and it will be necessary to monitor its progress to understand how this issue unfolds.

Navigating the Spanish Market

The licensing window for the Spanish online gambling market is currently closed, with no expectations of upcoming public tenders to apply for new general licences, which are mandatory for operating in the country, in the near future. Against this backdrop, it is interesting to note how the chips are currently stacking up in the market to obtain a licence.

The transfer of licences is disallowed on Spain unless it results from a corporate restructuring of the operator’s entity – generally via the contribution of a branch of activity or a merger or spin-off – in which case it is permitted but subject to prior authorisation from the DGOJ.

However, it has become a common practice to transfer licences by purchasing the shares of a company that already holds a gambling licence. Since this involves acquiring the entire company rather than just the licence itself, it results in a change of ownership, but not in the transfer of the licence directly. This approach is permissible under Spanish law, as it is considered a change in the company’s ownership structure rather than a licence transfer. Therefore, it is currently possible to obtain a licence in Spain provided that there is a company willing to sell it.

Challenges and Opportunities

After more than thirteen years, it goes without saying that the regulated online gambling sector in Spain has become a mature and consolidated market that has achieved a level of professionalism and that the industry would like to see continuing to improve and to grow.

The sector has witnessed how licensed operators have been able to adapt their business to the numerous restrictions imposed in the past years, relying on increasingly skilled profession-

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als and teams to ensure strict regulatory compliance. Operators must deal with a multitude of requirements on a daily basis before the relevant authorities, ranging from the continuous adaptation of their procedures and policies (to be aligned with the different regulations related to consumer rights, anti-fraud or anti-money laundering) to strict compliance with reporting obligations, product certification, deposit and the update of economic guarantees, payment of taxes and levies, among others.

Technological innovations

The Spanish online gambling regulations have been in place for over thirteen years and are therefore partly obsolete in relation to recent technological innovations, which are always ahead of regulations and legislative developments. This inevitably means that today we are noticing significant legislative shortcomings, which is obviously frustrating the industry.

The gambling sector is also thirsty for further innovation in order to expand and improve its offering to customers. The Spanish regulator could focus on motivating the current market and licensed operators by offering new products to make their business more attractive and more competitive.

Among others, DGOJ has received from the industry regulatory proposals related to the extension of the current allowed gambling offering in Spain to other live products, particularly live blackjack (at present, live roulette is the only regulated product allowed in the jurisdiction). Although these types of regulatory projects are not among the regulator's priorities, it is hoped that they will be put on the table and included in the DGOJ's agenda in the short to medium term.

Improving business efficiency via tax benefits

Besides the need to improve the gambling offering, operators are seeking opportunities to improve the efficiency of their businesses. In this vein, both international online operators operating in Spain, ie, from companies based in other countries and operators already based in Spain, have wanted to take advantage of the favourable tax conditions provided by the Spanish autonomous cities of Ceuta and Melilla, as these are very attractive regimes, by offering companies domiciled in these cities a tax rate of 10% on GGR (instead of 20% on GGR).

There has therefore been a massive relocation of operators to Ceuta and Melilla, either through an international transfer of domicile or through specific corporate operations in this respect. Ceuta and Melilla are gambling-friendly jurisdictions in Spain to which – in addition to allowing an attractive special tax regime for online gambling operators and for new technologies businesses in general – the regional regulators are trying to attract activity, services and talent.

Lastly, as anticipated previously, the recent Supreme Court ruling on gambling advertising has brought a breath of fresh air to the sector. The previous restrictive legal framework governing advertising made the gambling sector a less attractive market so, as a result of changes to gaming rules when it comes to advertising, operators are also becoming increasingly interested in marketing-related activities, resulting in a revitalisation of advertising campaigns and proposals.

In summary, we can conclude that it is essential that both the regulations and the DGOJ ensure that the gambling sector is regulated and treated in a manner that meets its needs and expectations, promoting innovation and competitiveness for the continued growth and vitality of Spanish online gambling.

SWEDEN



Law and Practice

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Wiklund Law is a boutique law firm specialising in EU law, competition law and public international law. The team's members are expert practitioners in gaming, entertainment and sports law. The firm has litigated high-profile cases in both domestic and European courts. The team has been active since the online gaming industry's growth in the early 2000s, and holds deep industry experience across all aspects of the sector. Clients include multinational businesses,

owner-managed enterprises, and technology start-ups. Wiklund Law provides advice across the full range of product and business offerings, including sports betting, poker, casinos and slots, social gaming, bingo, skill games, lotteries and prize draws. Its services in the betting and gaming sector include M&A, regulatory advice, intellectual property, technology and licensing, sponsorship agreements and other commercial agreements, litigation and competition law.

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WIKLUND

1. Introduction

1.1 Current Outlook and Recent Changes

In 2019 the Swedish gambling market underwent a comprehensive re-regulation, witnessing the introduction of a licensing system, the curtailment of the traditional state-owned lotteries, and the creation of the current regulator: the Swedish Gambling Authority (SGA).

Since then, the chief aim of Swedish gambling legislation and regulatory activity has been to improve market channelisation, that is, the share of the market that is licensed. In turn, this aim has prompted a range of legislation seeking to expand the regulator's powers, and expand the scope of the licensing system.

Accordingly, on 1 July 2023 a B2B licensing system entered into force, requiring any actor that produces, provides, installs or alters gambling software for a gambling operator active on the Swedish market to hold a license.

Another significant legal reform has been an increase in the tax rate applicable to gambling, rising from 18 to 22%, in force since 1 July 2024.

The scope of the SGA's regulatory powers has been a topical issue. In a significant piece of recent litigation, the Administrative Court of Appeal is set to consider the SGA's targeting factors, specifically whether the use of Swedish e-banking software BankID is sufficient for a game offering to fall within the Gambling Act and the SGA's jurisdiction. The Court's ruling will be significant to determine the future scope of the SGA's jurisdiction and regulatory activity.

Recent litigation in the Administrative Court of appeal has also considered the meaning of "turnover" and its relationship to the proper approach to calculating sanction fees issued by SGA.

In a currently proposed Bill, the SGA would be afforded AML powers by being able to compel actors to submit relevant information. The same Bill proposes to effect a complete ban on land-based casinos in Sweden, thereby shutting down the state-owned Casino Cosmopol.

2. Jurisdictional Overview

2.1 Online

When holding an online commercial gambling licence, a gambling operator may offer the following games: online slot machines, online bingo and online casino games. Online lottery products are reserved for the state-owned gambling operators and not-for-profit organisations.

When holding an online betting licence, a gambling operator may offer the following types of games in addition to traditional sports betting: betting on fantasy sports, betting exchanges, betting on virtual events and betting on the outcome of a lottery.

Fantasy sports gambling can, depending on the various skill elements present within the game, be considered as a game of chance or skill. Fantasy sports that are deemed to be games of skill are not regulated by the Gambling Act.

2.2 Land-Based

Betting may be offered in betting shops and through agents. Other than betting, land-based gambling is normally reserved for the state monopolies, which operate land-based casinos and lotteries. Non-profit organisations (including political parties) may offer land-based bingo and sell lottery tickets.

Furthermore, the Act (2017:630) on Measures against Money Laundering and Financing of Terrorism, the Swedish Marketing Act (2008:486), the General Data Protection Regulation, the Consumer Services Act (1985:716) and the Act on Payment Services (2010:751) also play key roles in relation to specific branches of the gambling market.

Regulatory publications by relevant authorities are also important; including the National Board for Consumer Disputes (*Allmänna Reklamationssnämnden*) or the Swedish Consumer Agency (*Konsumentverket*).

On 1 January 2021, new regulations counteracting match fixing entered into effect: the SGA's regulations and general advice on restrictions and prohibitions of results (including match fixing) in sports and reporting suspected manipulation. This legislation introduces regulations concerning sanctions for violating sporting rules; such as, yellow cards, red cards, penalties and disqualifications. Additionally, a ban is introduced on offering betting services on football in the lower leagues or non-international friendlies, whilst new guidelines for reporting potential match fixing are brought into effect.

As mentioned above, on 1 July 2023 a B2B licensing system entered into force, requiring any actor that produces, provides, installs or alters gambling software for a gambling operator active on the Swedish market to hold a licence.

3. Legislative Framework

3.1 Key Legislation

The key statutes relating to the Swedish gambling market are:

- the Swedish Gambling Act (2018:1138);
- the Gambling Tax Act (2018:1139); and
- the Gambling Ordinance (2018:1467).

3.2 Definition of Gambling

Lotteries are defined as any gambling wherein the outcome is completely based on chance. This definition therefore extends not only to traditional lotteries, but also to scratch cards.

Betting is defined as an activity in which the participant has the chance to win a prize when a stake is placed on the outcome of some future event. All forms of sports betting and betting on the outcome of lotteries fall under this definition.

Casino games are defined as all types of roulette, dice games, card games and similar games. Additionally, all forms of slot machines are deemed to be casino games.

Pyramid schemes include gambling where winnings derive from the bets of future participants and where the likelihood of winning depends on the number of participants who subsequently join. These types of games are prohibited by the SGA.

3.3 Definition of Land-Based Gambling

Land-based gambling is defined as gambling carried out on relevant physical premises. The key relevant physical premises are land-based casinos, amusement parks or restaurants holding a gambling licence and whereupon gambling takes place, or land-based betting.

3.4 Definition of Online Gambling

Online gambling denotes any form of gambling that takes place by means of electronic online communication, such as online commercial gambling or online betting.

3.5 Key Offences

To promote or provide unauthorised gambling or gambling without the necessary licence, whether intentionally or through gross negligence, is a criminalised offence under the Swedish Gambling Act.

Furthermore, if an actor takes measures that are likely to affect the outcome of a game that is subject to a licensing requirements by the

Gambling Act, this is considered cheating and/or match fixing and is sanctioned by imprisonment up to two years.

3.6 Penalties for Unlawful Gambling

Penalties for the operation of unlawful gambling or the promotion of unlawful gambling range from fines to imprisonment for up to two years. If a crime has been committed internationally, or is deemed sufficiently serious, the offences are punishable by imprisonment for a maximum of six years.

3.7 Recent or Forthcoming Legislative Changes

Pursuant to reforms enacted on 1 July 2023, the SGA is now empowered to issue injunctions against actors who breach relevant sections of the Gambling Act (and additional provisions), as opposed to simply reporting the matter to the police.

On 1 December 2024 reforms to the Gambling Ordinance will enter into force which confer upon licensed gambling operators the right to manage and exchange information pertaining to suspected match fixing.

As of 11 November 2024, the Swedish Government has proposed that Sweden ratify the Macolin convention, a Council of Europe Treaty on match fixing in sports. The SGA has welcomed this proposal.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The SGA is the authority appointed to evaluate and approve licence applications, as well as the agency holding general responsibility over all

gambling operations that are regulated under the Swedish Gambling Act. Due to the Gambling Act being a framework law, this empowers the SGA to publish extensive regulations to further clarify the provisions of the Act.

The SGA oversees compliance with this Act, as well as the regulations and guidance that have been issued pursuant to the Act. Under its supervision, the SGA can investigate licence holders as well as issue fines and warnings. As a final measure, an operator's licence can also be revoked.

With regards to the marketing and advertisement aspects of the gambling market, the Consumer Agency is the relevant supervising authority. Similarly, the Tax Agency is responsible for ensuring that the relevant taxes are declared and paid by market actors.

4.2 Regulatory Approach

The SGA is empowered to draft and issue regulations spanning a host of issues under its regulatory powers, ranging from AML requirements to the licence fee payable for a given licence. This follows from the fact that the Gambling Act is a framework regulation.

The SGA's regulation of the gambling market is limited to gambling which falls within the jurisdiction and scope of the Gambling Act. Online gambling only falls within the scope of the Gambling Act if it is deemed to be targeted towards the Swedish market. This assessment, which is therefore central to the SGA's regulatory reach, is determined by the following criteria:

- use of Swedish language on the website in question;
- customer service available via a Swedish phone number;

- the operator's use of a payment service providers (PSPs) that are either largely, or solely used by Swedish customers; and
- the use of e-verification systems used largely or solely by Swedish customers (eg, BankID).

Note that a significant piece of litigation has turned on the issue of whether the SGA can exercise authority over a PSP that it purports to be targeting the Swedish market on the basis that it offers BankID to an unlicensed gambling operator. As of 11 November 2024, the case is due to be heard by the Supreme Administrative Court, in a ruling which will be critical in determining the future scope of the SGA's regulatory powers, and therefore strategy.

4.3 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes and 4.2 Regulatory Approach.

4.4 Types of Licences

Seven types of licence exist, two of them regulating the competitive market, as follows.

- Licences reserved for the state monopoly's four land-based casinos, land-based slot machines and lotteries.
- Licences for games reserved that are publicly beneficial (such as charities) – these licences can include land-based bingo, lotteries and pool betting at horse racing tracks.
- Licences for land-based commercial gambling – these licences include specific casino games, card-based tournaments and slot machines provided in amusement parks or establishments that hold a licence to serve alcohol.
- Licences for commercial online gambling, including online casino games, online bingo and computer-simulated slot machines.

- Licences for online and land-based betting – these licences include betting on future events, including betting on electronically simulated events (fantasy sports) and betting on the outcome of a lottery. Offering betting on the outcome of a lottery requires consent from the party providing the lottery. Betting on occasions where the majority of participants are under 18 years of age, interval betting and betting on events that are offensive or inappropriate are prohibited.
- Licences for gambling on ships in international traffic – these licences include gambling on slot machines and casino games.
- Licences for the provision of B2B gaming software. The licensing requirement extends to all businesses that produce, provide, install or edit gaming software. This licence was introduced on 1 July 2023.

4.5 Availability of Licences

Licences are readily available in the competitive market, including online commercial gambling and land-based gambling operated on board ships in international waters or within amusement parks and hotels or restaurants with a permit to serve alcohol.

The various licences available are outlined in section 4.3 **Types of Licences**.

4.6 Duration of Licences

Licences can be, and are normally, issued for a period of five years. However, the SGA holds full discretion to limit the licence period and has done so in several instances. Historically, the reasons to limit an operator's duration of a licence have been solvency issues within the applying company, evidence of previous regulatory breaches in other jurisdictions, and where operators apply for multiple licences through various subsidiaries.

4.7 Application Requirements

Annex A

An Annex A form is to be completed by every person associated with the licence application, including the key personnel within the applicant company, the board of directors of the applicant company, the board of directors of all qualified owners (holding ownership of 10% or more), and by the ultimate beneficial owners if holding a qualified ownership. The following due diligence documents must be appended to an Annex A:

- a certified copy of ID (passport);
- employment history for the past ten years; and
- a copy of their criminal history.

Annex B

An Annex B form is to be filled in by all qualified owners (legal entities) of the applicant company. The following due diligence documents should be appended to an Annex B:

- a certificate of registration; and
- financial statements for the past year.

Note that service providers located outside the EEA are required to have a representative domiciled in Sweden.

4.8 Application Timing

The timescale of a licence application varies from case to case, mainly depending on how complete an application is and the regulatory and financial status of the company and its owners. A complete application submitted by gambling operators with strong finances and an otherwise uncomplicated history or group structure should be processed within two to three months.

4.9 Application Fees

The relevant fees collected by the SGA relating to the licence application of a private operator are the following:

- (a) licence for commercial online gambling – SEK230,000;
- (b) licence for betting – SEK230,000;
- (c) joint application for (a) and (b) – SEK230,000;
- (d) – B2B licence – SEK120,000;
- (e) renewal of a licence under (a) to (c) – SEK300,000; and
- (f) amendment of a licence under (a) to (c) – SEK150,000.

4.10 Ongoing Annual Fees

The fixed annual fees are as follows:

- licence for state lottery – SEK700,000;
- licence for land-based casino – SEK3,500,000;
- licence for land-based slots (state reserved) – SEK2,500,000;
- licence for commercial land-based gambling – SEK2,400; and
- licence for commercial online gambling or betting – SEK30,000–SEK500,000.
- B2B licences – SEK3,000

Regarding annual fees for commercial online gambling or betting, the fee is calculated depending on the operator's expected turnover:

- annual turnover of less than SEK10 million – SEK30,000;
- annual turnover of SEK10 million to SEK20 million – SEK60,000;
- annual turnover of SEK20 million to SEK50 million – SEK120,000;
- annual turnover of SEK50 million to SEK100 million – SEK240,000;

- annual turnover of SEK100 million to SEK200 million – SEK300,000;
- annual turnover of SEK200 million to SEK500 million – SEK400,000; and
- annual turnover of more than SEK500 million – SEK500 billion.

During the first two years since the re-regulations on 1 January 2019, licence holders for online commercial gambling and/or betting have paid a fixed fee of SEK450,000 per licence.

5. Land-Based Gambling

5.1 Premises Licensing

State-owned operators can obtain a licence to provide land-based commercial gambling. Such gambling takes place mainly through land-based casinos, of which a maximum of four may exist, with the exception of operators obtaining licences to offer various casino games at amusement parks, on ships in international traffic and in hotels and restaurants with a permit to serve alcohol.

Licences for games reserved for publicly beneficial causes can include permission to operate land-based bingo, lotteries and pool betting at horse racing tracks.

As of July 1 2023, licensees must report physical gambling premises to the SGA via a form on the SGA's website.

5.2 Recent or Forthcoming Changes

To our knowledge, there are no recent or forthcoming changes to report in this area.

6. Online Gambling

6.1 B2C Licences

Gambling operators satisfying the criteria outlined in the Gambling Act may apply for online commercial gambling and/or betting licences.

6.2 B2B Licences (Suppliers, Software, Etc)

On 1 July 2023, reform to the Gambling Act was passed making B2B licences mandatory in Sweden for any actor that produces, provides, installs or alters gambling software in relation to a gambling operator active on the Swedish market.

6.3 Affiliates

Affiliates and the marketing provided by affiliates are not directly regulated by the Swedish Gambling Act. Affiliates and operators marketing products targeting the Swedish market are regulated by the Swedish Marketing Act.

However, operators and affiliates must adhere to certain provisions within the Swedish Gambling Act, the most important being that it is illegal to direct marketing towards players who have opted to self-exclude themselves from gambling using the national self-exclusion register. In addition, an affiliate can be seen as promoting unlawful gambling if offering its services to an operator without a Swedish licence directing its offering to the Swedish market.

6.4 White Labels

White-label solutions are accepted and regulated under the Swedish Gambling Act. The company providing the white-label solution will act as the licence holder, thus holding the liability and responsibility laid out in the Gambling Act and Marketing Act.

6.5 Technical Measures

The SGA may, under certain conditions, order an internet service provider to issue a warning notice that is clearly displayed to visitors to a website that provides gambling without the necessary licence under the Swedish Gambling Act. The notice shall inform visitors that the party providing the gambling service does not hold a licence in Sweden and is not under Swedish supervision and that the gambler is liable for taxes on their winnings.

6.6 Recent or Forthcoming Changes

As of 1 July 2023, licences are required for B2B gaming solutions.

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

7.1 RG Requirements

The Swedish Gambling Act introduces the concept of “duty of care”, which has a central role within the licensing system. Duty of care includes all RG measures taken by the licence holder in order to protect the player from excessive gambling, including both those that the licence holder is explicitly required to take and those not explicitly codified in any provisions. The licence holder is expected to have policy in place for detecting and handling problem gambling. Accordingly, the player must be provided with tools to help reduce gambling where necessary.

Since these requirements span several regulations, there has been some debate regarding the actual material content of the duty of care; however, the framework is laid out in the Swedish Gambling Act. In short:

- the licence holder must ensure that social and health protection considerations are taken into account in the licensees' gambling operations in order to protect players from excessive gambling and help them reduce their gambling when this is called for;
- the duty of care involves counteracting excessive gambling through continuous monitoring of gambling behaviour; and
- a licence holder must present an action plan detailing how this duty of care shall be fulfilled.

In addition to this, in September 2021, the SGA released guidance on how licensed operators should model their ongoing work with responsible gambling. An example of what should be done is as follows.

Operators must monitor and analyse player profiles and their behaviour, including the following:

- players' active game time and length of login sessions;
- whether a player is chasing losses;
- what types of games are chosen; and
- cancelled withdrawals, and failed deposits.

After carrying out a risk assessment based on the factors above (and other additional factors that an operator has implemented in its responsible gambling work), it must reach out to the players to prevent problem gambling.

The full report on the responsibility guidance is available on the SGA [website](#).

7.2 Gambling Management Tools

In accordance with the duty of care, it is mandatory for players to set a maximum deposit limit. The player must be able to set daily, weekly and monthly limits. Increases in the limits must take

effect after 72 hours, whereas decreases to limits must take effect immediately.

If a player raises a limit to exceed SEK10,000 per month, the operator must contact the player in order to fulfil their duty of care. Furthermore, players must receive regular notifications regarding their account history, including winnings, losses, login times and any additional information the operator wants to share.

The player must also be given notifications about the option to log out or continue gambling with the purpose of counteracting excessive unwanted gambling. Additionally, players will receive a message upon logging into their account containing information regarding accumulated losses during the past 12 months, limits and responsible gambling measures.

Players will have access to self-exclusion tools for the purpose of excluding themselves from specific types of games, for a duration ranging from 24 hours to indefinitely. Additionally, there will be information and links to the national self-exclusion register, Spelpaus, through which players can exclude themselves from all gaming with all Swedish licence holders.

7.3 Recent or Forthcoming Changes

There has been a string of recent cases where the SGA has subjected operators to investigations and fines following alleged breaches of duty of care or AML requirements. In a case handed down in May 2024, a District Court found that operators are obliged to take voluntary steps to limit customers' gambling where certain indicators of problematic gambling arise. Liability may arise if an operator fails to act with sufficient haste.

As of 1 October 2024, the SGA has been granted new powers in relation to oversight of operators' RG and duty of care. Under its new powers the SGA is able to specify what operators' plans to fulfil their customer duty of care must entail.

- reports to the financial police when discovering potential money laundering.

The full report on the responsibility guidance is available on the SGA [website](#).

8. Anti-money Laundering (AML)

8.1 AML Legislation

The provision of gambling in Sweden is subject to the Act (2017:630) on Measures against Money Laundering and Financing of Terrorism, which has implemented Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (the "Fourth AML Directive").

Additionally, the SGA has issued regulations, guidelines and regular advice on the prevention of money laundering and the financing of terrorism (LIFS 2018:11).

In addition to this, in September 2021 the SGA released a guidance for how licensed operators should model their ongoing work through risk assessments to counteract money laundering and terrorist financing.

The general risk assessment of clients goes through the following stages:

- registration – ID and verification, source of wealth and politically exposed persons (PEP-) control;
- risk assessment of the person;
- customer knowledge through ongoing verification of funds;
- monitoring of transactions; and

8.2 AML Requirements

Customer due diligence shall be performed:

- when a business relationship is established;
- on single transactions that amount to EUR2,000 (or equivalent value in different currency) or more; and
- on transactions that are below EUR2,000 (or equivalent value in different currency) that the operator realises are connected, and that have a combined amount of at least EUR2,000.

The SGA deems a business relationship to exist at the point at which a customer registers with an online gambling operator. Due diligence is therefore required in relation to all online customers before they can engage in gambling.

Consistent with the Fourth AML Directive, Swedish AML regulations require gambling operators to implement a risk-based assessment of customers, which should be used to assess the risk of money laundering and terrorist financing; action should be taken accordingly.

Pursuant to the Act (2017:630) on Measures against Money Laundering and Financing of Terrorism, all operators must carry out a general risk assessment. The general risk assessment is to be regarded as a key component of a gambling operator's AML work and shall include how a gambling operator's products and services may be used to launder money or finance terrorism, and thereafter the risk is assessed on a case-by-case basis.

The SGA has provided operators with general advice as to which factors may constitute high or low risk:

- high risk involves the possibility of anonymous gaming, games where players play against each other, use of new payment and distribution technologies, play at a distance, or cross-border games; and
- low risk – low intensity of transactions, small scale (turnover), low profit repayment, or low stake and profit levels.

All licence holders shall hold policy and measures in place to counteract money laundering and terrorist financing. It is therefore imperative that there are close connections between the general assessment and other routines. Such routines must, at a minimum, include the following:

- monitoring and reporting;
- measures for consumer knowledge and due diligence;
- training of employees; and
- compliance and internal control management.

8.3 Recent or Forthcoming Changes

In a Bill that is currently being proposed, it is proposed that the SGA should be granted wider AML regulatory powers, by being able to force market actors to submit certain relevant forms of information. If passed, the law would enter into force 1 July 2025.

9. Advertising

9.1 Regulatory/Supervisory Agency

The supervision of marketing and advertisement of gambling products and services is divided

between, and handled by, the SGA and the Consumer Agency.

The SGA handles marketing that is specifically tied to gambling operations, such as information about specific games, bonuses and campaigns, and sponsorships.

The Consumer Agency oversees marketing not directly involved with gambling operations, such as moderate marketing, marketing targeting underage persons, direct marketing to persons and general rules flowing from by the Marketing Act.

9.2 Definition of Advertising

Marketing is defined in the Marketing Act as “advertising and other business activities intended to promote the sale of and access to products, including a trader’s act, omission or other measure or conduct before, during or after the sale or delivery of products to consumers or traders”.

9.3 Key Legal, Regulatory and Licensing Provisions

Provisions regulating gambling products and services are found in Chapter 15 of the Swedish Gambling Act. Additionally, general marketing rules and regulations are found in the Marketing Act (2008:486), which is based on Directive 2005/29EC of the European Parliament concerning unfair business-to-consumer commercial practices in an internal market.

Additionally, there are important sources of information that assist when interpreting the marketing regulations:

- preparatory works to the Gambling Act (prop. 2017/18:220);
- case law from the Patent and Market Court;

- guidelines and general advice given by the Swedish Consumer Agency;
- guidelines and general advice given by the Consumer Ombudsman; and
- marketing guidelines issued by Swedish gambling trade associations.

Advertisement and marketing targeting Swedish citizens without the possession of a gambling licence is a criminal offence.

9.4 Restrictions on Advertising

Advertisements and other forms of marketing may not be aimed specifically at people under the age of 18, nor directly target players who have registered with the Spelpaus self-exclusion registry. However, if a player has closed a player account with a licence holder, marketing can still be aimed at this player if consent has been given.

Commercial game notices must contain clear information about the minimum age to play. Where games are conducted and in connection with commercial announcements about games, with the exception of radio announcements, the licensee must ensure that contact information is also provided of an organisation that provides information about, and support in connection with, gaming problems.

When a licence holder enters into a sponsorship agreement, it must ensure that its logos and the names of gaming products or gaming services do not appear on products intended for use by persons under 18 years of age.

Bonuses are defined as a discount or similar financial incentive that is directly linked to gambling, and these are severely restricted in Sweden. The SGA has introduced a broad definition of what is to be considered a bonus, thereby

prohibiting the following under the Gambling Act:

- rewards and gifts to customers;
- prizes, such as cash or prizes in free games;
- non-cash prizes in tournaments;
- VIP incentives; and
- ongoing cashbacks and free spins.

Bonuses must only be issued to a player once per licence holder. Furthermore, licence holders must inform the player, using clear language, of the terms and conditions of the bonus offering. Payment of a bonus shall be made as soon as the terms and conditions laid out have been met, and the same bonus offerings shall be made on the same terms for all players receiving the bonus offering.

9.5 Sanctions/Penalties

Upon failure to comply with the provisions of the Marketing Act under the supervision of the Consumer Agency, the Consumer Agency may initiate an action at the Patent and Market Court. The action may pursue the following remedies:

- a prohibitory injunction coupled with fines; and/or
- fines for market disturbance.

9.6 Recent or Forthcoming Changes

To our knowledge, there are no recent or proposed changes regarding advertisement in relation to the Swedish gambling market.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Any legal entity directly or indirectly owning 10% or more shares or voting rights of a licence holder must submit an Annex B form.

All board members and key personnel of such a company must submit an Annex A form, as well as any person owning 10% or more of the shares or voting rights in the licence holder.

Any changes to ownership, the board, management, or personnel shall be reported to the SGA within 14 days, to be accompanied by a fee of SEK1,000 for physical persons, and SEK3,000 for legal persons.

10.2 Change of Corporate Control Triggers

The trigger in relation to changes in corporate control is as stated in **10.1 Disclosure Requirements**, ie, 10% direct or indirect ownership of the licence holder.

10.3 Passive Investor Requirements

See **10.1 Disclosure Requirements**.

10.4 Recent or Forthcoming Changes

To our knowledge there have been no relevant developments in this area.

11. Enforcement

11.1 Powers

The SGA can enforce the Gambling Act directly through decisions against gaming operators. The SGA also has the power to take action against gambling operators under the Act (2017:630) on Measures against Money Laundering and Ter-

rorist Financing. The various types of decisions the SGA can impose on gambling operators are listed in **11.2 Sanctions**.

Decisions from the SGA can be appealed to the Administrative Court.

Appealed decisions are not enforceable until the decisions have entered into force, which happens when a decision or judgment can no longer be appealed. The exception to this is if the SGA deems it necessary to have the decision be applicable in the interim.

11.2 Sanctions

The SGA has a number of sanctions at its disposal in the event that licence holders fail to comply with the Swedish Gambling Act and its provisions. The SGA can abstain from interventions and sanctions if it deems the offence to be minor or excusable, providing the licence holder rectifies the matter.

The primary sanctions available to the SGA are as follows (in hierarchical order):

- order the licence holder to rectify the breach;
- issue prohibitory injunctions;
- change the licence conditions, such as shortening the licence duration;
- issue a complaint, which could be coupled with a financial penalty ranging from SEK5,000 to 10% of the annual gross gaming revenue;
- issue a warning, which could be coupled with a financial penalty ranging from SEK5,000 to 10% of the annual gross gaming revenue; and
- revoke the licence of the licence holder.

Since the removal of the monopoly and the creation of a licensed market for online gambling, the

SGA has issued sanctions mainly due to illicit bonus offerings, the offering of betting products on games in which the majority of participants are minors, failure to comply with AML regulations and failure to comply with responsible gambling measures.

The actions taken, and ongoing supervisory cases, have been due to offences in the following areas:

- illicit bonus offerings;
- offering betting products on games in which the majority of participants are minors;
- failure to comply with AML regulations;
- failure to comply with responsible gambling measures, mainly failure to fully comply with Spelpaus legislation;
- illicit sponsorship;
- gambling at land-based state-operated casinos;
- casinos in restaurants; and
- gambling on ships in international waters.

11.3 Financial Penalties

See 11.2 Sanctions.

11.4 Recent or Forthcoming Changes

To our knowledge there have been no relevant developments in this area.

12. Tax

12.1 Tax Rate by Sector

Gambling tax shall be paid monthly to the Swedish Tax Agency. Licence holders shall pay tax at a rate of 22% of the gross gambling revenue (stakes – winnings paid out – bonuses given). This figure was raised from a previous tax rate of 18%, on 1 July 2023.

12.2 Recent or Forthcoming Changes

See 12.1 Tax Rate by Sector.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Personal licences do not exist within the Swedish regulatory framework for gambling. Licences are granted to gambling operators and, as of 1 July 2023, B2B operators.

13.2 Application Process

See 13.1 Types of Authorisations and Licences.

13.3 Ongoing Annual Fees

See 13.1 Types of Authorisations and Licences.

13.4 Ongoing Requirements

See 13.1 Types of Authorisations and Licences.

13.5 Personal Sanctions

See 13.1 Types of Authorisations and Licences.

13.6 Recent or Forthcoming Changes

See 13.1 Types of Authorisations and Licences.

SWITZERLAND



Law and Practice

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Planzer Law has an internationally recognised legal specialisation in technology, gaming, and entertainment. Tailored to each customer's needs, the firm's services include strategic advice, regulatory work, ensuring compliance, and a wide range of legal services. In an increasingly complex and evolving regulatory landscape, Planzer Law supports its clients to successfully navigate intricate multi-jurisdictional challenges relating to their technology, gaming, and entertainment businesses. The firm has specific expertise in Swiss land-based and online gaming

laws and can assist with the full range of advisory and litigation services. It also has experience in the supranational legal framework of the EU/EEA. In addition to technology, gaming, and entertainment, the firm's qualified attorneys and lawyers assist customers in all classic fields of business law and in white-collar criminal law. Building on an outstanding network of professionals, Planzer Law can offer one-stop-shop solutions in highly complex national and transnational matters in collaboration with the firm's trusted colleagues globally.

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PLANZER LAW

1. Introduction

1.1 Current Outlook and Recent Changes

On 1 January 2019, a new Gaming Act and four related ordinances entered into effect:

- the Gaming Ordinance;
- the Casino Ordinance; and
- two anti-money laundering ordinances.

The enforcement measures against unlicensed operators became applicable on 1 July 2019.

Under the new Act, only domestic casinos and lotteries can legally operate online games of chance. These incumbent operators, however, can co-operate with international B2Bs and B2Cs, provided that certain requirements are met.

The past licences for both bricks-and-mortar and online casinos have expired at the end of 2024. As of January 2025, 22 casinos offer casino games in bricks-and-mortar locations, twelve of which also offer online games. There is continued and substantial interest in business co-operation from international B2Bs and B2Cs as well as domestic casinos. This is not

surprising given the high value of Swiss online players. Furthermore, the new Swiss gaming regulation has proved to be reliable, notably in its approach towards responsible gaming, and it has not adopted new advertising restrictions. Accordingly, the opportunities in a market with only a few licensed offerings are substantial.

The Gaming Act is being evaluated as of 2025 under the supervision of the Federal Department of Justice and Police. The aim of the evaluation is to analyse and assess the effectiveness and impact of the new regulation, which came into force in 2019. In particular, the evaluation aims to determine whether the existing legal provisions and their implementation fulfil the objectives of the regulation.

The evaluation covers the following three topics:

- effects of the new regulation in the area of the legal gaming market and effectiveness of the current regulations for selected games;
- effectiveness of the protection of players from the dangers posed by gaming; and
- effectiveness of the measures to combat the illegal gaming market.

Recent Changes

The legislative change in 2019 constituted a complete overhaul of the legislative framework, replacing the formerly applicable Casino Act and Lottery Act with the new Gaming Act (*Geldspielgesetz*). For the first time, legislation was passed that comprehensively addresses both bricks-and-mortar and remote forms of gaming as well as skill gaming. As a consequence, the cantons (regions) also had to pass implementing legislation at regional level.

COVID-19 restrictions heavily impacted the bricks-and-mortar revenues during the pandemic but have since recuperated. By contrast, those casinos already operating an online platform were able to rely on these revenues. While elsewhere in Europe regulators abruptly imposed restrictions on advertising, this was not the case in Switzerland.

In February 2021, a new president of the Federal Gaming Board (ESBK), Mr Fabio Abate, took office, and in April 2022 a new director, Mr Thomas Fritschi, took office at the same authority. The ESBK is a two-tier authority with the full-time secretariat headed by a director and the part-time commission headed by a president.

Until October 2022, incumbent casinos and new contenders were able to apply for 20-year licences. On 29 November 2023 the Swiss federal government announced its eagerly anticipated decision on the new casino licences and awarded a total of 22 licences that will run for a 20-year time period starting in January 2025 (for more details, please refer to the Swiss [Trends & Developments](#) chapter in this guide).

Social Gaming

Some online social games have experienced major success. In Switzerland, such games are

not addressed directly by regulation. Under certain conditions, they can fall under the category of large-scale games. According to Article 3(e) of the Gaming Act, large-scale games include lotteries, sports betting, and games of skill that are carried out automatically, inter-cantonally, or online. If the social game at hand included game features that involve both consideration and prizes, it would require a licence from Gespa. Free gaming features, by contrast, do not require a licence.

E-sports

E-sports have grown tremendously around the world. The question of whether e-sports are sports is the subject of much discussion, including in Switzerland, where the regulatory authorities have not taken a final stance on the issue of e-sports. Gespa published a statement online in which it noted that neither a general definition of e-sports nor an overall qualification under the Gaming Act could be provided. The authority argued that e-sports may have characteristics of gaming and gambling, as well as sports.

The Federal Office of Sport (BASPO) takes the view that e-sports do not currently qualify as an official sport, as they are not understood as sports in the general social perception. In BASPO's view, e-sports were also in conflict with the Sports Promotion Act (*Sportförderungsgesetz*), Article 1 of which sets out the aim of sports promotion as being to increase sports and exercise activities.

The Intercantonal Gambling Supervision (Gespa) published a statement online in which it noted that neither a general definition of e-sports nor an overall qualification under the Gaming Act could be provided. The authority argued that e-sports may have characteristics of gambling and playing games as well as sports. In an initial

statement, Gespa stated that e-sports events are usually considered to be skill-based gaming in terms of the Gaming Act within the meaning of Article 3 letter a) and d), provided that a stake of monetary value must be paid and prizes are available. However, Gespa continues, such events only require a licence, if they are held on an intercantonal, automated or online basis.

The qualification of an e-sports event as a sports competition would have the consequence that the event would automatically be excluded from the scope of the Gaming Act, falling under one of its exemptions (Article 1 Paragraph 2 letter c) BGS).

The SIEA (Swiss Interactive Entertainment Association) and the SESF (Swiss Esports Federation) clearly reject the classification of esports activities as games of skill in the sense of the Gaming Act. In their view, e-sports conducted in tournaments, cups, individual events or league structures should be regarded as a competitive sporting activity and thus exempted from the Gaming Act.

Fantasy Sports

Fantasy sports are not addressed directly by the Gaming Act. According to Article 3(d) of the Gaming Act, skill games are games in which the outcome depends entirely or predominantly on the skill of the player. If the predominance of skill in a daily fantasy sports game can be shown, it is likely to qualify as a large-scale game under Swiss law or, more precisely, as an online skill game that requires an authorisation from Gespa.

Skill Gaming

The broad definition of skill gaming in Article 3(d) of the Gaming Act is further detailed in Article 2 of the Gaming Ordinance. A skill game should meet the following conditions:

- skilful players can win more than other players over a larger number of game units;
- in blind play mode, the probability of winning is low;
- players have several options for influencing the course of the game; and
- playing successfully requires skills of a certain complexity.

It can be expected that skill gaming, certainly online, will continue its success. It can easily be observed that millennials do not crave pure games of chance but are looking for games of skill or games of a hybrid nature. The skill gaming sector is a highly attractive one in Switzerland since online and land-based authorisations are available by way of a liberal licensing regime and no gaming tax applies in this sector.

Blockchain and Cryptocurrency

It is often argued that blockchain can revolutionise the gaming and gambling sector. Indeed, if properly applied, there is the potential for transparency and efficiency. Since transaction data is immutable, there is more reliability and transparency, and with faster and cheaper financial movements, the player experience can become smoother and gaming operations more efficient. Along with some other nations, Switzerland was quickly identified as a “crypto nation” and has been at the forefront of hosting blockchain and cryptocurrency initiatives. This also has to do with a crypto-friendly regulatory environment.

Consequently, the regulatory authority ESBK had received enquiries from casinos regarding the use of cryptocurrencies as a means of payment. As a matter of fact, the Gaming Act and its ordinances do not exclude the use of blockchain technology or cryptocurrencies. However, pursuant to Article 80(2) of the Gaming Ordinance, the ESBK may prohibit certain means of payment if

their use is incompatible with the objectives of the Gaming Ordinance. As such, licensed operators interested in using blockchain and cryptocurrencies would have to convince the regulator that the strict legal requirements can be met with these means.

In September 2023, however, ESBK issued a statement on the use of crypto currency as a means of payment in casinos. ESBK took the stance that crypto currencies imposed a risk in terms of combating money laundering and terrorist financing due to its inherent anonymity and difficulties in identifying beneficial owners. Upon assessment of the legal framework in Switzerland, the ESBK concluded that the current law does not offer sufficient guarantees to mitigate these risks and as such the risk would be too great to allow cryptocurrencies to be used as a means of payment in Swiss casinos.

Nevertheless, the possibility of using crypto currencies in Swiss casinos in the future is not ruled out irrevocably by this statement if ESBK came to conclude in the future that the legal framework was adapted to mitigate the risks that they had identified.

2. Jurisdictional Overview

2.1 Online Betting

Large-scale betting services can be offered exclusively by the two public lotteries -*Swisslos* and *Loterie Romande*.

Bingo

Large-scale bingo services can be offered exclusively by the two public lotteries.

Casino

Casino services can be offered exclusively by the licensed bricks-and-mortar casinos.

Lotteries

Large-scale lottery services can be offered exclusively by the two public lotteries.

Fantasy Sports

Given the legislative criteria, fantasy sports are likely to qualify as skill games, in which case a skill game operator is required to apply for a licence from the inter-cantonal skill game regulator Gespa and have their games tested.

Social Gaming

Social gaming does not fall within the ambit of the Gaming Act if it does not include the elements of consideration and/or a prize.

Poker

Similar to casino games, online poker services can be offered by the licensed bricks-and-mortar casinos, which can partner with other domestic casinos as well as international poker platforms. International shared liquidity is permitted under the applicable gaming laws.

Other Relevant Sectors

With the entry into effect of the Gaming Act, all games of chance and games of skill are, in principle, regulated and can also be offered online, subject to certain conditions and exclusive rights. So-called large-scale games (*Grossspiele*) include lotteries, sports betting, and games of skill if they are operated online, automatically or inter-regionally (between cantons). The two public lotteries hold the exclusive right to operate online games in the areas of lotteries and betting. By contrast, any skill gaming operator can apply for a licence, provided that it also seeks establishment in Switzerland, with attractive tax

solutions being available. Under strict conditions, media publishers and shops may organise lotteries and games of skill without a licence or authorisation.

2.2 Land-Based

Overall and with few exceptions, similar exclusive rights and conditions apply in the land-based sector as in the online sector (see 2.1 Online).

Betting

Large-scale betting services can be offered exclusively by the two public lotteries -*Swisslos* and *Loterie Romande*.

Bingo

Large-scale bingo services can be offered exclusively by the two public lotteries.

Casino

Casino services can be offered exclusively by the licensed bricks-and-mortar casinos.

Lotteries

With few exceptions, large-scale lottery services can be offered exclusively by the two public lotteries.

Fantasy Sports

Given the legislative criteria, fantasy sports are likely to qualify as skill games, in which case a skill game operator is required to apply for a licence from the inter-cantonal skill game regulator Gespa and have their games tested.

Social Gaming

Social gaming does not fall within the ambit of the Gaming Act if it does not include the elements of consideration and/or a prize.

Poker

Similar to casino games, the licensed bricks-and-mortar casinos can offer land-based poker services, but no longer have the exclusive right to do so. The cantons can permit so-called “small poker tournaments” and grant authorisations to poker operators that wish to organise such tournaments.

Other Relevant Sectors

See the comments under 2.1 Online, which apply in similar terms for the land-based sphere. Skill gaming operations only require a licence if they are organised online, automatically, or inter-regionally (between cantons). Under strict conditions, media publishers and shops may organise lotteries and games of skill without a licence or authorisation.

3. Legislative Framework

3.1 Key Legislation

In September 2017, the Swiss parliament passed a fully revised Gaming Act. A referendum was organised against the Act, but the voters adopted the Act. On 1 January 2019, it entered into effect along with four related ordinances:

- the Gaming Ordinance;
- the Casino Ordinance; and
- two anti-money laundering ordinances.

The Gaming Act serves as the legal framework for all games that involve consideration and prizes. It brought significant changes as it regulates online games and replaces all formerly applicable federal gaming laws (mainly the Lottery Act and the Casino Act).

Primary Law

- The Gaming Act (*Geldspielgesetz, Loi fédérale sur les jeux d'argent, Legge federale sui giochi in denaro*) was passed by the federal parliament on 29 September 2017 and entered into force on 1 January 2019.

Secondary Law

- The Gaming Ordinance (*Geldspielverordnung, Ordonnance sur les jeux d'argent, Ordinanza sui giochi in denaro*) was passed by the federal government on 7 November 2018 and entered into force on 1 January 2019.
- The Casino Ordinance (*Spielbankenverordnung – EJPD, Ordonnance du DFJP sur les maisons de jeu, Ordinanza del DFGP sulle case da gioco*) was passed by the Federal Department of Justice and Police (EJPD) on 7 November 2018 and entered into force on 1 January 2019.
- The Money Laundering Ordinance (*Geldwäschereiverordnung – EJPD, Ordonnance du DFJP sur le blanchiment d'argent, Ordinanza del DFGP sul riciclaggio di denaro*) was passed by the EJPD on 7 November 2018 and entered into force on 1 January 2019.
- The Money Laundering Ordinance (*Geldwäschereiverordnung – ESBK, Ordonnance du CFMJ sur le blanchiment d'argent, Ordinanza del CFCG sul riciclaggio di denaro*) was passed by the Federal Gaming Board (ESBK) on 12 November 2018 and entered into force on 1 January 2019.

Furthermore, these federal laws have been implemented in revised cantonal laws.

3.2 Definition of Gambling

While the Gaming Act does not define “gambling” as such, it addresses “money games” in Article 3(a), which are defined as games in

which a prize or something of monetary value can be expected in exchange for a stake (money or money’s worth) or by the conclusion of a legal act or transaction (German version: *Spiele, bei denen gegen Leistung eines geldwerten Einsatzes oder bei Abschluss eines Rechtsgeschäfts ein Geldgewinn oder ein anderer geldwerter Vorteil in Aussicht steht*; French version: *les jeux qui, moyennant une mise d'argent ou la conclusion d'un acte juridique, laissent espérer un gain pécuniaire ou un autre avantage appréciable en argent*; Italian version: *i giochi che, fatta una posta pecuniaria o concluso un negozio giuridico, prospettano la possibilità di una vincita in denaro o di un altro vantaggio pecuniario*).

3.3 Definition of Land-Based Gambling

There is no specific definition of land-based gambling. See 3.2 Definition of Gambling.

3.4 Definition of Online Gambling

There is no specific definition of online gambling. See 3.2 Definition of Gambling.

3.5 Key Offences

The key offences that can be committed are as follows:

- operating, organising or providing casino games or large-scale games without the necessary licences or authorisations (Article 130(1)(a), Gaming Act);
- providing the technical means for the organisation of casino games or large-scale games, being aware of the intended use, to persons who do not hold the required licences or authorisations (Article 130(1)(b), Gaming Act); and
- obtaining a licence or authorisation by way of providing false information or in similar deceptive ways (Article 130(3), Gaming Act).

3.6 Penalties for Unlawful Gambling

According to Article 130(1) of the Gaming Act, a person who intentionally commits the criminal offence of organising casino or large-scale games, or of providing the technical means for such operations, shall be punished with a custodial sentence of up to three years or a fine. According to Article 130(2) of the Gaming Act, the penalty shall be imprisonment for up to five years or a fine of not less than 180 daily rates if the offence is committed with a commercial interest or as an organised form of crime.

Finally, Article 130(3) of the Gaming Act states that a fine of up to 180 daily rates shall be imposed on anyone who deliberately obtains a licence or authorisation by way of false information. Other criminal offences, such as advertising, only qualify as misdemeanours and are subject to a maximum fine of CHF500,000.

3.7 Recent or Forthcoming Legislative Changes

The federal Gaming Act and its ordinances entered into effect in 2019 and the cantons passed related cantonal laws within the subsequent years. The federal parliament also passed a new Data Protection Act (Federal Law on Data Protection), which entered into effect, along with a new data protection ordinance, on 1 September 2023. Finally, the sector-unspecific Anti-Money Laundering Act (AMLA) and its Anti-Money Laundering Ordinance (AMLO) were amended and entered into effect on 1 January 2023.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The ESBK has regulatory oversight over the casino sector. The Swiss Gambling Supervisory

Authority, Gespa (formerly Comlot), is an inter-cantonal authority that has regulatory oversight over the lottery and betting market on behalf of the cantons. The EJPD (Federal Department of Justice and Police) holds co-ordination powers and oversees the regulated market in Switzerland. Finally, the cantonal supervisory authorities also hold certain regulatory powers.

4.2 Regulatory Approach

Switzerland has largely adopted a protectionist approach in the area of games of chance, with the incumbent domestic B2Cs enjoying exclusive operating rights. By contrast, this is not the case in the field of games of skill. Overall, the Gaming Act installed a regulatory regime in which licensed land-based games of chance operators can also offer their games online.

As was already the case under the old law, the market is split into three sectors:

- lottery and betting;
- casino; and
- skill.

The two public lotteries – *Swisslos* and *Loterie Romande* – continue to enjoy far-reaching exclusive rights in the lottery and betting sector. Similarly, only land-based casinos can legally operate casino games. The exclusive rights of the lotteries and casinos apply in relation to both land-based and online games, with few exceptions, such as for land-based small poker tournaments. Furthermore, the cantons continue to hold the powers to regulate skill games in more detail.

4.3 Recent or Forthcoming Changes

The current licences of the 21 incumbent bricks-and-mortar casinos run out at the end of 2024. Incumbent casinos, as well as new applicants,

were able to submit their applications until the end of October 2022. In total, 29 licence applications for terrestrial casino licences as well as 12 applications for online licences were submitted. Upon recommendation by the ESBK, the federal government granted 22 casino licences on 29 November 2023. These licences will run for a 20-year time period starting in January 2025.

4.4 Types of Licences

Following the completion of a vetting procedure undertaken by the ESBK, the federal government granted the licences to the successful casino applicants. Since these licences represent so-called concessions, applicants have no enforceable right to be granted a land-based licence and cannot appeal the government's decision.

In the lottery and sports betting sectors, the cantons have granted *Swisslos* and *Loterie Romande* the exclusive right to offer these games. The cantons are the owners of these two entities.

In relation to online games of chance, the Gaming Act provides for the possibility for international B2Cs and B2Bs to co-operate as business partners with the casinos and lotteries. In the skill gaming sector, independent authorisations are available to B2Cs, and a liberal licensing regime applies, whereby online and/or land-based applicants are granted a licence when they meet the legislative requirements.

4.5 Availability of Licences

According to Article 9 of the Gaming Act, the federal government shall extend the casino bricks-and-mortar licence to include the right to conduct casino games online if the applicant fulfils the conditions set out in Article 8(1)(a)(1) to (4) and (b) to (d) with regard to the online offering. International business partners of domestic casinos and lotteries cannot be granted a licence,

and do not need one. The licence application and/or extension are/is carried out through the domestic operator.

In the skill gaming sector, by contrast, international operators do not need to co-operate with incumbent domestic entities and can apply independently for a skill gaming licence.

4.6 Duration of Licences

According to Article 12 of the Gaming Act, the licence for casino operations is valid for 20 years. In special circumstances, the federal government may provide a licence for a shorter or longer period. The licence may be extended or renewed. With regard to large-scale games, the operator's licence and game authorisations (*Veranstalter- und Spielbewilligung*) may be limited in time and renewed; the same is true for small-scale games (*Kleinspiele*).

4.7 Application Requirements

According to Article 8 of the Gaming Act, a licence for casino operations may be granted in the following circumstances.

- The applicant:
 - (a) is a public limited company under Swiss law and its share capital is divided into registered shares;
 - (b) presents a security concept and social concept;
 - (c) submits economic viability calculations that credibly show that the casino is economically viable;
 - (d) sets out the measures to be taken to create the conditions for the proper assessment of the casino duties; and
 - (e) presents the economic benefits of the casino for the region in a report.
- The applicant and its main business partners, as well as their beneficial owners and the

holders of shares and their beneficial owners, have a good reputation and provide a guarantee of proper business conduct and independent management.

- The applicant, the holders of shares, the beneficial owners of the shares, and, at the request of the ESBK, the most important business partners have sufficient funds of their own and can prove the lawful origin of the available funds.
- The by-laws, the organisational structure, and the contractual obligations guarantee the proper and independent conduct of the casino business.
- The canton and municipality, in which the location is situated, support the operation of a casino.

Large-scale games such as lotteries, sports betting, and skill gaming require inter-cantonal authorisation and are subject to supervision by the inter-cantonal authority Gespa. Small-scale games only require cantonal approval. While the Gaming Act further outlines the conditions under which operations of large-scale lotteries and betting can be authorised, the cantons have de facto monopolised this sector, and Gespa cannot grant further licences to other applicants. The conditions outlined under Article 22 of the Gaming Act are therefore of interest primarily to skill game operators. Such authorisation can be granted if the operator:

- is a legal entity under Swiss law;
- enjoys a good reputation;
- outlines its economic situation;
- discloses any financial or other form of participation in other companies;
- proves the lawful origin of the available funds;
- guarantees impeccable management and its independence vis-à-vis third parties;

- has sufficient funds and guarantees that the winnings are paid out to the players; and
- has a security concept and a social concept.

Key Differences Between Application Requirements for Land-Based and Online Operators

According to Article 9 of the Gaming Act, the federal government may extend the land-based casino licence to include the right to conduct casino games online if the applicant fulfils the conditions set out in Article 8(1)(a)(1) to (4) and (b) to (d) with regard to the online offer. Such application may also be submitted during the ongoing licence term. Various technical requirements must be met in order to be allowed to offer online casino games. According to the Gaming Ordinance, the EJPD can issue technical requirements, notably in relation to games, jackpots, online gaming platforms, jackpot systems, the electronic accounting and control system (EAKS), and the data recording system (DZS).

It is noteworthy that the international business partners of land-based casinos and lotteries do not need to seek establishment in Switzerland, but online skill gaming operators must do so in order to qualify for an authorisation.

Key Application Requirements for Directors, Owners, or Senior Management

The main business partners of casinos must, inter alia, fulfil the following criteria.

- Good reputation – the main business partners must, in principle, fulfil the “good reputation” criterion. Beyond a mere fit and proper test, former market activities of B2Cs in Switzerland are considered to be relevant by law. The regulator has interpreted this criterion strictly

in relation to casino partnerships and for the duration of a five-year cool-down period.

- Sound business conduct and independent management – the law demands that the main business partners must guarantee sound business conduct and independent management.
- No outsourcing of important tasks – the law obliges casinos to fulfil the central activities of all the important tasks by themselves. These important tasks, defined by law, cannot be outsourced to international business partners. White-label solutions, in particular, are not permissible under Swiss law.
- No revenue share based on gross gaming revenue (GGR) or turnover – the law prohibits the compensation of business partners based on GGR or turnover. Game providers only are exempted from this rule, and their remuneration must be appropriate/reasonable according to the law.

Key Application Requirements for Shareholders, Including Disclosure Thresholds

Shareholders and their beneficial owners need to have a good reputation and provide a guarantee for proper business conduct and independent management. Moreover, shareholders and the beneficial owners of the shares need to have sufficient funds of their own and be able to prove the lawful origin of the available funds.

According to Article 13 (b) and (c) of the Gaming Act, the casino licensee reports to the ESBK the name or company name and address of shareholders holding more than 5% of the share in relation to capital or votes, and any amendments to the share in relation to capital or voting rights as well as the identity details referred to above.

4.8 Application Timing

There are no specific application windows for online licences in Switzerland. By contrast, land-based casino licences run for a duration of 20 years, in principle, after which existing and new applicants can apply for a licence. By the end of 2024, all casino licences have run out and the newly granted 22 landbased licences apply as of January 2025. It is noteworthy that there is no fixed licensing window for online licences and that, accordingly, casinos can still apply for an online extension of their licences at any point in time, and also after the re-licensing of the casino landscape.

4.9 Application Fees

There are no fixed licensing costs defined by law for any game categories. The Federal Gaming Board must assess whether the application meets the legal criteria. According to Article 102 of the Gaming Ordinance, the costs ultimately depend on the time and effort spent by the regulator to assess the application, and vary between CHF100 and CHF350 per hour.

4.10 Ongoing Annual Fees

According to Article 106 of the Gaming Ordinance, the supervisory costs consist of the costs of the Federal Gaming Board and of the services of other offices that it uses. The Gaming Ordinance outlines the details of the calculation, and the amount is defined on an annual basis by the EJPD.

The 2020 All Switzerland Gaming Convention is an inter-cantonal agreement of all cantons in which they further regulate the Swiss lottery and betting market, notably the regulatory authority Gespa and its administrative fees. The inter-cantonal agreement entered into effect on 1 January 2021. Gespa can raise fees according to its fee regulations. The latter needs to be approved by

the united finance ministers of the cantons. The present Fee Regulations were adopted on 11 January 2021.

5. Land-Based Gambling

5.1 Premises Licensing

No information has been provided in this jurisdiction.

5.2 Recent or Forthcoming Changes

While the Gaming Act did not alter the essence of the regulatory regime applicable to land-based casinos, it did bring a certain regulatory easement; for instance, in relation to casinos in the mountain areas that only need to staff table games during part of the year.

In relation to the public lotteries, their portfolio has been substantially widened and they are at least legally permitted to offer a more attractive sportsbook than before the legislative overhaul. Finally, online skill gaming operators are able to apply for an inter-cantonal authorisation from Gespa.

6. Online Gambling

6.1 B2C Licences

According to the law, casino licences are granted for 20 years, in principle. As of January 2025, 22 casinos throughout Switzerland can use their bricks-and-mortar licences. Twelve of them are also granted the right to offer or to continue offering online. Extensions to offer online can be applied for at any time (no licensing window). For more details, see 4. **Licensing and Regulatory Framework**.

The cantons have monopolised the area of lottery and sports betting, and only two licences are granted to large-scale lotteries: Swisslos for the German and Italian part of Switzerland, and Loterie Romande for the French-speaking part.

In relation to skill gaming operators, Gespa holds the powers to grant licences and such licences are to be granted when the applicant meets the legal requirements.

6.2 B2B Licences (Suppliers, Software, Etc)

International B2Cs and B2Bs can enter into business agreements with domestic casinos and lotteries. However, irrespective of their services, these partners neither need to secure a licence, nor can they qualify for a licence. If they are considered as main business partners, they will need to fulfil the so-called good reputation criterion, the assessment of which also depends on former market activities in the grey market. For more details, see 4. **Licensing and Regulatory Framework**.

6.3 Affiliates

The use of affiliates is not addressed by the Gaming Act, nor are there specific licences available for affiliates.

6.4 White Labels

The law obliges the casinos to fulfil the central activities of all the important tasks by themselves. Notably, white-label solutions are not permissible.

6.5 Technical Measures

Unlicensed online operators are expected to geo-block players residing in Switzerland. If the ESBK or Gespa becomes aware of an unlicensed Switzerland-facing website, it can send a warning letter to the operator and/or put the website

on its blacklist. Swiss internet service providers (ISPs) are then requested to block these websites. Updated blacklists are published by both the ESBK and Gespa on a regular basis.

So far, the regulatory authorities have shown little appetite to try criminal law as a means of enforcement against unlicensed websites. Although payment blocking was discussed during the long legislative process, payment blocking measures were not adopted by the parliament and are therefore not in use.

6.6 Recent or Forthcoming Changes

The decision of the federal government in November 2023 on the allocation of the newly granted licences had a significant impact on the appearance of the casino landscape in Switzerland as of January 2025. There are now 22 (formerly 21) bricks-and-mortar casinos throughout Switzerland, 12 (formerly 10) of which were also granted the right to offer or to continue offering online gaming.

Furthermore, a decision will be made on the further procedure for the licence in the Schaffhausen zone once a new Casino Landscape Report is published along with a Gaming Act evaluation. No suitable application was submitted for this zone during the licensing window that closed in October 2022. This zone may therefore be re-licensed after 2028.

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

7.1 RG Requirements

Responsible gambling is among the central goals defined by the Gaming Act, whereby the population shall be appropriately protected from

the “dangers” stemming from gambling and gaming. The law further demands that online casino games and large-scale games shall be accompanied by appropriate measures for player protection. Applicants for a casino licence, as well as the lotteries, must submit both a security concept and a social concept; the latter must notably outline how the casino intends to ensure the protection of players not only from problem gambling (in a medical and psychiatric sense) but also from excessive gambling (that is, spending beyond a player’s affordability of financial means).

The operators must outline which measures they intend to implement to inform players and to identify problem gamblers early on and must outline which measures they will adopt regarding self-control, game limitation and moderation, the application of exclusions, the training and continued education of the staff in charge of implementing the social concept, and the collection of data to evaluate the effectiveness of such measures. In doing so, the casinos and lotteries regularly collaborate with researchers, and prevention and treatment centres.

7.2 Gambling Management Tools

Gambling management tools include the possibility of self-exclusion as well as exclusion by the operator, both online and in bricks-and-mortar casinos. The law further requires that the online player has easy access to information regarding their gaming behaviour. When opening a player account, the online player is required to define maximum amounts of what they are willing to wager per day, week, or month. This requirement is mandatory for casinos but not for operators of large-scale games. The player can further define a cool-down period during which they can choose not to play a whole category of games or any type of game.

Operators are further required to provide specific information to players and to identify problematic gambling behaviour early on and act swiftly and appropriately. Finally, prevention and treatment centres also pursue their own efforts and provide online self-control tools to players.

7.3 Recent or Forthcoming Changes

The Swiss legislature and/or the regulators (ESBK and Gespa) have not adopted new RG requirements recently. Notably, this was also not the case during the pandemic. The Swiss federal government and the government of Liechtenstein have signed an agreement to co-ordinate the joint enforcement of blocked players in both countries.

In November 2023, the federal government closed a regulatory gap in the Gaming Ordinance regarding the responsibility to revoke player bans imposed by a casino or a (large-scale) lottery that no longer exists. Since

1 January 2024, the casino located nearest to the now-defunct casino is in charge of the lifting of the player ban.

8. Anti-money Laundering (AML)

8.1 AML Legislation

According to Article 67(1) of the Gaming Act, the casinos and the operators of large-scale games are subject to the Money Laundering Act (*Geldwäschereigesetz, Loi sur le blanchiment d'argent, Legge sul riciclaggio di denaro*). The provisions of the Money Laundering Act were further outlined and detailed in secondary law, in the Money Laundering Ordinance (*Geldwäschereiverordnung, Ordonnance sur le blanchiment d'argent, Ordinanza sul riciclaggio*

di denaro). Both the Act and the Ordinance were recently revised by the federal parliament.

Furthermore, the following ordinances apply specifically in the gambling and gaming sector as *leges speciales* (special laws):

- the Money Laundering Ordinance (*Geldwäschereiverordnung* – EJPD, *Ordonnance du DFJP sur le blanchiment d'argent, Ordinanza del DFGP sul riciclaggio di denaro*), which was passed by the EJPD on 7 November 2018 and entered into force on 1 January 2019; and
- the Money Laundering Ordinance (*Geldwäschereiverordnung* ESBK, *Ordonnance de la CFMJ sur le blanchiment d'argent, Ordinanza della CFCG sul riciclaggio di denaro*), which was passed by the ESBK on 12 November 2018 and entered into force on 1 January 2019.

8.2 AML Requirements

The federal parliament recently revised the sector-unspecific Anti-Money Laundering Act (AMLA); along with the equally revised Anti-Money Laundering Ordinance (AMLO), it entered into effect on 1 January 2023.

8.3 Recent or Forthcoming Changes

AML requirements from other Financial Action Task Force (FATF) jurisdictions apply similarly in Switzerland. The Gaming Act deals with AML in its fourth chapter. However, the thresholds that trigger enhanced customer due diligence (CDD) obligations are significantly higher in Switzerland compared to the AML Directives of the EU (which apply to both the land-based and remote gambling sectors), as illustrated by the example of online games. According to Article 68 of the Gaming Act, the online player must be identified in accordance with the provisions of the AML Act

if monthly stakes or the individual or aggregated winnings per month reach a significant value. The ESBK defines that value for the casino sector, and the EJPD defines it for the large-scale game sector.

Casinos must apply the enhanced CDD measures (identification and registration) if the player reaches the threshold of CHF4,000 within 24 hours, with one or more transactions, either by pay-ins to their player account or by payouts to their bank account. In the area of large-scale games – which include online lottery, betting, and skill gaming – the threshold for enhanced CDD (identification and registration) applies if the player reaches CHF15,000 by way of pay-ins to their player account or CHF10,000 and CHF25,000 respectively by way of payouts to their bank account (depending on the odds that applied to the game), in one or several transactions within 30 days.

Article 69 of the Gaming Act specifically stipulates that casinos and operators of large-scale games may not accept or issue bearer cheques. While they may accept cheques made out in their name, they have to verify the identity of the person issuing the cheque and register the transaction. Winnings can be made available to the players in a deposit account, but no interest can be paid on this deposit account. Finally, it is prohibited for casinos to issue any written confirmation of winnings to the players.

9. Advertising

9.1 Regulatory/Supervisory Agency

The ESBK has regulatory oversight over the casino sector, and Gespa has regulatory oversight over the lottery and betting market on behalf of the cantons. The same powers apply

accordingly in relation to advertising and the regulatory oversight of it. Finally, it is possible for the Federal Office of Communication (*Bundesamt für Kommunikation*, or BAKOM) to have regulatory oversight as well in certain circumstances involving broadcasters of TV, radio, or internet programmes.

9.2 Definition of Advertising

Neither the Gaming Act, its ordinances, nor the Federal Act against Unfair Competition define the term “advertising”. The Swiss judiciary rightly noted that Swiss law did not define advertising and accordingly referred to a definition provided by the Federal Commission on Fair Trading (*Lauterkeitskommission*): “Commercial communication shall mean any measure taken by competitors or third parties who systematically influence a majority of people in their attitudes to particular goods, works, services, or business relationships for the purpose of concluding or preventing a transaction” (Judgment of 15 June 2017 of the Cour de Justice de Genève: ACPR/397/2017, pt 4.2). In a decision in 2024, the ESBK offered some guidance on how it interprets the notion of “advertising”.

9.3 Key Legal, Regulatory and Licensing Provisions

In order to be able to conduct casino or large-scale games, a licence/authorisation is required in accordance with the requirements of Articles 8 and 22 of the Gaming Act. One of the key regulatory requirements concerns the composition and submission of a security concept (*Sicherheitskonzept*) and a social concept (*Sozialkonzept*). The way a licensed operator wishes to communicate commercially and responsibly with its customers and potential customers should be addressed in the social concept.

Articles 22(1)(i), 74, 131(1)(b) and (c) of the Gaming Act and Articles 27(2) and 76–78 of the Gaming Ordinance deal with advertisements. The key provisions will be dealt with further in the following sections of this guide.

9.4 Restrictions on Advertising

Advertising restrictions apply to licensed operators. According to Article 74 of the Gaming Act, gaming operators may not advertise in an obtrusive or misleading manner, and advertising may not be directed at minors or persons who have been barred from gambling. The Gaming Ordinance further details what misleading and obtrusive practices mean.

According to Article 77(1) of the Gaming Ordinance, advertising messages are considered misleading, in particular, if they give distorting information about the chances of winning or possible winnings, or convey the impression that:

- knowledge, ability, skill, or other characteristics of the player influence the chances of winning, without this being the case due to the nature of the game;
- the chances of winning are increased by longer or more frequent play;
- money games are an appropriate means of solving financial or personal problems;
- participation in gambling is an alternative to a working life; or
- increased participation in gambling is an appropriate means to compensate losses already incurred.

According to Article 77(2) of the Gaming Ordinance, the following, in particular, shall be regarded as obtrusive:

- telephone sales activities;

- sales activities in residential premises or their immediate vicinity, on public transport, and at marketing events related to excursions or similar events;
- personally addressed advertising via electronic channels without the possibility of opting out or unsubscribing; and
- advertising by means of push messages based on the electronic localisation of a mobile device of the player or other forms of personally addressed advertising via electronic channels based on such localisation.

Pursuant to Article 74(3) of the Gaming Act, advertising for games not licensed in Switzerland is prohibited, as is indirect advertisement (ie, the advertising of free gaming offers). According to Article 76 of the Gaming Ordinance, advertising for games that do not require any stake or do not result in the distribution of prizes is subject to the restrictions and prohibitions set forth in Article 74 of the Gaming Act if:

- the games are offered by an operator whose main offer consists of games involving stakes and prizes; and
- the player can detect a connection between games without stakes and prizes and games including stakes and prizes offered by the same operator.

9.5 Sanctions/Penalties

Pursuant to Article 131(1) of the Gaming Act, a fine of up to CHF500,000 can be imposed on anyone who intentionally advertises games that are not authorised in Switzerland or who advertises licensed games by aiming the advertising at minors or persons who are barred from playing.

9.6 Recent or Forthcoming Changes

Contrary to numerous other European countries, the Swiss legislature and/or the regulators, ESBK and Gespa, have not adopted new advertising restrictions during the pandemic or otherwise in recent years.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

According to Article 13 of the Gaming Act, the licensee must notify the ESBK of:

- all significant changes to the licensing conditions;
- the name or company name and address of shareholders holding more than 5% of the shareholder capital or the votes; and
- any changes in shareholder capital or voting rights, or in the identity information referred to under 4.7 Application Requirements.

10.2 Change of Corporate Control Triggers

Article 13(b) of the Gaming Act requires the licensee to notify the ESBK of the name or company name and address of shareholders holding more than 5% of the shareholder capital or votes. Furthermore, Article 7(1) of the Gaming Ordinance holds that “beneficial owners” are persons whose direct or indirect participation in the applicant’s shareholder capital amounts to at least 5%, as well as persons or groups of persons associated with voting rights who hold at least 5% of all voting rights. The same provision requires that persons holding such a participation shall inform the ESBK of whether they hold the participation for themselves or on a fiduciary basis for third parties, and whether they have

granted options or similar rights to others for such participation.

10.3 Passive Investor Requirements

See 10.2 Change of Corporate Control Triggers.

10.4 Recent or Forthcoming Changes

No substantial changes.

11. Enforcement

11.1 Powers

The ESBK is the supervisory authority in the casino sector and monitors compliance with casino regulations and licensing requirements; it also takes enforcement actions against illegal gambling. Pursuant to Article 97(1)(d) of the Gaming Act, the ESBK co-operates with domestic and foreign supervisory authorities. Its powers of enforcement are of both an administrative law and a criminal law nature. As per administrative law, the ESBK can send warning letters to unlicensed online operators and put their websites on a blacklist; ISPs are then required to block these websites. As per criminal law, the ESBK can prosecute illegal gambling offers by opening criminal proceedings and collaborating with other domestic enforcement offices.

In the lottery, betting, and skill gaming market, similar legal norms exist for Gespa. According to Article 107(1) of the Gaming Act, Gespa takes actions against illegal gambling and co-operates with domestic and foreign supervisory authorities. It can take the same enforcement actions of an administrative law nature as the ESBK (warning letter, blacklisting, and domain blocking). While Gespa can conduct administrative proceedings independently (eg, in relation to compliance with AML rules and the security concept and social concept), it cannot do so in the

field of criminal proceedings; it can only inform and support the law enforcement authorities.

11.2 Sanctions

The new criminal law sanctions have been available by law since 1 January 2019 and the new administrative law sanctions since 1 July 2019. While these sanctions are available to the authorities, their use and effectiveness have been limited.

It has been possible to apply blacklisting and domain blocking measures since 1 July 2019, but initially they experienced delays in practice. The first blacklists by the ESBK and Gespa were published on 3 September 2019 and included a rather limited number of websites. Over the past four years the list has been updated regularly and has thus grown steadily and currently constitutes approximately 1,400 domain names.

As per criminal law sanctions, the regulatory authorities have thus far shown little appetite to use enforcement means of criminal law against unlicensed online operators. This is not very surprising since the applicability of Swiss criminal law in relation to acts taking place abroad (that is, remotely offering games through the internet) and the enforceability of criminal sanctions in relation to such acts abroad is uncertain.

11.3 Financial Penalties

Financial penalties can be enforced rather easily within the territorial boundaries of Switzerland. In other words, financial penalties against licensed or unlicensed operators based in Switzerland are enforceable. By contrast, if the Swiss authorities were to hand down financial penalties against unlicensed operators based abroad, their enforceability would be uncertain, as there are both legal and practical difficulties that make enforcement questionable.

Contrary to other European countries, there are no indications that penalties for offences by licensees would have been significantly raised. The fines continue to be calculated based on the provisions in the Gaming Act and the general principles enshrined in the Federal Criminal Code.

11.4 Recent or Forthcoming Changes

No substantial changes.

12. Tax

12.1 Tax Rate by Sector

According to Article 120(2)(a) of the Gaming Act, the progressive tax rate for land-based casino operations shall be set between 40% and 80% of the GGR (*Spielbankenabgabe*). The Gaming Ordinance regulates the tax rate in more detail. Pursuant to Article 114(1) of the Gaming Ordinance, the basic tax rate regarding GGR generated in terrestrial casinos is 40% and is applied on GGR up to CHF10 million. For every additional CHF1 million, the marginal tax rate increases by 0.5%, up to the theoretical maximum rate of 80%.

According to Article 120(2)(b) of the Gaming Act, the progressive tax rate for online casino operations shall be set between 20% and 80% of the GGR. The law sets forth that the tax rate can be reduced to half the amount during the first four years of operation. Pursuant to Article 115(1) of the Gaming Ordinance, the basic tax rate of 20% is applied on GGR up to CHF3 million. From this value, the marginal tax rate increases by the following steps up to the theoretical maximum tax rate of 80%:

- 2% for each additional CHF1 million of GGR between CHF3 million and CHF10 million;

- 1% for each additional CHF1 million of GGR between CHF10 million and CHF20 million;
- 0.5% for each additional CHF1 million of GGR between CHF20 million and CHF40 million;
- 0.5% for each additional CHF4 million of GGR between CHF40 million and CHF80 million; and
- 0.5% for each additional CHF10 million of GGR from CHF80 million.

It should be noted that the financial compensation scheme of a Swiss land-based casino towards international business partners is subject to approval by the ESBK.

There is no gaming tax with regard to skill gaming; the normal local tax rate applies. Accordingly, the tax competition between cantons and municipalities applies in this field, with some cantons and municipalities applying internationally competitive tax rates.

With regards to the public lotteries, their net profit is earmarked and supposed to go, by law, to good causes such as sports and culture.

12.2 Recent or Forthcoming Changes

No substantial changes.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

There are no personal authorisations and licences in Switzerland applicable to individuals. One related licensing aspect can be seen in the background checks and authorisations of beneficial owners, management or important business partners of the bricks-and-mortar casinos.

13.2 Application Process

The licence holder reports the necessary documents to the regulator in advance. The licence holder uses specific forms, including the equally required numerous annexes. These annexes differ depending on whether documents are needed from a legal entity or a natural person. The required documentation usually ranges from CVs to register extracts, official documents and contracts.

Approval of an individual person usually takes up to ten working days, provided that all documents have been duly submitted and there are no objections from the regulator.

13.3 Ongoing Annual Fees

There are no fixed costs defined by law for any game categories. The Federal Gaming Board must assess whether the person meets the regulatory criteria. According to Article 102 of the Gaming Ordinance, the costs ultimately depend on the time and effort spent by the regulator to assess the situation, and vary between CHF100 and CHF350 per hour. A final balance sheet is sent to the respective licence holder once a year, which roughly lists the encountered costs.

13.4 Ongoing Requirements

Good reputation criteria and sound business conduct must be observed at all times. Furthermore, the respective data must be updated at regular intervals and notified automatically to the regulator in the event of changes or new information that could affect the good reputation and proper conduct of business. For detailed information please refer to 4.7 Application Requirements.

13.5 Personal Sanctions

The Gaming Act does not impose personal sanctions for disregarding regulatory require-

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ments. The licence holder may, however, receive sanctions. And other acts may apply that might trigger personal liability.

13.6 Recent or Forthcoming Changes

Apart from the regulatory changes already mentioned in the other chapters, there are no specific changes as per personal approvals and licensing.

Trends and Developments

Contributed by:

Simon Planzer and Florian Furger

Planzer Law

Planzer Law features an internationally recognised legal specialisation in technology, gaming, and entertainment. Tailored to each customer's needs, the firm's services include strategic advice, regulatory work, ensuring compliance, and a wide range of legal services. In an ever more complex and evolving regulatory landscape, Planzer Law supports its clients to successfully navigate through intricate multi-jurisdictional challenges relating to their technology, gaming, and entertainment businesses. The firm holds particular expertise in Swiss land-based and

online gaming laws and can assist with the full range of advisory and litigation services. It also holds expertise in the supranational legal framework of the EU/EEA. In addition to technology, gaming, and entertainment, the firm's qualified attorneys and lawyers assist customers in all classic fields of business law and in white-collar criminal law. Building on an outstanding network of professionals, Planzer Law can offer one-stop-shop solutions in highly complex national and transnational matters in collaboration with the firm's trusted colleagues, globally.

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The Swiss Gaming Landscape

The Swiss land-based and online gaming market is set to be shaped by the recent re-licensing of the casino sector. The federal government decided in November 2023 upon the allocation of 20-year land-based casino licences, while simultaneously granting online licences.

The five-year cool down period has also ended for numerous international B2Cs. Many international gaming operators pulled out of the Swiss market with the entry into effect of the Gaming Act in January 2019 and enforcement actions from July 2019 of the same year. These operators would no longer be barred from cooperation with Swiss casinos if they kept their Switzerland-facing offerings closed down. Accordingly, after 2024, or five years after closing down their offerings, international investors and operators can now seek renewed opportunities in the Swiss market.

Post-licensing Casino Sector

In November 2023, the federal government allocated 22 new casino licences to successful applicants. These 22 licences are valid as of January 2025 and will run, in principle, for 20 years. They authorise the licensees to offer land-

based casino games (including poker) in the approved premises. Twelve of them were also granted the right to offer online games. While the licensing window for the 20-year land-based licences closed in October 2022, casinos can also apply at any point to be granted the right to offer online games.

It can be expected that there will be an additional 23rd casino venue in a few years. The federal government could not allocate a licence in one of the 23 geographically defined casino zones. No suitable application had been submitted for the “Schaffhausen” zone. The government will likely allocate the additional licence after another casino segment report by the regulator and an evaluation of the Gaming Act that is currently underway by the Federal Department of Justice and Police.

Most of the 22 licences are held by the shareholders that already held them at the (previously) 21 casinos. This is not the case at the casinos in the two newly proposed casino zones (“Lausanne” at Lac Geneva and “Winterthur” north-east of Zurich), or at Casino Locarno. The latter’s majority shareholder has changed from the ACE/Novomatic casino group to the Baden casino

group. Earlier, in 2021 and 2022, the Gaming 1 group had already taken over the majority shareholder role at the casinos in Davos and Crans-Montana.

Licensing Details

The licensing window produced 29 licence applications for 23 terrestrial casino licences, as well as 12 simultaneous applications for online licence extensions. Among the 29 licence applications, there was at least one application for each of the 23 geographically predefined casino zones.

The Swiss Casinos group, headquartered in Zurich, gave up one of its past casino locations (“Schaffhausen”) and successfully applied for the licence in the newly created “Winterthur” casino zone.

The application for the casino licence in Schaffhausen, which was backed by new investors, did not meet the formal application requirements and, as a result, there no applicant for that casino zone. In all other pre-existing casino zones, the incumbent licence holders submitted licence applications to continue their casino businesses in their respective geographical zones, although partly in new casino venues.

In most zones (19) – Baden-Aarau, Bern, Bernese Oberland East, Geneva, Fribourg, Jura, Lucerne, Lugano, Locarno, Mendrisio, Montreux, Neuchâtel, Nordbünden, Südbünden, Sarganserland, Schaffhausen, Schwyz, Winterthur and Zurich – only one applicant applied for a licence. However, in four zones, there was competition for the licences. In the zones of Basel and Saint Gallen, two applicants competed. In the Valais zone, there were three competitors, the incumbent casino in Crans-Montana and two new casino projects in Martigny and Sion.

Similarly, there were initially three applicants for the Lausanne zone, with one project in the city of Lausanne and two in the immediate surroundings of Lausanne. However, the applicant with a project in the city of Lausanne had to withdraw due to the lack of political support from the city of Lausanne, which is a legal requirement. Even though legislation on casinos is federal in nature, both the canton and the city are able to prevent casinos setting up on their territories simply by denying political support.

All casino applications had to be submitted for a specific casino project in one of the 23 casino zones that had been pre-defined by the federal government. The new 23 zones include those 21 areas where casinos had already been located, supplemented by two new casino zones.

The requested licensing materials were substantial, containing thousands of pages with far-reaching solid-reputation requirements and detailed business, operational and economic analyses. Moreover, following the submission of the applications, the regulator continued the process further, seeking further clarification and information from applicants.

New Opportunities for International Investors

International investors have different investment and business opportunities in the Swiss casino market. They can consider a change of ownership by purchasing a majority or minority share in casinos; cooperate with licensees by providing their online platform solutions and additional services; or serve as game providers to casinos. In the case of (co-)ownership and online platform provisioning, robust good-reputation/background checks apply to the company and its beneficial owners. For many international B2Cs, these investment options were formerly not available, as Swiss gaming law imposes the

five-year cool-down period to those with Switzerland-facing online gaming offerings. As mentioned above, most international first-tier gaming brands withdrew from the Swiss market in January 2019 when the revised Gaming Act entered into effect, supported by enforcement measures in July the same year. From 2025, these B2Cs will normally no longer be barred from purchasing a casino share or cooperating with casinos as serious business partners. B2Cs that have been active on the Swiss online gaming market for less than five years would not meet the solid-reputation criterion.

The Swiss Online Casino Game Sector

The first four online offerings by Swiss casinos (Jackpots, MyCasino, Swiss Casinos, Casino777) went live in the second half of 2019. The number of domestic online casino offerings increased by the end of 2021 to 11. No additional online offerings went live in 2022, mainly for two reasons. First, the business focus was placed on successfully securing the casino licence, and the effort put into the licence application, covering thousands of pages, was huge. Second, the regulator signalled that it would not license an online offering for the remaining short licensing period (to the end of 2024). This is because the online licence is an extension of the terrestrial casino licence. If the applicant had not been granted a renewed licence for its terrestrial casino operations, it would have needed to cease its online business after only a couple of years. One of the 11 online casinos (Casino Neuchâtel) in fact ceased activities at the end of 2022, as the owners expressed their desire to focus on their online business of its sister casino in Bern.

In the course of the licence application process, ten incumbent online casinos reapplied, and two new applications for online offerings were submitted simultaneously, raising the number

of domestic online casino offerings to 12 as of 2025. It is worth noting that there is no fixed licensing window for the online casino sector and that other casinos can still apply for an online extension of their licenses at time.

The domestic online casino market has registered strong growth. This is typical for a newly regulated market, as can be observed elsewhere. The growth is also in line with the overall expansion of the European online gaming market, as illustrated by data from various markets and from trade associations. Initial strong growth in the first few years is often followed by a slow decrease that levels off well. High demand in gaming services is, of course, not new demand created by domestic regulation. Online offerings were readily available to Swiss players prior to the 2019 Gaming Act.

In the regulated Swiss online casino market, the combined gross gaming revenues of the licensed online offerings have continuously and substantially increased, which indicates that the domestic offerings are able to grab a substantial part of the total online demand by residents in Switzerland. The regulated online casino games market has rapidly increased both in terms of offerings and revenues since its introduction. The total number of approved games has exponentially risen from 662 in 2019 to 2,072 in 2020, 3,733 in 2021 and then 5,994 in 2022. Additionally, the regulator introduced a decentralised, faster games-approval process from 2023, which has helped further increase these figures. According to the lists of approved online games published on 17 September 2024, 6511 games were approved.

GGR from the online casino business was at CHF230 million in 2021 and CHF250 million in 2022. GGR has further increased to CHF285

million in 2023. This represents 14% growth in revenue.

The above increases in GGR from the online casino segment have outweighed stagnating revenue from the land-based casino business (GGR in land-based casino business declined from CHF629 million in 2022 to CHF623 million in 2023).

Casinos with an A licence (typically the larger casinos) that operate both land-based and online were able to generate a total of 340% higher revenues in land-based business than casinos with a B licence (typically smaller casinos) that also operate both land-based and online. However, the difference in revenues from online gaming was significantly lower, at 22%. If one also considers the number of online casinos (six for A licence casinos; four for B licence casinos), the average revenue of a casino with a B licence compared to the average revenue of a casino with an A licence in online gaming is an impressive 21% higher. This illustrates that online gaming can be very attractive, particularly for smaller casinos. It remains to be seen how this perspective will effectively work out for the two new online casinos (Casino Locarno and Casino St. Moritz) starting their operations in 2025.

Conclusion

The re-licensing of the casino landscape has led to currently 22 casinos. Given such strong interest shown, with several applicants competing in several zones, it is possible that the federal government could be willing to reconsider its initial plan of 23 casino zones. The cantonal government of Valais had expressed its dissatisfaction over the federal decision to only grant one licence to its canton. The past two decades have also shown that further casinos have been added over time.

Each of the land-based casinos can demand an extension of their terrestrial licence to the domestically regulated online gaming market. Given the high purchasing power of and demand from Swiss players, there is still unused market potential in the Swiss online market. This leads to huge opportunities for international B2Cs and B2Bs – particularly those that withdrew from the Swiss online market in 2019, have come out of their cool-down periods and are no longer barred from cooperating with Swiss casinos.



Law and Practice

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Harris Hagan (London - HQ) is the only City of London law firm dedicated exclusively to the provision of legal services to all sectors of the gambling and leisure industries in the UK and internationally. The firm was established in 2004 by Julian Harris and John Hagan, and is driven by the long-term sustainability and success of the industry it cherishes. The firm's business includes gambling law, compliance and regulation, and it advises many of the world's largest

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1. Introduction

1.1 Current Outlook and Recent Changes The White Paper and Gambling Review

The gambling industry in Great Britain has been incredibly busy over the last 12 months following the publication of the Conservative government's white paper, "High Stakes: gambling reform in the digital age" (the "White Paper"), on 27 April 2023. The highly anticipated White Paper forms part of the review of the Gambling Act 2005 (the "2005 Act") which was launched by the UK government in December 2020, and is designed to "protect vulnerable users in [a] smartphone era" by striking a better balance between consumer freedoms and the protection of the vulnerable.

The White Paper details more than 60 proposals covering six sections:

- online protections;
- marketing and advertising;
- the Gambling Commission's powers and resources;
- dispute resolution and consumer redress;
- children and young adults; and
- land-based gambling.

The proposals are to be introduced through a combination of primary and secondary legislation, changes to the Licence Conditions and Codes of Practice (LCCP), and voluntary commitments.

Status of consultations

To implement the proposals, the Gambling Commission and Department for Digital, Culture, Media and Sport (DCMS) launched a number of consultations to seek the views of stakeholders in the industry.

At the time of writing, the status of the consultations is as follows.

- DCMS consultation regarding online stake limits for slots. Closed on 4 October 2023, response published on 23 February 2024.
- DCMS consultation regarding land-based reforms. Closed on 4 October 2023, response published on 16 May 2024.
- DCMS consultation regarding the statutory levy. Closed on 14 December 2023, response awaited.
- Gambling Commission Summer Consultation regarding changes to the Remote Technical Standards (RTS), financial vulnerability checks and financial risk assessments, age-verification, and improvements to consumer marketing. The consultation also included non-White Paper proposals including extending the requirements to hold a Personal Management Licence (PML) and regulatory panel changes. Closed on 18 October 2023, response published on 1 May 2024.
- Gambling Commission Autumn Consultation regarding customer-led tools, eg, deposit limits, and rules around free bets and bonuses. The consultation also included proposed changes to regulatory returns reporting, which were not part of the White Paper proposals. Closed on 21 February 2024, response in respect of regulatory returns published on 27 March 2024, with the remaining responses awaited.
- Gambling Commission December Consultation regarding changes to criteria for imposing a financial penalty and penalty calculation methodology, and changes to financial key event reporting. Whilst not related to the White Paper proposals, the consultation includes important proposals that interplay with those raised in the White Paper. Closed on 15 March 2024, response awaited.

The consultation on Gambling Commission fees is awaited.

Status of key proposals and upcoming changes

The key proposals in the White Paper include the following.

Statutory levy

The introduction of a new statutory levy to fund research, education and treatment of gambling harms, replacing the current voluntary system. It was expected that the statutory levy would be introduced from 1 April 2025, but this will likely be delayed due to the change in government and the need for secondary legislation. At the time of writing, the consultation response is awaited.

Financial vulnerability checks

Following the Gambling Commission's consultation response of 1 May 2024, financial vulnerability checks must be conducted on customers pursuant to a new social responsibility code provision 3.4.4, which came into effect on 30 August 2024. The requirement is for remote licensees to undertake the check on customers with a net deposit of GBP500 a month. The requirement will be reduced to GBP150 a month from 28 February 2025.

Financial risk assessments

Following the Gambling Commission's consultation response of 1 May 2024, the Gambling Commission introduced at social responsibility code provision 3.4.6 the requirement for operators in the three highest bands of fee categories, and volunteers in the lower fee categories, to participate in its pilot of enhanced financial risk assessments. The pilot will run from 30 August 2024 to 31 March 2025 and is to test how the proposed "frictionless" risk assessments can work in practice, and to assess appropriate

thresholds. The intention is that an assessment would allow operators to consider gambling history and whether there are other indicators of harm. On 1 May 2024, the Betting and Gaming Council published its Industry Code on Customer Checks and Documentation Requests Based on Spend, which operates as a voluntary interim code to provide consistency across the regulated sector until the financial risk assessments are brought into force.

Online game design rules

Following the Gambling Commission's consultation response on 1 May 2024, new remote game design rules will be implemented on 17 January 2025. The changes extend requirements that already apply to slots to other online products. In particular, they ban speed features such as "turbos" or "slam stops", game cycles of less than five seconds on casino products, autoplay functions, celebrations of returns less than or equal to the stake, and the facilitation of playing multiple simultaneous products.

Direct marketing

Following the Gambling Commission's consultation response on 1 May 2024, a new social responsibility code provision will come into force on 1 May 2025. The provision will require online gambling businesses to provide customers with options to opt-in to the product type they are interested in, and the channels through which they wish to receive marketing.

Land-based reforms

Following DCMS' consultation response on 16 May 2024, there are a number of changes being made to the land-based sector. Changes include increased gaming machine entitlement ratios, acceptance of cashless payments on gaming machines, introduction of a legal age limit of 18 for Category D slot style machines, and the

increase of local authority fees. The majority of land-based reforms require legislation and are therefore yet to be implemented.

Online stake limits

Following DCMS' consultation response on 23 February 2024, online stake limits are to be introduced at GBP5 per spin for those aged 25 years and above, and GBP2 per spin for those aged under 25. There will be a minimum six-week transition period for operators to introduce a GBP5 stake limit for all customers; followed by a further six weeks for the development of any necessary technical solutions before the lower stake limit of GBP2 for young adults is introduced. The changes require secondary legislation and were due to be introduced in September 2024 but the necessary statutory instruments have not yet been introduced.

Pre-commitment tools

The White Paper proposed enhanced player-centric tools, such as mandating deposit limits with an opt-out option. The Gambling Commission's Autumn Consultation sought views on minimising friction in the customer journey when choosing customer-led tools, and on a cross-operator deposit limit. At the time of writing, a response is awaited.

Gambling ombudsman

The voluntary creation of a gambling ombudsman to be an independent, free to use, statutory body to handle social responsibility complaints from consumers. The Gambling Commission expected the gambling ombudsman to be accepting complaints within a year of publication of the White Paper. However, this was not achieved and, at the time of writing, further update from the government is awaited. The Betting and Gaming Council is preparing a code

which will set out the gambling ombudsman's framework.

Cross-sport gambling sponsorship code of conduct

On 13 March 2024, it was announced by the government that the code of conduct had been finalised and binds domestic sports' governing bodies to four core principles:

- reinvestment into sport;
- maintaining sport integrity;
- protecting children and other vulnerable people; and
- ensuring socially responsible promotion.

A number of major sports' governing bodies also agreed to Codes of Conduct for Gambling Related Agreements, which was announced in August 2024.

Increased Gambling Commission fees

DCMS' consultation on the topic is awaited, however it is expected that the revised funding system will enable the Gambling Commission to adjust its fees on an annual basis where necessary, increasing or reducing fees as appropriate.

The White Paper is an enormous milestone and a once-in-a-generation opportunity for the industry. Whilst progress has been made on implementing the White Paper proposals, largely due to the general election, there is still significant work to be done as a number of proposals remain unaddressed or await government and Gambling Commission responses following consultations.

The change in government following the general election has undoubtedly contributed to the delay, particularly in respect of the proposals that require secondary legislation. Please see

the [UK Trends and Developments chapter](#) for further insight and commentary.

Enforcement

Anti-money laundering, safer gambling and consumer protection have been continuing areas of key focus across UK gambling sectors in recent years, as reflected in high-profile enforcement action; and this is not set to change. It is expected that Gambling Commission engagement with licensees will continue to increase in these areas and, if necessary, will include enforcement action.

During the 2023–2024 financial year, the Gambling Commission issued nearly GBP47 million in penalty packages, including one suspension. At the time of writing, this year has seen less enforcement action, with six penalty packages against licensees totalling approximately GBP680,000, two warnings against operators, 11 warnings issued to PML holders and one PML revoked.

Anti-money Laundering

In the last year, changes have been made to AML legislation impacting the anti-money laundering and counter-terrorist financing obligations of licensees. The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations were amended by two separate amendment regulations to update the meaning of a “high-risk third country” and address the treatment of politically exposed persons who are entrusted with prominent public functions by the UK. The Proceeds of Crime Act 2002 was also updated in October 2023 by separate legislation to introduce two new exemptions to money laundering offences that apply to casinos.

Regulatory Returns Reporting

From 1 July 2024, licence condition 15.3.1 was updated to require all licensees to submit their regulatory returns on a quarterly basis, within 28 days of the end of each quarterly period. Previously, regulatory returns for certain licensable activities could be submitted annually. On the same date, the Gambling Commission also updated its regulatory returns guidance to remove guidance that applied to historic questions, and to amend the wording of guidance for clarity, based on feedback from licensees.

Fourth National Lottery Licence

The fourth National Lottery licence was officially granted to Allwyn Entertainment UK Limited on 1 February 2024. Litigation following the Gambling Commission’s decision to award the licence, following the tender process, has largely ceased, although one remaining legal challenge is listed for a trial in late 2025.

Tax

The Labour government’s budget announced on 30 October 2024 did not increase UK gambling taxes. However, the government plans to reform, consolidate and simplify the current structure for remote gambling over the next year.

Economic Crime Levy

On 1 April 2022, HM Treasury implemented the obligation for firms supervised under the Money Laundering Regulations 2017 to pay a levy in relation to economic crime and anti-money laundering. The levy was introduced under The Economic Crime (Anti-Money Laundering) Levy Regulations 2022. For casinos (including B2Bs holding a casino (game host) operating licence), the levy is collected by the Gambling Commission. The levy payable is dependent on the casino’s UK revenue (not GGY) for the financial year, as follows.

- Small: UK revenue does not exceed GBP10.2 million – no fee.
- Medium: UK revenue is greater than GBP10.2 million but does not exceed GBP36 million – GBP10,000 fee.
- Large: UK revenue is greater than GBP36 million but does not exceed GBP1 billion – GBP36,000 fee.
- Very large: UK revenue exceeds GBP1 billion – GBP250,000 fee.

Industry Forum

Following its announcement of the formation of an industry forum in September 2023, the Gambling Commission confirmed in November 2023 that Nick Rust had been appointed chairperson of the industry forum for a two-year term. The industry forum comprises ten members and representatives of the gambling industry, whose role it is to provide the Gambling Commission with insight from the industry about the Gambling Commission's plans, services and operating environment including areas such as account management, data and technology and policy.

2. Jurisdictional Overview

2.1 Online

The following online sectors are regulated in Great Britain:

- betting (live, in-play, fixed-odds and pari-mutuel, betting exchanges and intermediaries);
- bingo;
- casino;
- fantasy sports;
- gaming machines;
- gambling software;
- lotteries; and
- poker.

Free-to-play social gaming is not regulated. The Gambling Commission concluded, following a scoping review in 2015, that the sector did not require regulation but would continue to be monitored by the Gambling Commission for any potential risks.

See 2.2 Land-Based for product definitions.

2.2 Land-Based

The following land-based sectors are regulated in Great Britain.

- For arcades, each arcade category can offer a specific subcategory of gaming machine. Those under 18 years of age may not be allowed access to the adult-only section of a licensed family entertainment centre or an adult gaming centre. Arcades can be divided into three categories:
 - (a) adult gaming centres;
 - (b) licensed family entertainment centres; and
 - (c) unlicensed family entertainment centres.
- Betting (live, in-play, fixed-odds and pari-mutuel, betting exchanges and intermediaries). See 3.2 Definition of Gambling for a definition of betting.
- Bingo is not defined in UK legislation; however, the Gambling Commission has published guidance stating that bingo constitutes “equal chance” gaming. See its website for further guidance.
- “Casino” constitutes arrangements providing people an opportunity to participate in one or more casino games. “Casino game” means a game of chance that is not equal-chance gaming.
- Fantasy sports is not defined in the 2005 Act, but the Gambling Commission has issued guidance on its website regarding this product.

- “Gaming machine” means a machine that is designed or adapted for use by individuals to gamble (whether or not it can also be used for other purposes).
- “Gambling software” is defined as computer software used in connection with online gambling, which does not include software used solely in connection with a gaming machine. Given the complexity of this term, the Gambling Commission issued an advice note in June 2014 on what constitutes gambling software.
- Lotteries (raffles), excluding commercial lotteries. See **3.2 Definition of Gambling** for a definition of lotteries.
- Poker – in spite of the skill element, the chance element that the deal of a card introduces means that poker falls within the definition of gaming. See **3.2 Definition of Gambling** for a definition of gaming.

3. Legislative Framework

3.1 Key Legislation

The key legislation applicable to the gambling sector is as follows:

- the Gambling Act 2005;
- the Gambling (Licensing and Advertising) Act 2014;
- the National Lottery Act of 1993 (as amended by the National Lottery Act of 2006);
- the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017;
- the Fifth Anti-Money Laundering Directive;
- the Proceeds of Crime Act 2002 (Part 7); and
- the Terrorism Act 2000.

The 2005 Act is set out as follows:

- Part 1 interprets key concepts and contains definitions of important terms;
- Part 2 establishes the Gambling Commission’s powers and duties;
- Part 3 deals with offences;
- Part 4 addresses the protection of children and young persons; and
- Parts 5, 6, 7 and 8 deal with various types of licences.

The LCCP is issued under the 2005 Act, Section 24, and is, in the authors’ opinion, the key reference document with which all licence holders should familiarise themselves.

3.2 Definition of Gambling

Gambling, in the 2005 Act, means gaming, betting or participating in a lottery.

Gaming means “playing a game of chance for a prize”, including games where the chance element can be eliminated by superlative skill. “Prize” constitutes money or money’s worth and “playing” means a chance of winning, irrespective of whether there is a risk of any loss.

Betting means the making of, or acceptance of, bets on:

- the outcome of an event;
- the likelihood of anything occurring or not; or
- whether anything is true or not.

Subcategories of betting include:

- real-event betting (ie, fixed-odds betting);
- virtual-event betting (based on a random number generator);
- betting intermediary (peer-to-peer); and
- pool betting.

Lotteries are classed as “simple” or “complex” and they cannot be run for private or commercial gain. Lotteries are “simple” if:

- payment is required to participate;
- one or more prizes is allocated to one or more members of a class; and
- the allocation of prizes relies wholly on chance.

Complex lotteries differ on the point of prize allocation, whereby prizes are allocated by a series of processes, the first of which relies wholly on chance.

Subcategories of lotteries include:

- society lotteries (small and large);
- local authority lotteries;
- incidental lotteries;
- private lotteries;
- customer lotteries; and
- the National Lottery (subject to separate legislation).

The 2005 Act also addresses the following cross-category activities in the event that products satisfy more than one of the above definitions of gambling:

- betting and gaming;
- lotteries and gaming; and
- lotteries and betting.

3.3 Definition of Land-Based Gambling

Land-based gambling is not specifically defined under the 2005 Act.

3.4 Definition of Online Gambling

Online gambling is referred to as “remote gambling” and means “gambling in which persons

participate by the use of remote communication”. Remote communication includes:

- the internet;
- telephone;
- television;
- radio; or
- any other kind of electronic or other technology for facilitating communication.

3.5 Key Offences

Part 3 of the 2005 Act covers all offences; however, key offences are as follows.

- Providing facilities for gambling (2005 Act, Section 33):
 - (a) without authorisation from the Gambling Commission, whether through a licence or acting in the course of another’s business who holds a licence; or
 - (b) in a manner not in accordance with the terms and conditions of any licence held either by the licence holder or in the course of another’s business who holds such licence.

“Providing facilities for gambling” occurs where a person satisfies at least one of the following:

- inviting others to gamble in accordance with arrangements made by them;
- providing, operating or administering arrangements for gambling by others; or
- participating in the operation or administration of gambling by others.

Other key offences of note include:

- inviting, causing or permitting a child (under the age of 16) or young person (not a child, but less than 18) to gamble (2005 Act, Section 46);

- manufacturing, supplying, installing or adapting gambling software, in the course of business, without an operating licence while physically located in the UK (2005 Act, Section 41); and
- cheating at gambling or doing anything to enable or assist another person to cheat at gambling (2005 Act, Section 42).

As part of its focus on tackling unlicensed gambling, the Gambling Commission will be given new powers to disrupt illegal gambling. See **9.5 Sanctions/Penalties** for advertising sanctions and penalties and the [UK Trends and Development chapter](#).

3.6 Penalties for Unlawful Gambling

The penalties for the key offences listed in **3.5 Key Offences** and **9.5 Sanctions/Penalties** are a maximum of 51 weeks' imprisonment and/or an unlimited fine.

3.7 Recent or Forthcoming Legislative Changes

See **1.1 Current Outlook and Recent Changes**.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The Gambling Commission and various licensing authorities enforce the 2005 Act. Under the 2005 Act, Part 2, the Gambling Commission's primary functions include:

- issuing operating licences;
- issuing personal licences;
- specifying general licence conditions for each type of licence and any individual licence conditions that it considers appropriate;

- issuing codes of practice concerning the way in which facilities for gambling are to be provided;
- regulating licence holders;
- investigating and prosecuting illegal gambling and other offences under the 2005 Act;
- issuing guidance to local authorities on their role; and
- advising the Secretary of State on the incidence of gambling, how it is carried out, its effects and its regulation.

The Advertising Standards Authority (ASA) regulates gambling advertising in the UK. See **11. Enforcement**.

4.2 Regulatory Approach

The Gambling Commission's approach to regulation is risk-based, with the aim of continuing to raise standards. The Gambling Commission indicated in its Business Plan, of 1 April 2024 to 31 March 2025, that it is investing in areas that will be important in the coming years and its five strategic focus areas are:

- using data and analytics to make gambling regulation more effective;
- enhancing its core operational functions;
- setting clear, evidence-based requirements for licensees;
- being proactive and addressing issues at the earliest opportunity; and
- regulating a successful National Lottery.

4.3 Recent or Forthcoming Changes

See **1.1 Current Outlook and Recent Changes**.

4.4 Types of Licences

The types of licences are:

- generally, for companies – operating licences and, if applicable, premises licences; and

- for individuals – personal licences.

Generally, the operating licence types are:

- non-remote for land-based activities (these will require an accompanying premises licence, as detailed below); or
- remote for online activities.

The 2005 Act enables the Gambling Commission to authorise all regulated land-based and online activities outlined in **2.1 Online** and **2.2 Land-Based**, including gambling software. Licences authorising multiple licensable activities (for instance, bingo and casino) are classed as a “combined operating licence”. Subject to exceptions, licences are also amenable to “umbrella” arrangements for those acting in the course of another’s business. “Umbrella” arrangements are approved at the Gambling Commission’s discretion following a review of various factors, including:

- consolidation of company accounts;
- ownership structure;
- responsibility for compliance; and
- governance arrangements.

See also **6. Online Gambling**.

Premises Licences

Premises licences, issued by the relevant licensing authority (not the Gambling Commission), are available that authorise the following activities:

- casinos;
- bingo;
- an adult gaming centre for making Category B gaming machines available for use;
- a family entertainment centre, for Category C gaming machines; and
- betting.

See **5.1 Premises Licensing** for requirements.

4.5 Availability of Licences

Operating licences and personal licences are readily available subject to the fulfilment of application criteria and payment of the application fee.

Land-based casino premises licences are sub-categorised into “small”, “large” and “converted”. Converted casino premises licences were awarded under the repealed Gaming Act 1968. They may be moved to alternative premises within the same licensing authority area, but there are no new licences available. Sixteen “small” and “large” casino premises licences were issued under the 2005 Act and awarded by the relevant licensing authority area following a public competition. To date, four of the large casino premises licences have been awarded, with one casino since closing. The White Paper proposes to reallocate any unused 2005 Act casino premises licences to other local authority areas. (See “Premises Licences” in **4.4 Types of Licences**.)

4.6 Duration of Licences

Pursuant to the 2005 Act, Section 110, operating licences are indefinite in duration, subject to the payment of annual fees and compliance with licence terms and conditions.

4.7 Application Requirements

Key Application Requirements for Operators

Operating licence applications must be submitted to the Gambling Commission, which will conduct an extensive investigation (having regard to the licensing objectives) in order to determine the applicant’s suitability to carry out the licensed activities. The Gambling Commission broadly uses the following principles to assess any application:

- identity and ownership;
- finances;
- integrity;
- competence; and
- criminality.

The 2005 Act, Section 69(2), requires that operating licence applications:

- specify the activities to be authorised by the licence;
- specify a UK correspondence address;
- be made in the form and manner decided by the Gambling Commission (applications must now be made via the Gambling Commission's online system);
- disclose any relevant offences;
- include documents and information requested by the Gambling Commission; and
- be accompanied by the prescribed fee.

Currently, there are no server location or data storage obligations.

Furthermore, the Gambling Commission introduced a strict policy, from April 2018, to reject incomplete applications.

Key Differences, If Any, Between Application Requirements for Land-Based and Online Operators

Land-based casinos are generally considered to be a high-impact activity in terms of the Gambling Commission's work, which means that applications may attract a high level of scrutiny and interest. In addition, non-remote casino operating licence applications must be accompanied by a casino premises licence application, which must be submitted to the licensing authority of the area in which the premises are situated.

4.8 Application Timing

Subject to full information being provided, Gambling Commission guidance indicates that operating licence applications take approximately 16 weeks to process, although the Gambling Commission acknowledges on its website that applications may take longer, and these timescales may be affected by the quality and complexity of the application, suitability of the applicant or those relevant to the application and caseworker availability.

In the authors' experience, this timeframe is often exceeded in cases, particularly where it relates to a complex product, ownership structure of funding arrangements.

4.9 Application Fees

Application fees for operating licences are determined by the types of activities and financial projections for the first year. These can be calculated using the Gambling Commission's online fees calculator. As announced in the White Paper, fees are expected to increase, with a DCMS consultation on reviewing fees expected in 2025.

4.10 Ongoing Annual Fees

Annual fees are determined in the same way as application fees, outlined in 4.9 Application Fees. Annual fees may be found on the Gambling Commission's website or may be calculated using the online fees calculator. As announced in the White Paper, Gambling Commission fees are expected to increase. A DCMS consultation on reviewing fees was expected in 2024, but at the time of writing DCMS has not published this consultation.

5. Land-Based Gambling

5.1 Premises Licensing

The requirements for a premises licence are:

- that they must be held, or applied for, in conjunction with an operating licence authorising the activity for which the premises are to be used;
- the right to occupy the premises (freehold, leasehold or tenancy); and
- that only one premises licence can apply to particular premises at a time (subject to exceptions).

5.2 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

6. Online Gambling

6.1 B2C Licences

Historically, remote operating licences did not reflect the distinction between B2B and B2C business models. B2B operators hosting games through B2C websites required a licence authorising remote casino, bingo, betting (virtual events) or betting (real events), in addition to gambling software, as hosting games constitutes providing facilities for gambling. However, new legislation introduced in April 2017, the Gambling (Operating Licence and Single-Machine Permit Fees) Regulations 2017 (SI 2017 No 303), created B2B-specific “host” subcategories:

- casinos (game host);
- bingo (game host);
- general betting (host) (real events); and
- general betting (host) (virtual events).

However, these licences are subject to various requirements, including that:

- the company must hold a gambling software operating licence; and
- the company must not contract with players directly.

6.2 B2B Licences (Suppliers, Software, Etc)

See 6.1 B2C Licences.

6.3 Affiliates

Affiliates are not regulated by the Gambling Commission, as companies only providing advertising services or branding to a gambling operator do not require an operating licence. SRCP 1.1.2 provides that responsibility for third-party compliance lies squarely with the licence holder, who must ensure that third parties “conduct themselves in so far as they carry out activities on behalf of the licensee as if they were bound by the same licence conditions and subject to the same codes of practice as the licensee”. SRCP 1.1.3 provides that remote licensees must ensure that third-party user interfaces comply with the Gambling Commission’s technical standards for remote gambling systems. This positive obligation on licensees was confirmed in the White Paper and by the current Gambling Commission Deputy CEO, Sarah Gardner, reiterating the obligation on licensees on 15 June 2023 by stating that “many operators” should check “whether appropriate oversight of affiliates is in place”.

6.4 White Labels

See 6.3 Affiliates. The Gambling Commission also provided guidance on how it expects licence holders to conduct white label partnerships in section 7 of its Compliance and Enforcement Report 2019 to 2020.

6.5 Technical Measures

There are no technical measures in place regarding consumer protection, and the Gambling

Commission does not have direct powers to enforce either payment or website blocking. However, it seeks to protect consumers' rights, through its powers under the 2005 Act for seeking enforcement action.

6.6 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

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

7.1 RG Requirements

Responsible gambling – now coined “safer gambling” by the Gambling Commission – is one of the Gambling Commission's biggest areas of focus, across licensing, compliance and enforcement. Its oversight and requirements are broad, meaning they cannot be summarised in this chapter. The focus, which stems from the third licensing objective (protecting children and other vulnerable persons from being harmed or exploited by gambling), is proper identification and engagement with those who may be at risk of, or experiencing, harm, ensuring that terms and conditions are clear, fair and straightforward for consumers and do not target vulnerable or self-excluded customers.

There have been repeated examples of customers being allowed to gamble significant sums of money in short timeframes, considerably beyond their personal affordability, and without any intervention from the operator.

Key SG requirements include:

- preventing underage gambling and utilising age verification measures;

- detailed requirements regarding customer interaction, including taking into account the Gambling Commission's remote customer interaction guidance under SRCP 3.4.3;
- the provision of gambling management tools (see 7.2 Gambling Management Tools);
- that licensees must, as soon as practicable, take all reasonable steps to prevent any marketing material being sent to a self-excluded customer;
- that, at the end of any self-exclusion period chosen by the customer, self-exclusion remains in place, for a further six months, unless the customer takes positive action to gamble again;
- that, notwithstanding the expiry of the period of self-exclusion chosen by a customer, no marketing material should be sent to them unless and until they have asked for, or agreed to accept, such material; and
- that, licensees must undertake a financial vulnerability check for customers that meet certain thresholds, and such check must include a customer-specified public record information check for significant indicators of potential financial vulnerability.

7.2 Gambling Management Tools

Gambling management tools include:

- making information readily available to customers on how to gamble responsibly and how to access information about, and help in respect of, problem gambling;
- self-exclusion (operator and national) with a minimum of six months (up to 12 months);
- financial limit (deposit, spend or loss);
- timers;
- reality checks; and
- timeouts (24 hours, one week, one month or such period as reasonably requested by the customer, up to six weeks).

The Multi-Operator Self-Exclusion Scheme (MOSES) assists land-based operators with identifying at-risk gamblers. GAMSTOP is the online equivalent, initiated by the Gambling Commission and led by the Remote Gambling Association. Since 31 March 2020, all online gambling operators have been required, under the LCCP, to join GAMSTOP. Since 1 April 2024, this requirement extends to all gambling operators that make and accept bets by telephone and email.

7.3 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes and 13.1 Anticipated Reform.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The current primary legislation is the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (implementing the Fifth Anti-Money Laundering Directive). This was amended in January 2024 by various regulations to update the meaning of a “high-risk third country” and address the treatment of politically exposed persons who are entrusted with prominent public functions by the UK.

Money-laundering offences are outlined in the Proceeds of Crime Act 2002 (POCA) and the Terrorism Act 2000 (TACT). POCA was updated in October 2023 to introduce two new exemptions to money laundering offences that apply to casinos.

The Gambling Commission has also issued guidance for casinos, and separately for non-casinos, regarding their duties and responsibilities under POCA. The Gambling Commission most

recently updated its guidance for casinos in May 2023 to incorporate requirements surrounding “proliferation financing”. Proliferation financing is the act of providing funds for the manufacture, acquisition, use or supply of chemical, biological, radiological or nuclear weapons, goods or technology. The updated guidance requires casino operators to undertake a proliferation financing risk assessment to identify, assess and mitigate the risk of proliferation financing.

8.2 AML Requirements

See 8.1 AML Legislation. The AML requirements are complex and cannot be adequately summarised here, particularly given the Gambling Commission’s ongoing focus and extensive casework in this area. Generally, the Gambling Commission expects licensees to comply fully with the terms of their licence, as relevant to AML and CTF, and to pay close regard to the various guidance documents it issues.

Compliance and enforcement activity continue to reveal that operators’ AML policies, procedures and controls are not fit for purpose and, in many cases, customers are allowed to gamble using the proceeds of criminal activity. The Gambling Commission has warned the industry that “a failure to digest [its] guidance and implement the legislative requirements applicable to Great Britain... must change, for these are not just regulatory matters but breaches of UK law. Those failing to learn these lessons will face further draconian action”.

8.3 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

9. Advertising

9.1 Regulatory/Supervisory Agency

The ASA regulates UK advertising and, therefore, gambling advertising. However, it does not carry any enforcement powers. Instead, and as the LCCP has specific rules on advertising, any gambling advertising breaches by a licence holder may lead to enforcement action by the Gambling Commission. This includes seeking criminal prosecution, as breach of a licence condition is a criminal offence under the 2005 Act, Section 33.

9.2 Definition of Advertising

“Advertising” is widely defined under the 2005 Act, Section 327, and generally encompasses any action that encourages one or more persons, either directly or through an agent, to engage in facilities for gambling. This covers most forms of advertising, including online content and emails to consumers.

9.3 Key Legal, Regulatory and Licensing Provisions

See **9.2 Definition of Advertising**. Advertising must be socially responsible and comply with the LCCP; in particular, SRCP 5.1.6. The key LCCP advertising provisions are that:

- all advertising of gambling products and services should be undertaken in a socially responsible manner;
- operators should comply with the UK Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (the “CAP Code”), the UK Code of Broadcast Advertising (the “BCAP Code”) and the Industry Code;
- adverts must not include a child or young person, and no one who is, or seems to be, under 25 may be featured participating in gambling;

- operators must satisfy themselves that their adverts are not misleading;
- operators must comply with any provisions of the CAP and BCAP Codes in relation to free bet and bonus offers, including by stating significant terms and directing customers to the full terms, which should be no further than one click away;
- no adverts should appear on any web page that provides advice or information on responsible gambling;
- operators must not place adverts on websites providing unauthorised access to copyrighted content and must take all reasonable steps to ensure that third parties (eg, affiliates) do not do so; and
- operators must be able to terminate contracts with third parties that breach this provision.

The following codes are also applicable:

- all UK gambling advertising – the Gambling Industry Code for Socially Responsible Advertising (the “Industry Code”), administered by the BGC;
- broadcast advertising – the BCAP Code, administered by the ASA; and
- non-broadcast advertising – the CAP Code, administered by the ASA.

The ASA also provides the following additional guidance:

- “Gambling advertising: protecting children and young people” (April 2019);
- “The marketing of gambling on eSports on social media” (April 2020);
- “Gambling advertising: responsibility and problem gambling” (November 2021);
- “Guidance on depiction of under-25s in lottery ads” (July 2022);

- “Gambling and lotteries guidance – protecting under-18s (October 2022)”;
- “Advertising Guidance – Age-restricted ads online” (November 2022); and
- “Gambling, betting and gaming: Appeal to children (May 2023)

The Gambling Commission’s web page “Advertising/marketing rules and regulations” provides an overview covering the various LCCP and industry regulations.

9.4 Restrictions on Advertising

See 9.3 Key Legal, Regulatory and Licensing Provisions. In addition, since 1 November 2014, gambling operators wishing to advertise in the UK must hold a Gambling Commission operating licence pertaining to the type of activity advertised. Separately, the Gambling Commission confirmed that advertising-only licences will not be granted.

Since August 2019, a voluntary “whistle-to-whistle” sports-betting advertising ban initiated by the UK betting sector (including a ban on all TV betting adverts during pre-watershed live sport) has been effective.

In relation to online search activity, from 1 October 2020, the industry introduced a list of negative keywords against which no online gambling advertising should be served. This is a voluntary measure that was introduced in the Industry Code.

In 2022, the Committee of Advertising Practice (CAP) announced the introduction of tough new rules for gambling advertisements. The new rules, which have been in effect since 1 October 2022, comprise a strong appeal test, which prohibits advertisements that are “likely to be of strong appeal to children or young persons,

especially by reflecting or being associated with youth culture”, meaning that sportspeople, social media influencers and other celebrities who are prominent in youth culture are prohibited from being used in gambling advertisements.

The White Paper did not materially restrict gambling advertising. However, it proposed that additional protections be required relating to cross-selling, free bets and bonuses, and the need to strengthen safer gambling messaging.

In April 2023, the Premier League made a voluntary commitment to banning advertising on the front of football shirts commencing at the end of the 2025/2026 season. Following the White Paper commitment to developing a cross-sport gambling sponsorship code, a number of major sports’ governing bodies also agreed to Codes of Conduct for Gambling Related Agreements, which was announced in August 2024.

From 1 May 2025, a new social responsibility code provision will require remote licensees to provide customers with options to opt-in to the product type they interested in and the channels through which they wish to receive marketing.

9.5 Sanctions/Penalties

The following constitute criminal offences and attract up to 51 weeks’ imprisonment and/or an unlimited fine.

- Inviting another person under 18 to gamble (2005 Act, Section 46).
- Advertising unlawful gambling (2005 Act, Section 330) – except for lottery promotion, advertised gambling is held to be unlawful if:
 - (a) the gambling advertised requires a licence, notice, permit or registration and, at the time of advertising, these arrangements have not been completed; or

- (b) arrangements for the advertised gambling are not such as to ensure that any exceptions to the offence apply.

The Gambling Commission also has the power to take regulatory enforcement action for breaches, including seeking to prosecute offenders.

9.6 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

Disclosure to the Gambling Commission is required within five working days of the licensee becoming aware (or as soon as possible) via a key event notification using the Gambling Commission's eServices, an online portal.

Separately, a change of control application providing detailed information and the appropriate fee must be submitted to the Gambling Commission for assessment of the suitability of the new controller(s) to uphold the licensing objectives regarding the existing licence. The application or notification of licence surrender must be provided within five weeks of the change occurring; otherwise, the licence will be revoked.

Subject to the Gambling Commission's assessment of all necessary information, the existing licence will either be granted continuance under the new controller(s) or will be revoked. Applications generally take much longer than the advertised 12 weeks.

Under the 2005 Act, Section 103, advance applications for persons or entities expected to become a controller can also be made prior to

the change occurring. The Gambling Commission will make a determination, based on the information submitted, that if the change were to occur, it is either "minded to grant" continuance of the existing licence, or "minded to revoke".

10.2 Change of Corporate Control Triggers

A change of corporate control is defined in Section 102 of the 2005 Act and occurs when a person or legal entity becomes a new "controller" (as derived from the Financial Services and Markets Act 2000, Section 422). This is a complex definition, and needs to be considered in detail, but is generally broken down as:

- 10% or more of the shares in the licensee or in a parent undertaking of the licensee;
- 10% or more of the voting power in the licensee or in a parent undertaking of the licensee;
- 10% or more of the rights to profits/dividends (if the licensee does not have share capital); or
- less than 10%, but with the ability to exercise significant control over management of the licensee.

10.3 Passive Investor Requirements

The same requirements as previously stated in 10. Acquisitions and Changes of Control apply as there are no exemptions for passive investors.

10.4 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

11. Enforcement

11.1 Powers

Under the 2005 Act, Part 2, the Gambling Commission has the power to investigate and prosecute offences directly. Its regulatory powers also

include calling licences for review and initiating investigations in the following circumstances:

- to establish whether its conditions are being complied with;
- where it fears a licensee has been convicted of a relevant criminal offence;
- where it considers a licensee to be unsuitable to continue holding a licence; and
- generally, where a review is deemed appropriate.

The Gambling Commission's regulatory powers include:

- giving advice as to conduct;
- issuing a warning to a licence holder;
- attaching an additional condition to a licence;
- removing or amending a condition to a licence;
- suspending a licence;
- revoking a licence; and
- imposing a financial penalty following breach of a licence condition.

The Gambling Commission also has the power to commence a criminal prosecution. Where serious failings are revealed from a compliance assessment, the Gambling Commission may place a licensee in "special measures", which requires the licensee to prepare, submit and agree to an action plan to remedy the identified failings.

The Gambling Commission's approach to enforcement is currently set out in three key documents:

- the Statement of principles for licensing and regulation;
- the Licensing, compliance and enforcement, policy statement; and

- the Statement of principles for determining financial penalties.

11.2 Sanctions

Contravention of the 2005 Act, including the LCCP (issued under the 2005 Act), results in criminal liability. In August 2017, the Gambling Commission set out its "new vision" for its enforcement, emphasising its focus on putting consumers first. The key changes proposed included:

- putting all regulatory tools, including licence review (both of the operator and personal management licences), on an equal footing by removing the then current bias in favour of settlement;
- introducing higher penalties for breach, particularly where systemic and repeated failings were seen; and
- using time-limited discounts to create better incentives for early settlement.

In recent years, the Gambling Commission has garnered a reputation for taking enforcement against its licensees. In certain cases, a "regulatory settlement" is reached, meaning that it is not a sanction and stops short of a formal licence review. This is subject to the Gambling Commission's discretion and will only be considered if various factors are met, including:

- the licensee being open and transparent in its dealings with the Gambling Commission;
- the licensee being able to demonstrate that it has insight into apparent failings;
- a timely disclosure of material facts;
- preparedness to agree to the publication of a public statement setting out the failings in order to deter future non-compliance by others and/or share learning;

- preparedness to make a divestment of any amount accrued as a result of the failing;
- preparedness to follow advice and implement procedures to ensure there is no repetition of failings;
- preparedness to contribute to the direct costs to the Gambling Commission of investigating the matter in respect of which regulatory settlement is sought; and
- preparedness to volunteer a payment in lieu of the financial penalty the Gambling Commission might otherwise impose for breach of a licence condition.

The regulatory settlements and licence reviews are detailed in numerous public decisions or public statements issued on the Gambling Commission's website and usually include a financial penalty. A record penalty package of GBP19.2 million was issued to William Hill Group in March 2023. Recent financial penalties imposed by the Gambling Commission also include a GBP6 million fine against Gamesys Operations Limited in January 2024, GBP3.25 million fine against Done Bros (Cash Betting) (trading as Betfred) Limited in July 2023, and a GBP2 million fine against Videoslots Limited in June 2023. The fines were issued as a result of numerous social responsibility and anti-money laundering failures.

11.3 Financial Penalties

A financial penalty imposed by the Gambling Commission will usually consist of two elements:

- an amount to reflect any detriment suffered by consumers and/or remove any financial gain made by the licensee as a result of the contravention or failure; and
- an amount that reflects the seriousness of the contravention or failure, the impact on the licensing objectives and the need for deterrence.

The Gambling Commission will take into account all material circumstances of the case, such as:

- the seriousness and duration of the breach;
- whether it is a first-time offence;
- the involvement of management;
- the level of any financial gain from the breach; and
- the extent of steps taken to remedy the breach.

The Gambling Commission may discount the financial penalty where an operator has been transparent and co-operative. The Gambling Commission may also consider the need for a deterrence uplift to the penal element, having regard to the principle that non-compliance should be more costly than compliance and that enforcement should deliver strong deterrence against future non-compliance.

It is worth noting that the financial elements of regulatory settlement, which are not sanctions, are calculated differently, and the Gambling Commission has the power to impose a financial penalty without carrying out a licence review.

The Gambling Commission is responsible for issuing and enforcing financial penalties regarding any LCCP breaches. Any contravention of the 2005 Act itself is a criminal offence and will trigger a potentially unlimited fine, enforced by the courts, and imprisonment for up to 51 weeks (see **3.6 Penalties for Unlawful Gambling** and **9.5 Sanctions/Penalties**).

It is worth noting that any payment made as part of a regulatory settlement is not a financial penalty (as it is not a sanction) and is a payment made in lieu of a financial penalty. These are treated differently by the Gambling Commission

and could, theoretically, be enforced by recommending the licence review.

At the time writing, a response is awaited to the Gambling Commission's December Consultation regarding changes to criteria for imposing a financial penalty and penalty calculation methodology.

11.4 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

12. Tax

12.1 Tax Rate by Sector

The following rates are effective from 1 April 2022 and are applicable at the time of writing.

Bingo:

- 10% of bingo promotion profits.

Betting:

- 15% of "net stake receipts" for fixed-odds bets, totalisator bets on horse or dog races and bets taken on betting exchanges;
- 3% of "net stake receipts" for financial spread bets;
- 10% of "net stake receipts" for all other spread bets; and
- 15% of the commission charges charged by betting exchanges.

Casino ("gaming duty"):

- 15% of gross gaming yield for the first GBP2,686,000;
- 20% of gross gaming yield for the next GBP1,852,000;

- 30% of gross gaming yield for the next GBP3,243,000;
- 40% of gross gaming yield for the next GBP6,845,000; and
- 50% of gross gaming yield for the remainder.

Lottery:

- 12% of the price paid or payable on taking a ticket or chance in a lottery.

Machine games:

- 5% of net takings from dutiable machine games with a maximum cost to play of not more than GBP0.20 and a maximum cash prize of not more than GBP10;
- 20% of net takings from dutiable machine games with a maximum cost to play of not less than GBP0.21 and not more than GBP5, and a maximum cash prize of more than GBP11; and
- 25% of net takings from all other dutiable machine games with a maximum cost to play of more than GBP5.

Remote gaming duty:

- 21% of gross gaming revenues on all remote gaming transactions with customers whose usual place of residence is in the UK.

Please note, the majority of gambling activities are exempt from VAT.

12.2 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Personal Licences

Personal licences are issued by the Gambling Commission under section 80 and Part 6 of the 2005 Act and governed by Part 3 of the LCCP. They allow the Gambling Commission to regulate individuals occupying specific roles and/or responsible for certain activities, and to hold them to account for failings, including any inadvertent or deliberate breaches of the LCCP committed by a gambling business.

The two types of personal licences are:

- a PML; and
- a personal functional licence (PFL).

At the time of writing, the LCCP requires persons with responsibility for any of the below specified management offices, as listed in licence condition 1.2.1, to hold a PML:

- overall strategy and delivery of gambling operations;
- financial planning, control and budgeting;
- marketing and commercial development;
- regulatory compliance;
- gambling-related IT provision and security; and
- the money-laundering reporting officer (casinos only).

On 29 November 2024, licence condition 1.2.1 will be updated to:

- make it clear that the individual responsible for the overall strategy and delivery of

gambling operations should be the CEO or equivalent;

- require a PML from the board chairperson (unless that person only holds the position on a transient and short-term basis); and
- require those responsible for anti-money laundering and counter-terrorist financing, including the money-laundering reporting officer, to hold a PML.

The Gambling Commission will also assess, on a case-by-case basis, whether CEOs and directors of “parent companies or subsidiaries in the group” need to hold PMLs.

Key individuals for small-scale operators (SSO) may be exempt from this requirement to hold a PML and may continue to apply instead to hold an Annex A authorisation.

Individuals working in a casino who perform any function that enables to influence the outcome of gambling, or are handling cash (for example, croupiers, dealers and cashiers), must hold a PFL. Under the 2005 Act, Section 133, personal licences may not be issued to individuals who already hold such a licence, but may authorise the performance of more than one function.

Annex A Authorisation

Annex As are a type of Gambling Commission approval or authorisation. Individuals who are controllers (generally, with 10% or more equity and/or voting rights) in an existing or proposed licensee, or a parent undertaking of an existing or proposed licensee, must apply for an Annex A authorisation from the Gambling Commission. Subject to the Gambling Commission’s discretion, operators meeting the SSO exemption may hold Annex As instead of PMLs.

13.2 Application Process

Personal licence and Annex A applications must be submitted to the Gambling Commission, which will assess the application according to the same suitability criteria as for operating licences.

The requirements for personal licence applications and Annex A applications are broadly the same, but the specific requirements may vary depending on the particular circumstances. Generally speaking, applications require:

- identity documentation;
- address history;
- employment history and training information;
- a police report;
- a credit report; and
- statement of assets and liabilities (depending on the circumstances of the application).

At the time of writing, application fees for personal licences are GBP370. There is no application cost for Annex A applications.

The Gambling Commission's standard service time for processing personal applications is eight weeks. In the authors' experience, the timeframe is usually much shorter.

13.3 Ongoing Annual Fees

Personal licences are subject to maintenance every five years by providing updated personal information and paying a fee of GBP370. Failure to maintain the licence will result in revocation.

There are no ongoing fees for Annex As.

13.4 Ongoing Requirements

General conditions for licences, as stipulated by the 2005 Act, Section 75, are listed under Part 3 of the LCCP. In particular, personal licence

condition 1(3) requires personal licence holders to notify the Gambling Commission within ten working days of any personal key events, which include:

- their subjection to any criminal investigation which is listed under Schedule 7 Relevant Offences of the 2005 Act;
- their conviction of any offence listed under Schedule 7 Relevant Offences of the 2005 Act;
- any current or pending investigation by a professional, statutory, regulatory or government body in Great Britain or abroad;
- the imposition of any sanction or penalty against them following an investigation by any professional, statutory, regulatory or government body in Great Britain or abroad;
- the imposition of a disciplinary sanction against them, including dismissal, for gross misconduct;
- their resignation from a position for which a personal licence is required following commencement of disciplinary proceedings in respect of gross misconduct;
- their disqualification from acting as a company director;
- the presentation of a petition for their bankruptcy or sequestration or their entering into an individual voluntary agreement; and
- a change in their name or address.

13.5 Personal Sanctions

Following a review of a personal licence, the Gambling Commission may impose:

- a warning;
- additional licence conditions or amending of existing ones;
- a financial penalty (only if a licence condition has been breached);
- suspension; and/or

- revocation.

To date, the Gambling Commission has not imposed a financial penalty or reached a payment in lieu of a financial penalty (as part of a regulatory settlement) in respect of a personal licence.

The Gambling Commission keeps a regulatory sanctions register, which contains details of sanctions imposed on personal licence holders following licence reviews.

13.6 Recent or Forthcoming Changes

See 1.1 Current Outlook and Recent Changes.

Trends and Developments

Contributed by:

Bahar Alaeddini and Jessica Wilson

Harris Hagan

Harris Hagan is the only City of London law firm dedicated exclusively to the provision of legal services to all sectors of the gambling and leisure industries in the UK and internationally. The firm was established in 2004 by Julian Harris and John Hagan, and is driven by the long-term sustainability and success of the industry it cherishes. The firm's business includes gambling law, compliance and regulation, and it advises many of the world's largest

land-based and online gambling businesses (B2C and B2B), as well as many private equity firms, other investors, leading international law firms and start-ups. The firm, which is known for its first-class team of lawyers, being trusted advisors in the regulated gambling industry and commercial awareness of the challenges faced by clients, is now led by John Hagan and Bahar Alaeddini.

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Introduction

The gambling industry in Great Britain has been kept on its toes since December 2020 when the government launched its review of the Gambling Act 2005 (the “Gambling Review”). It was not until 30 months later, in April 2023, when the much-anticipated white paper, “High Stakes: gambling reform for the digital age” (the “White Paper”) was published, setting out how the government would work with the Gambling Commission (the “Commission”) and other stakeholders to reform the regulation and legislation governing the gambling sector.

The Gambling Review had been hugely controversial and contested, with the loudest voices often coming from the anti-gambling lobby, who believe gambling is immoral and should be prohibited completely, rather than looking to reduce problem gambling. That period of unrest drew to a close upon publication of the White Paper, which provided the beginnings of some certainty and direction regarding the government’s policy objectives. The White Paper received a positive reception due to its balance of consumer freedoms and the prevention of harm, and for providing something for every stakeholder. The government and the Gambling Commission began work on implementing the proposals

in summer 2023 and numerous consultations were launched, and responses published, over the following 12 months. However, progress was brought to a standstill in July 2024 when the general election was called, resulting in a new Labour government. The industry now waits patiently to see whether and when the government will implement the proposals as drafted in the White Paper.

Aside from the White Paper, enforcement and compliance remain areas of focus for the Gambling Commission, the contested Gambling Survey of Great Britain (GSGB) was launched, M&A activity has increased, and there has been a refreshed focus on tackling illegal gambling.

The White Paper

The White Paper detailed more than 60 proposals, including approximately 20 significant policy changes in the following areas:

- online protections;
- marketing and advertising;
- the Gambling Commission’s powers and resources;
- dispute resolution and consumer redress;
- children and young adults; and
- land-based gambling.

The proposals will be implemented through a combination of primary legislation, secondary legislation, changes to the Licence Conditions and Codes of Practice (LCCP), and voluntary commitments.

Key proposals in the White Paper include:

- the introduction of a statutory levy, replacing the current voluntary commitment;
- the introduction of soft-touch financial vulnerability checks on customers that reach certain thresholds, alongside “frictionless” financial risk assessments (the financial risk assessments are subject to a six-month pilot running from August 2024 to March 2025);
- changes to online game design rules to bring the requirements for other products in line with the current requirements for online slots;
- the introduction of a statutory, free to use gambling ombudsman to handle social responsibility complaints;
- the introduction of direct marketing requirements to provide customers with options to opt-in to marketing; and
- the introduction of online stake limits at GBP5 per spin for those aged 25 years and above, and GBP2 a spin for under 25s.

Please see the [UK Law and Practice chapter](#) for further detail of the proposals.

Broadly speaking, the White Paper has something good for every stakeholder, for which the Department for Digital, Culture, Media and Sport (DCMS) should be commended. However, whilst balanced and coherent, the White Paper lacked a lot of detail, meaning significant work had to be done through the critical consultation phase. The first of the consultations was launched in July 2023, and there have been a total of six consultations launched by the Gambling Com-

mission or DCMS that are relevant to the White Paper, with further consultations expected.

Timing

The government and the Gambling Commission aimed to implement most key White Paper proposals by summer 2024. At the time of writing, progress has been made, but the timeframe has not been met. Only a handful of proposals have been introduced or have set dates to be introduced, for example financial vulnerability checks and changes to online game design requirements. Whilst six consultations were launched following publication of the White Paper, four responses or partial responses have been published, and the industry still awaits a consultation on the Gambling Commission’s fees.

The general election in July 2024, which was originally anticipated to take place in autumn 2024, shortly followed by the summer recess, undoubtedly has been a cause of the delay, particularly in respect of the proposals that can only be implemented through secondary legislation and therefore requiring parliamentary time. Affected proposals include the introduction of a statutory levy (which was originally anticipated to come into force in April 2025), some of the land-based modernisation measures, and online stake limits for slots (which were originally anticipated to be introduced in September 2024).

Despite the Conservative government’s White Paper receiving cross-party support, there is, of course, concern that the new Labour government will not implement the proposals as originally anticipated, putting the delicate balance of stakeholder interests at risk. There is also the possibility that the new government will not progress some of the reforms at all. The industry awaits the government’s next move in the process of implementing the White Paper propos-

als, but the authors expect to see some progress in early 2025.

Once progress picks up, the authors strongly encourage the industry and its stakeholders to continue engaging with the Gambling Review and any future consultations.

Gambling ombudsman

The voluntary creation of a non-statutory gambling ombudsman is a cornerstone proposal of the White Paper and was due to start taking claims from summer 2024. However, any progress regarding its establishment is yet to be seen. The intention is the gambling ombudsman will be an independent, free to use, non-statutory body that will handle social responsibility complaints from consumers.

There has been some concern in the industry that the gambling ombudsman could create precedent for operators. Unlike courts, which consider lawfulness and create precedent and case law, ombudsmen have a broader remit of resolving complaints and disputes, and by nature do not create precedent. Ombudsmen themselves are not required to follow precedent and are to consider each case in the specific circumstances. However, it is plausible that decisions they make could lead to views of “good practice” in the industry, and there is the possible risk of previous ombudsman decisions being cited by new claimants, opening the possibility of a duty of care being established should claimants take a legal route.

The Betting and Gaming Council has been tasked with creating a code for the gambling ombudsman, which will set out its regulatory framework, before the appointment process begins. Given the steady increase in complaints received by operators, the authors anticipate the

gambling ombudsman will be a welcome addition to the industry and, once it is launched, will likely be very busy. However, there are a number of complex issues that need to be addressed to achieve quality outcomes and protect the integrity of the scheme.

The GSGB

The GSGB is a new data collection survey developed by the Gambling Commission to “provide high quality information about gambling habits, attitudes and harms experienced across the adult population”. The first release on 25 July 2024 was based on 10,000 responses, with the intention that future years will have approximately 20,000 responses.

There has been widespread concern within the industry as the new methodology, even by the Gambling Commission’s own admission, could overstate the prevalence of problem gambling. The Gambling Commission published guidance before the statistics were released acknowledging the limitations of the data and that it should not be used to calculate an overall rate of gambling-related harm in the UK, and that it will challenge any misuse of the data.

One of the key risks is that the limitations of the GSGB may not be understood by the government or other stakeholders, and the data could negatively impact both implementation of White Paper proposals in the short term, and the introduction of public policy not based on evidence in the medium to long term.

Compliance and Enforcement

The Gambling Commission has continued to exercise its enforcement powers against licensees, both operating licensees and personal licensees, over the past 12 months. The industry has also seen an increased focus from the

Gambling Commission on specific compliance areas; in particular regulatory returns, fee categories and source of funding.

Regulatory returns reporting and compliance has been a clear focus of the Gambling Commission since late 2023, when it issued several reminders to licensees of their responsibilities and their need to remain compliant with their stipulated fee categories. On 1 July 2024, changes to regulatory returns reporting were introduced, requiring licensees to submit quarterly regulatory returns for all licences. The changes came hand in hand with renewed guidance from the Gambling Commission, following changes to the questions asked and in response to feedback received from the industry.

Despite the changes to both reporting and the guidance, there remains a lack of clarity, particularly for B2B licensees where the Gambling Commission's requirements do not fit the reality of complex B2B revenue models. It is likely that regulatory returns will continue to be an area of development over the next 12 months.

M&A Activity

After a brief lull, M&A activity has significantly increased this year, despite the challenging macroeconomic climate. A number of key M&A trends have developed over that time, including activity branching into the previously untapped B2B sector, and an increased number of private equity take-privates. As interest rates continue to decrease, and as companies continue their expansion into other jurisdictions such as the USA, the growth of M&A activity is likely to continue, particularly as companies look to consolidate and restructure their businesses to optimise operational efficiency.

Illegal Gambling

Tackling illegal gambling and the black market have become an increased priority for the Gambling Commission, with Andrew Rhodes, Chief Executive of the Gambling Commission, stating that doing so is “central to [the Gambling Commission’s] objective of preventing gambling from being a source of crime”. A recent example of the Gambling Commission taking action is its prosecution of Sorare.com for providing facilities for gambling without holding an operating licence. Proceedings commenced in October 2024 and are ongoing at the time of writing.

The White Paper proposed introducing new powers for the Gambling Commission so it can more effectively take action against the illegal online gambling market through provisions set out in the Home Office’s Criminal Justice Bill. The Bill was introduced in the House of Commons on 14 November 2023 and is currently at the Commons Report stage. Similarly to other legislation, the change in government has no doubt caused a delay in progression. In the meantime, the Gambling Commission’s Corporate Strategy 2024 to 2027 cites increased investment, resource and capacity to tackle illegal gambling as a key commitment.

Separately, the International Association of Gaming Regulators has established an Illegal Gambling Working Group in response to the challenges faced by regulators in respect of illegal market activities.

Impact Metrics

Following publication of its Corporate Strategy 2024-2027, the Gambling Commission has updated the impact metrics it uses to measure its own impact in delivering the regulatory objectives set out in its Corporate Strategy. Impact metrics are data points chosen by the Gambling

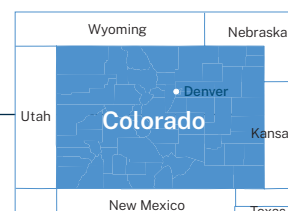
Commission and include data from the GSGB, data it obtains internally from its own enforcement action against licensees or through licensee reporting requirements, and other public data sources such as the Young People and Gambling Survey or YouGov.

Generally speaking, the impact metrics chosen are reasonable, however, as admitted by the Gambling Commission, there are limitations and weaknesses with the data sets. For example, some data has been taken from the GSGB and the Gambling Commission notes that it is therefore not directly comparable against previous data, or where the Gambling Commission is using data from its own compliance assessments, it admits the data may be skewed where their assessment was in respect of a licensee with multiple licences as a single failing may impact all licences held. Further, there are six impact metrics where the Gambling Commission explains that it is looking to develop the data set further. Regardless of the inherent weaknesses, the Gambling Commission's transparency is welcomed, particularly considering recent industry concerns regarding misuse of statistics and increased pressure for regulatory action and change to be based on evidence, data and analytics.

Conclusion

In 2023, the authors wrote that the industry would look a little different in 12 months' time, and that is certainly the case. Despite the government's timeline to implement the White Paper proposals not being met and the current standstill in progressing the proposals further, the industry remains active and incredibly busy. The new Labour government has reintroduced an element of uncertainty in terms of what will be implemented and when, but it is hoped that the industry is not kept waiting for much longer and that the government continues to pick up implementation of the proposals where the Conservatives left off. There is no doubt that further significant change is on the horizon.

USA – COLORADO



Law and Practice

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Butler Snow LLP is a full-service law firm with more than 400 attorneys collaborating across a network of 28 offices in the US, Europe and Asia. The firm's gaming industry team has the experience to help clients successfully navigate all aspects of the unique industry. Its attorneys are known for their work in gaming jurisdictions throughout the USA, involving licensing, regulatory and compliance issues, operations, M&A, financing, project development, real estate investment trusts, bankruptcy and restructuring,

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1. Introduction

1.1 Current Outlook and Recent Changes

In 2019, following the trend among many states, Colorado voters approved a referendum authorising retail sports betting (at casino locations) and online mobile sports betting.

2. Jurisdictional Overview

2.1 Online

There are two types of online gaming activities authorised in Colorado. The first is online sports betting conducted by a licensed online sports betting operator. The second is fantasy sports contests. Although the regulatory agency over gaming also handles the licensure of fantasy sports operators, fantasy contest licensure is more akin to a registration and is separate from the gaming regulatory process. Online casino gaming is prohibited in Colorado.

2.2 Land-Based

The following types of land-based gaming activities are authorised in Colorado:

- casino gaming activities, including poker, occurring in the mountain cities of Black Hawk, Central City and Cripple Creek;
- sports betting activities occurring in the mountain cities of Black Hawk, Central City and Cripple Creek;
- bingo, raffles and charitable games;
- horse racing at licensed tracks;
- The Colorado Lottery, the tickets of which are sold by authorised retailers;
- fantasy sports contests conducted by licensed or registered fantasy contest operators at licensed gaming establishments or horse tracks; and
- social gambling.

This guide only addresses points one and two above, as well as online sports betting, as these are the activities subject to gaming regulation in Colorado.

3. Legislative Framework

3.1 Key Legislation

The Colorado Limited Gaming Act (CRSA 44-30-101 et seq), which became effective in 1990 by voter referendum, is the key legislation that

applies to authorised gambling and sports betting activities. Initially, the act only authorised the operation of casinos located in the cities of Black Hawk, Central City and Cripple Creek. However, in 2019, Colorado voters approved another referendum authorising retail sports betting (at casino locations) and online sports betting. Upon its passage, the statutory language authorising sports betting was added to the Colorado Limited Gaming Act.

3.2 Definition of Gambling

Under Colorado law, “gambling” means “risking any money, credit, a deposit, or another thing of value for gain contingent in whole or in part upon lot, chance, the operation of a gambling device, or the happening or outcome of an event, including a sporting event, over which the person taking the risk has no control” (CRSA 18-10-103). Gambling is generally illegal in Colorado, but certain forms of gambling have been legalised, as described.

3.3 Definition of Land-Based Gambling

The definition of “gambling” set forth in CRSA 18-10-103 includes land-based gambling. The type of land-based gaming authorised by the Colorado Limited Gaming Act is defined as “physical and electronic versions of slot machines, craps, roulette, and the card games of poker and blackjack authorised by Article 30, as well as such other games as are approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction, and defined and regulated by the commission, each game having a maximum single bet as approved by the voters of Central, Black Hawk, or Cripple Creek at a local election held in each city to control the conduct of gaming in that jurisdiction.” (CRSA, Section 44-30-103)

3.4 Definition of Online Gambling

The definition of “gambling” set forth in CRSA 18-10-103 would encompass online gambling activities. There is no definition of legal online gambling. In order for online gambling to be legalised, there would need to be a public referendum similar to the process through which limited gaming and sports betting were legalised in 1990 and 2019 respectively.

3.5 Key Offences

As it relates to unregulated gambling, the key offences that can be committed under CRSA 18-10-103 include engaging in gambling, engaging in professional gambling, possessing a gambling device, transmitting gambling information and maintaining gambling premises.

3.6 Penalties for Unlawful Gambling

There are penalties for unlawful gambling under CRSA 18-10-103. These vary from a petty offence (individual participant: up to ten days in jail and up to USD300 in fines), to a class 2 misdemeanor (gambling device: up to 120 days in jail and up to USD750 in fines), to a class 6 felony (gambling device possession: 12 to 18 months in prison and a fine of up to USD100,000).

3.7 Recent or Forthcoming Legislative Changes

In 2023, the Colorado legislature authorised adding the capability of casinos to issue credit, but that bill was vetoed by the Governor of Colorado. In November 2024, Colorado voters will decide, by ballot measure, whether to permit the state to retain sports betting tax revenues that exceed the current aggregate annual retention limit of USD29 million.

4. Licensing and Regulatory Framework

4.1 Regulatory Authority

The primary regulator of both casino gaming and sports betting in Colorado is the Colorado Division of Gaming (CDOG), which is a state agency division within the Colorado Department of Revenue. CDOG conducts background investigations and also conducts day-to-day regulatory oversight. The Colorado Limited Gaming Control Commission (CLGCC) is a five-member regulatory body that makes the final determination on licensing and disciplinary matters involving casino and sports betting industry participants in Colorado. In this role, CLGCC has adopted regulations that CDOG uses for its regulatory oversight, in addition to requirements in the Colorado Limited Gaming Act.

4.2 Regulatory Approach

The regulatory approach in Colorado is substantially similar to other commercial gaming jurisdictions in the USA. When the regulatory structure was initially set up in 1990, Colorado looked to Nevada for guidance. When sports betting was legalised in 2019, Colorado looked towards New Jersey as New Jersey had experience with online sports betting operators. CDOG maintains regular contact with other regulatory agencies in the USA.

4.3 Recent or Forthcoming Changes

At present, CDOG is focusing regulatory changes to address responsible gaming, the continued roll-out of sports betting in Colorado and the addition of fantasy sports to their regulatory responsibility. In 2024, CDOG adopted new regulations to define specific requirements for sports betting exchange wagering in Colorado, which had only generally been authorised by statute previously.

4.4 Types of Licences

For casino gaming, the following licences are available:

- (a) retailer;
- (b) operator;
- (c) manufacturer;
- (d) distributor; and
- (e) associated equipment supplier.

(a) and (b) above are related to the operation of casino gaming. (c), (d), and (e) above involve gaming equipment. CDOG uses the same investigative standard for each of these licence categories.

For sports betting, a casino licensee (retailer) must obtain a Master Licence for sports betting. A Master Licence allows for both retail and mobile sports betting. A Master Licensee may conduct sports betting directly or contract with a third party. A third-party conducting retail sports betting must obtain a Sports Betting Operator licence. A third party that conducts mobile sports betting must obtain an Internet Sports Betting Operator licence. Sports betting platforms and parties that share in a percentage of wagering revenue must obtain a Vendor Major licence. CDOG uses the same investigative standard for each of these licence categories.

There is also a Vendor Minor licence for sports betting, which functions as more of a registration. This category applies to host sites for data servers, marketing firms and other vendors who do not share in wagering revenue.

Previously, CDOG would process and CLGCC would issue temporary licences for sports betting applicants by CDOG policy. However, CDOG has recently determined that this policy is no longer needed and thereby rescinded the policy.

Accordingly, temporary sports betting licences are no longer available. Temporary licences have never been available for casino gaming.

4.5 Availability of Licences

There is no cap on the number of retail land-based casinos, other than such need to be located in the mountain cities of Black Hawk, Central City or Cripple Creek. The number of online sports betting skins available is limited to one per land-based casino.

4.6 Duration of Licences

All licences have a duration of two years.

4.7 Application Requirements

Key Application Requirements

The key requirements for a casino and sports betting licence in Colorado are consistent with what is seen by other US gaming jurisdictions (eg, Nevada and New Jersey). There are also prohibitions that preclude individuals with felony and theft/fraud/gambling-related misdemeanour convictions from being able to obtain licences. Application requirements for land-based and online operators are substantially the same.

The entity applying for licensure must complete a business licence application for the licensed activity contemplated. In addition, all holding companies related to the applicant must complete an associated business application.

Shareholder Disclosure

For privately held companies, 100% of the company ownership must be disclosed to CDOG and owners must apply for full licensure (multi-jurisdictional form and Colorado supplement). For casino gaming, there is a limited owner designation for those owning 5% or less (and not involved in operations), which operates more like a registration rather than a full licensing inves-

tigation. For sports betting, the limited owner designation threshold is 10%.

For publicly traded companies, shareholders owning more than 5% must be disclosed, which is the same as the United States Securities and Exchange Commission requirement. Licensure (involving the filing of a multi-jurisdictional form and Colorado supplement) is only mandated for parties owning 10% or more, but CDOG and CLGCC have the discretion to require licensing of a shareholder owning less than 10%.

Institutional investors that acquire more than 20% of ownership in a publicly traded company owning a licensed entity in Colorado need to file for licensure. Below the 20% threshold, there is an institutional investor disclosure form that is required to be filed with CDOG.

4.8 Application Timing

Although it fluctuates depending on volume, the licensing process generally takes six to 12 months following application submission.

The Vendor Minor licensing process is more akin to registration and typically takes 45 to 60 days to complete.

4.9 Application Fees

Application fees and investigative costs associated with the application process vary depending on the number of individual applicants involved, but generally are less than other US jurisdictions (ie, Nevada).

4.10 Ongoing Annual Fees

Limited gaming licence fees are paid at renewal and depend on the type of licence, but currently range from USD3,700 to USD8,000. Employee license renewal fees are between USD70 and USD215.

On an annual basis, CLGCC approves an “operating fee” for sports betting licensees. The fee for fiscal year 2024 is USD78,000 (for online sports betting operators) and USD11,700 (for retail sports betting operators). New and renewal sports betting licence fees are minimal.

5. Land-Based Gambling

5.1 Premises Licensing

The requirements with respect to premises licensing are the same as with operator licences as described.

5.2 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to land-based gambling in Colorado.

6. Online Gambling

6.1 B2C Licences

In the sports betting context, a B2C operator must obtain an Internet Sports Betting Operator licence (for mobile sports betting) or a Sports Betting Operator licence (for retail sports betting).

6.2 B2B Licences (Suppliers, Software, Etc)

In the sports betting context, a B2B operator supplying a platform or content to a B2C operator, and sharing in gaming revenue, must obtain a Vendor Major licence. Other vendors would be required to obtain a Vendor Minor licence.

6.3 Affiliates

Generally, a licensed entity can receive information and services from their affiliates under common control.

Marketing affiliates are permitted. The licensing requirement for marketing parties is only applicable to sports betting. Generally, flat fee structured marketing requires a Vendor Minor licence while sharing in a percentage of wagering revenue requires a Vendor Major licence. Due to this licensing requirement, marketing entities are typically structured with flat fee payment arrangements rather than based on percentage revenue.

6.4 White Labels

The licensing standard that would apply to a white-label provider depends on the method of compensation and amount of active operational involvement of the white-label provider. Active operational activities will trigger full licensure. If no active operational aspect is present, sharing in a percentage of gaming revenue would also trigger full licensure (Vendor Major category for sports betting). A flat fee arrangement with the white-label provider in the sports betting context would require a Vendor Minor licence. Regardless, any white-label arrangement is required to be disclosed to CDOG.

6.5 Technical Measures

Online sports betting operators must maintain internal control procedures, approved by CDOG, that address, among other things, user access controls, fraud detection, payment processing, data security and server security.

6.6 Recent or Forthcoming Changes

In 2008, the Gambling Payment Intercept Act went into effect, which requires the deduction of winnings from land-based gaming for the collection of child support, criminal restitution and certain debt obligations. In 2022, the scope of the act was expanded to include winnings from sports betting and internet sports betting.

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

7.1 RG Requirements

Both casinos and sports betting operators must follow certain responsible gaming requirements.

Casinos must display a responsible gaming logo on their website and the premises and have a policy in place to provide patrons with the opportunity to revoke their privileges for services. Casinos must also have a self-exclusion programme and share exclusion data with CDOG.

Sports betting operators must display responsible gaming information on their platform, must include advertising and promotion disclaimers, and must maintaining self-exclusion protocols.

Casinos and sports betting operators are not permitted to direct market to excluded patrons.

7.2 Gambling Management Tools

CDOG serves as custodian of Colorado's self-exclusion list and receives self-exclusion requests directly from patrons. CDOG also administers a grant programme that provides support for efforts that improve responsible gaming and problem gambling programmes in Colorado.

7.3 Recent or Forthcoming Changes

CDOG recently launched a self-exclusion programme in Colorado, replacing the programme previously administered by the Problem Gambling Coalition of Colorado.

8. Anti-money Laundering (AML)

8.1 AML Legislation

The key AML legislation relevant to gaming operations in Colorado is the federal Bank Secrecy Act (BSA) (31 USC 5311 et seq) and related guidance established by the Financial Crimes Enforcement Network (FinCEN) bureau of the United States Department of the Treasury.

8.2 AML Requirements

CDOG has an expectation that its sports betting and casino licensees will adhere to the AML requirements set forth in the BSA, which is administered by FinCEN. This is confirmed when the licensee's internal controls are reviewed and approved by CDOG for both casino gaming and sports betting.

8.3 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to AML requirements in Colorado.

9. Advertising

9.1 Regulatory/Supervisory Agency

Casino and sports betting advertising activities are regulated by CDOG.

9.2 Definition of Advertising

Colorado does not have a definition of advertising prescribed by statute or regulation. Any form of online or other advertising, marketing or promotional activities would be viewed as advertising by CDOG.

9.3 Key Legal, Regulatory and Licensing Provisions

Under the sports betting regulations, all promotional materials must include material terms in close proximity to the headline claim and include

other disclaimers. Marketing firms that support licensees are required to obtain Vendor Minor licences.

9.4 Restrictions on Advertising

Advertising for casinos and sports betting is permitted. The primary regulatory limitation is that CDOG mandates that all advertising be truthful and not misleading. Sports betting licensees are prohibited by regulation from directing advertising toward underaged participants.

9.5 Sanctions/Penalties

There are no penalties particular to advertising violations. CDOG has broad discretion to impose sanctions and penalties based on the circumstances of the violation.

9.6 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to advertising requirements in Colorado.

10. Acquisitions and Changes of Control

10.1 Disclosure Requirements

As a general rule, any acquisition or change of control of a gaming company requires the prior approval of CLGCC (ie, licensure of the buyer). Companies making public offerings of securities are required to notify CLGCC, with the timing of the notice based on the nature of the offering. In addition, publicly traded companies are subject to periodic and mandated reporting requirements, including those related to the transfer of securities.

10.2 Change of Corporate Control Triggers

Changes in control for publicly traded companies technically only require compliance with filing the requisite gaming applications referenced in **4.7 Application Requirements**. That said, most of such transactions are multi-jurisdictional and the new party is able to be licensed pre-closing, given the requirement in most jurisdictions for licensing before closing of an acquisition of control of a publicly traded company. Changes in control for private companies require prior licensure of the buyer entity.

10.3 Passive Investor Requirements

The limited owner designations discussed in **4.7 Application Requirements** (5% or less for casino gaming and 10% or less for sports betting) would apply to passive investors in a privately held entity. In addition, as discussed in **4.7 Application Requirements**, institutional investors can acquire up to 20% of ownership in a publicly traded company that owns a licensed entity in Colorado; and the threshold for licensing of individual shareholders of a publicly traded company is 10%.

10.4 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to the laws and regulations concerning acquisitions and changes of control of gaming companies in Colorado.

11. Enforcement

11.1 Powers

The Colorado Limited Gaming Act gives CDOG and CLGCC broad discretionary enforcement powers for violations of the applicable gaming laws and regulations. These powers include the sanctioning of licensed entities and associated

individuals, the revocation, denial or suspension of licences, as well as monetary fines.

11.2 Sanctions

Sanctions are enforced by CLGG action. Individuals subject to violations have had to relinquish their personal licences. Entities and individuals have been subject to monetary fines, which need to be paid in order for the underlying licence to remain in good standing (and not subject to further sanction).

11.3 Financial Penalties

Financial penalties are determined on a case-by-case basis. There is no schedule of fine amounts in Colorado.

11.4 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to sanctions for violations of gaming laws and regulations of Colorado.

12. Tax

12.1 Tax Rate by Sector

The gaming tax rate for casinos is a graduated tax based on adjusted gross proceeds:

- USD0–USD2 million (0.25%);
- USD2 million–USD5 million (2%);
- USD5 million–USD8 million (9%);
- USD8 million–USD10 million (11%);
- USD10 million–USD13 million (16%); and
- over USD13 million (20%).

12.2 Recent or Forthcoming Changes

Currently, the state is required to return sports betting tax revenues collected from sportsbook operators in excess of USD29 million annually. In November 2024, Colorado voters will decide

whether to permit the state to keep the excess revenues to fund water conservation projects.

13. Personal Approvals and Licensing

13.1 Types of Authorisations and Licences

Officers, directors, key employees and shareholders of casino gaming and sports betting operations must be personally licensed. In addition, casino employees and certain sports betting employees must obtain support licenses.

13.2 Application Process

Generally, the application process for individuals involves the submission of a multi-jurisdictional gaming application and Colorado supplement. The Colorado supplement requires the attachment of certain tax, banking, credit card and other personal documentation. For support licenses, there is a shorter Colorado-only form.

13.3 Ongoing Annual Fees

Key employee original license fees currently range from USD235 to USD275 and are renewed every two years for USD215. Support employee original license fees currently range from USD115 to USD75 and are renewed every two years for USD70.

13.4 Ongoing Requirements

Individuals are expected to update CDOG of any material developments that would pertain to their background: arrests, criminal investigations, change of address, change of marital status and significant litigation.

13.5 Personal Sanctions

Individuals can be subject to fines and personal licence revocation.

13.6 Recent or Forthcoming Changes

There are currently no recent or forthcoming changes to Colorado personal approvals and licensing.

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