



THE NEW FATF RECOMMENDATIONS ON COMBATING MONEY LAUNDERING IN THE GAMBLING SECTOR: The Need for Lotteries to Take the Lead in the Debate

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In 2012, the Financial Action Task Force of the OECD (FATF) issued its new International Standards on combating money laundering (ML) and the financing of terrorism (TF). The FATF Standards are comprised of the FATF Recommendations, their Interpretive Notes, and applicable definitions from the Glossary.

According to the Recommendations, countries should identify and assess the ML/TF risks for the country, and should designate an authority or the mechanisms to co-ordinate actions to assess risks (recommendation 1.1 & 1.2)

Those rules apply globally also to casino activities. In the EU, the EU Commission is proposing in its new draft Directive to extend the obligation to all gambling activities including lotteries, sport betting, and remote gambling services. Operators supplying gambling services are to be considered as Designated Non-Financial Businesses and Professions (DNFBP) and obliged to implement a full Anti Money Laundering policy (AML) and Risk Based Assessment (RBA) strategy. Such broader approach taken by the EU towards the gambling sector has been welcomed by the State Lotteries and is indeed important to combat effectively and efficiently the risks of ML and TF. The implementation of the new AML rules in the various EU member States will need to be done by 2016 latest and is a big challenge for State Lotteries and their suppliers/vendors. It will affect all aspects of the business, right down to the POS, and require the setting up of Customer Due Diligence programs enabling the identification of any transaction (stake and winning) exceeding 2000 EURO, any suspicious transactions, and the proper assessment of business relations.

In practice, Lotteries will need to make detailed risk based assessment studies identifying the various levels of risks of the games they operate and implement accordingly an enhanced, normal or simplified due diligence approach. It is clear that pari-mutuel lottery games will be assessed differently than casino operations or odd-set based sport betting games. Further, Lotteries will need to have specific record and data keeping and reporting obligations enabling them to respond fully and rapidly to enquiries from the authorities and to establish internal procedures, training and permanent feedback. Lotteries will not only be totally responsible for their Points of Sale (POS), but also for their own staff. The liabilities are high, and criminal penalties and other adminis-

trative sanctions are severe. The whole process will require Lotteries to have a compliance officer at management level and dedicated AML staff. As safeguarding public order and the integrity of their operations, full and immediate compliance is essential for State Lotteries and their business partners. Several Lotteries have a long standing experience in this area, but others not.

As the EU Commission mentions in its Staff Working paper accompanying the proposal, "... professional organizations can also play an important role to ease the burden of compliance, through the provision of guidance, organization of training courses, submitting law clarification notes, answering doubts in the application of the legislation, etc..." Commission Staff Working document – Impact Assessment 5 February 2013, p.55).

So there is a clear role for the Lotteries Association at EU level to provide assistance to the members. But there is more to be considered. At the global level the threat of ML and TF is a permanently evolving, as it also is in the gambling sector where technology plays an increasing role.

Lottery associations could consider entering into a dialogue with the FATF, like the remote gambling industry from both the EU and the USA did. The issue requires a multidisciplinary approach involving legal, security, IT, finance and sales.

In that regard, it is very relevant to refer to recommendation 15.

Recommendation 15.1 states: "Countries and financial institutions should identify and assess the ML/TF risks that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products."

It is clear that the way remote gambling continues to be organized by certain operators established in off-shore jurisdictions creates severe threats that must be addressed. The question is, however, whether the scope of the approach is even large enough. Today we see the rapid emergence of social gaming and social gambling. To the extent that real money gambling is offered through SNS (Social Network Sites), the problem could be covered by the legislation applicable to gambling as such. The problem actually starts when we enter the area of social gaming. While gambling activities are also offered on social media platforms, it does not mean that all forms of social gaming qualify as

(social) “gambling.” To be so qualified, three conditions need to be simultaneously fulfilled: there must be a stake with monetary value (a “consideration”), there must be an element of chance (predominant or not depending upon the local definition) and there must be a potential for players to win a prize with monetary value. To the extent that virtual currency is involved and not monetized, or that there is no “real money” stake, or no element of chance, social gaming remains largely outside the scope of gambling regulation.

As a service available on social media platforms, thus on the Internet, social gaming is subject to general rules applicable to e-commerce. Social Network Sites (SNS), such as Facebook, are most likely only “intermediaries providing hosting services” with limited liability. Indeed, they are in general only obliged to act as soon as they become aware of illegal activity. Of course, they can also be ordered to act by the courts against social gambling operators hosted by them who do not comply with national laws in the country where their services are consumed.

However some additional rules are required: the risks of addiction, the easy accessibility to children, and especially the risk of ML and TF need to be looked into, even outside the scope of the gambling regulations. All these questions need to be addressed by the authorities and will require the cooperation of operators and intermediaries as SNS. In the context of the fight against ML and TF, if money laundering could take place through SNS, which needs to be studied and properly assessed, there is an urgent need to address this matter and bring it into the scope of the legislative framework to combat ML and TF.

Social games are indeed a huge phenomenon and a major source of revenue for companies like Facebook. It is enough to refer to the way Zynga was growing and the revenues Facebook obtained from Zynga. Social gaming was already in 2012 a \$6 billion market in the US and is expected to grow to more than \$ 8 billion by 2014. As lucrative as it sounds, the market is immensely competitive and crowded with a huge number of games.

The monetization of social gaming requires a detailed risk-assessment study. Monetizing could happen when players can monetize the virtual currency they bought to play and/or the virtual currency they did win by playing. If it happens accidentally that a player as a private individual sells its virtual currency on an auction style website, so actually monetizes it, it is important from the perspective of the gambling legislation, but it may be less of an issue for ML and/or TF. However, when it is organized as a business, like the “Gold farming” as it takes place in countries like China with MMOG and other video type games, the situation is clearly different and enhances the risk of ML and/or TF.

However, monetizing of social gaming by the operator is an even more delicate question. The majority of revenue for an app’ comes from a very small section of users who substantially buy virtual goods. But successful apps, like Angry Birds, generate high volumes of money every month due to the very high number of buyers. As on average apps are very cheap, large scale buying of “fake” apps from an operator beneficially owned by the Organised Crime (OC) through 100 000 computers used simultaneously by the same OC, is not totally unlikely to happen one day. Today, Russian and Chinese look-a-likes of Facebook as Qzone (primarily used in China), Renren (“the Facebook of China”), VKontakte (“the Facebook of Russia”), et al do already exist . They are not on our “radar” and other SNS may easily be set up through off shore jurisdictions escaping our control. Bringing social gaming in the scope of the legislation to combat ML and TF seems to be necessary and urgent. ♦

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example for how Lottery will provide new tools and business processes that will help the retailer in every aspect of her business, not just sales of Lottery products. Lottery has the technological vision and resources to help the retailer upgrade the entire way they do business.

So it is non-traditional games and purchase methods using multiple channels that drive new player acquisition and grow the business. And your value proposition to traditional Lottery retailers is that they will benefit from the vision and progressive agenda that Lottery brings to their business?

J. Pittman: I believe that it will likely be a combination of traditional Lottery type games that can be played over different types of media, as well as new games that Lotteries have not sold in the past, and possibly more new games that are borne from the advances in the ways we deliver our product to the customer. Our partnership has benefited retailers for decades, as Lottery expanded the number and variety of games at multiple price-points along with new POS materials, digital signage and technological advances. I believe that the traditional retailer will be able to significantly benefit from this evolution as we move forward as partners. To do that, retailers need to have the faith and confidence to trust that a partnership that entails change and modernization will continue to benefit them.

How much of what we have discussed is ready to be rolled out now?

J. Pittman: The products I mentioned are fully developed and ready to go now, and there is a lot more in the pipeline. Of course, we have to see what happens with gaming on the Internet and where that takes us but the central ideas and scenarios are all easily realized now. The original topic of discussion was basically, how would traditional retailers fit into a business and Lottery landscape that must evolve with technology and consumer trends. The answer is that we need to continue to nurture a mutually supportive relationship, we need to be open to new and non-traditional ways to drive progress, and we need to get comfortable with change because that’s what will enable us to grow and succeed. We have been working towards many solutions for years and believe we have answers that benefit not only traditional retailers but also Lotteries and maybe most importantly, new players. ♦