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# CONSIDERING ONLINE CASINO RISKS: A COMPARATIVE REPORT

**Sarah Simmonds, Teresa Miller, Angad Malhotra, Esconda Fozi and Katerina Poulos**

**Supported by Kroll**



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# ABOUT THE FINANCIAL INTEGRITY HUB

The **Financial Integrity Hub at Macquarie University Law School** drives transformative change through interdisciplinary and future-focused research that provides cutting-edge solutions to the global challenge of financial crime. The Financial Integrity Hub is independent and focuses exclusively on the integrity of financial systems and compliance with the domestic and global regimes for anti-money laundering and counter-terrorist financing. There is currently no other research centre of this nature in Australia. The Hub is distinguished by its exceptional attributes, including a well-established track record and comprehensive interdisciplinary coverage across diverse fields, including law, business, security and cyber.

This report was prepared by Sarah Simmonds, Teresa Miller, Angad Malhotra, Esconda Fozi and Katerina Poulos, and supervised by A/Professor Doron Goldbarsht.

This report comprises a comparative analysis of the regulatory frameworks and practices concerning Anti-Money Laundering and Counter-Terrorism Financing (AML/CTF) regulation of online casinos between select jurisdictions across the globe. By aiding a deeper understanding of the effectiveness of existing frameworks and practices, this report aims to identify potential strategies for enhancing global measures to combat the spread of illicit finance and inspire an informed assessment of what best practice in this context may look like for Australia. After providing an overview of the extent of the online casino market, this report outlines the global standard of AML/CTF regulatory protections promulgated by the Financial Action Task Force (FATF). Thirdly, this report will outline the essential requirements for establishing an online casino in Malta, the United Kingdom, Curaçao, Canada and Gibraltar, including the relevant licenses, responsible gaming measures, consumer protection policies and applicable AML/CTF legislative frameworks. Finally, this report seeks to identify several challenges to the regulation of the online casino industry from an AML/CTF perspective, including the proliferation of cryptocurrencies and provide a set of recommendations specific to online casinos which are able to inform amendments to Australia's AML/CTF regulatory framework.

We want to express our sincere appreciation to the Kroll team for their invaluable support in crafting this report.

This report is the work of its writers and does not necessarily represent the opinion of the FIH or Kroll. The views expressed herein are solely those of the authors and should not be attributed to the FIH or Kroll as a whole.

# TABLE OF ACRYONYMS

<b>ACMA</b>	Australian Communications and Media Authority
<b>ADR</b>	Alternative Dispute Resolution
<b>AML/CTF</b>	Anti-Money Laundering/Counter Terrorism Financing
<b>AML/CTF/CFP Committee</b>	National Anti-Money Laundering, Counter Financing of Terrorism and Counter Financing of Proliferation Committee
<b>AUSTRAC</b>	Australian Transaction Reports and Analysis Centre
<b>B2B</b>	Business-to-Business
<b>B2C</b>	Business-to-Consumer
<b>BO</b>	Beneficial Ownership
<b>CDD</b>	Customer Due Diligence
<b>CFATF</b>	Caribbean Financial Action Task Force
<b>CGA</b>	Curacao Gaming Authority
<b>DBS</b>	Disclosure and Barring Service
<b>DLT</b>	Digital Ledger Technology
<b>EDD</b>	Enhanced Due Diligence
<b>EEA</b>	European Economic Area
<b>EU</b>	European Union
<b>FATF</b>	Financial Action Task Force
<b>FIU</b>	Financial Intelligence Unit
<b>FIAU</b>	Financial Intelligence Analysis Unit
<b>GCB</b>	Curacao Gaming Control Board
<b>GGY</b>	Gross Gambling Yield
<b>ISP</b>	Internet Service Provider
<b>KYC</b>	Know Your Customer
<b>MBR</b>	Malta Business Registry
<b>MFSA</b>	Malta Financial Services Authority
<b>MGA</b>	Malta Gaming Authority

<b>MiCA</b>	Markets in Crypto-Assets Regulation
<b>ML</b>	Money Laundering
<b>MLR</b>	Money Laundering Regulations
<b>MLRO</b>	Money Laundering Reporting Officer
<b>NCC</b>	National Co-ordinating Committee on Combatting Money Laundering and Funding of Terrorism
<b>NOIS</b>	National Ordinance Identification when Rendering Services
<b>NOUGH</b>	National Ordinance on Offshore Games of Hazard
<b>NORUT</b>	National Ordinance Reporting Unusual Transactions
<b>PEP</b>	Politically Exposed Person
<b>PML Act</b>	Prevention of Money Laundering Act
<b>PMLFTR</b>	Prevention of Money Laundering and Funding of Terrorism Regulations
<b>PPO</b>	Public Prosecutors Office
<b>RBR</b>	Recast Brussels Regulation
<b>SMR</b>	Suspicious Matter Report
<b>SOF</b>	Source of Funds
<b>TCA</b>	EU-UK Trade and Cooperation Agreement
<b>TF</b>	Terrorism Financing
<b>TTR</b>	Transaction Threshold Report
<b>UBO</b>	Ultimate Beneficial Owner
<b>VA</b>	Virtual Asset
<b>VASP</b>	Virtual Asset Service Provider
<b>VFA</b>	Virtual Financial Asset
<b>VFAA</b>	Virtual Financial Assets Act
<b>VPN</b>	Virtual Private Network

# INTRODUCTION

In Australia, the *Interactive Gambling Act 2001* (Cth) ('IGA') prohibits any online game of chance such as roulette, poker, craps, online 'pokies' (slot machines), and blackjack from being offered or advertised to people in Australia.<sup>1</sup> Prohibition, however, may not prevent Australians from accessing foreign-based online gaming sites that are not subject to Australian or similar domestic regulations. The internet allows users to easily bypass domestic prohibitions and access offshore websites, creating a challenge for regulatory authorities.<sup>2</sup> Unlike regulated financial institutions, such as banks, which are mandated to enforce AML/CTF policies and procedures, unregulated online casinos are not subject to the same requirements. This loophole permits money launderers to transfer funds without undergoing proper scrutiny. According to the Australian regulatory authority AUSTRAC, ML entails the act of concealing the origins of illicit profits by engaging in activities that obscure ownership and create the illusion of legitimate sources. This practice enables criminals to amass and utilise the proceeds of their unlawful activities for personal enrichment or to finance additional criminal endeavours such as terrorism.<sup>3</sup> TF encompasses the activities of receiving, providing, or gathering funds for terrorists and terrorist organisations. This definition extends to scenarios where individuals might not be aware of an organisation's terrorist affiliation but fail to undertake reasonable measures to confirm the intended use of the funds.<sup>4</sup> TF often involves the transfer of funds, which are primarily legal, such as donations from legitimate charities, for illicit purposes. TF and ML, while motivated by different factors, are closely intertwined and should not be treated as entirely separate activities.<sup>5</sup> The secretive nature of ML and TF renders the measurement of their scope a difficult task where previous efforts have resulted in diverse estimates that cannot be definitively proven.<sup>6</sup>

This report will examine the online casino industry of a selection of jurisdictions, with a specific focus on each jurisdiction's AML/CTF strategy, implementation and effectiveness. Each jurisdiction was prepared by different students. As such, some overlaps exist; however, it represents the full and complete work done by the students individually. Firstly, the requirements for establishing an online casino will be examined, including what is needed to acquire an online casino licence, and the ongoing requirements of authorised operators. Next, the AML/CTF legislative framework of each jurisdiction will be set out, and the effect of such legislation on both gaming authorities and gaming licensees will be considered. Thirdly, the use of Virtual Assets (VAs) and Virtual Asset Service Providers (VASPs) within the online casino sector will be discussed, with an analysis of how each jurisdiction is addressing the risks these new technologies present for ML

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<sup>1</sup> *Interactive Gambling Act 2001* (Cth).

<sup>2</sup> Andrew Essa, 'The Prohibition of Online-Casinos in Australia: is it working?' (2004) 4(1) *Law and Justice Journal* 88, 90.

<sup>3</sup> Australian Transaction Reports and Analysis Centre, *Money Laundering in Australia 2011* (Web Page, 5 April 2023) <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/money-laundering-australia2011#:~:text=To%20use%20the%20proceeds%20of,have%20come%20from%20legitimate%20sources>>.

<sup>4</sup> June Buchanan, 'Money Laundering Through Gambling Devices' (2018) 13(2) *Society and Business Review* 217, 220.

<sup>5</sup> *Ibid* 221.

<sup>6</sup> Samantha Maitland et al, 'An Analysis of Money Laundering and Terrorism Financing Typologies' (2012) 15(1) *Journal of Money Laundering Control* 85, 87.

and TF. The challenges for the global AML/CTF regime will be examined with specific reference to issues relevant for the operation of online casinos, including identification and verification of BO, and enforcement of foreign judgements. Finally, the report will conclude with a consideration of what best practice may look like for the regulation of online casinos that meet internationally accepted AML/CTF standards and a set of recommendations capable of informing any potential amendment to Australia's existing AML/CTF regulatory framework as it applies to online casinos.

## 2.2 WHAT IS MONEY LAUNDERING?

Money laundering refers to the process of concealing the illegal origin of criminal proceeds through filtration into the economy.<sup>7</sup> This includes attempts to 'wash illicit assets' by recycling surplus illicit funds throughout the economy to result in an untraceable origin.<sup>8</sup> The process can be summarised as follows: (i) introducing the money into the financial system, (ii) layering the funds into entities, and (iii) integrating the funds back into the economy.<sup>9</sup> Moreover, terrorist financing refers to the means by which terrorist organisations raise funds to finance various illicit activities.<sup>10</sup> This commonly occurs through mechanisms such as bank credits, traveller's cheques, bank cheques, money orders, shares, securities, bonds, drafts, and letters of credit.<sup>11</sup> Scholars note the introduction of technology poses significant threats to banking and regulatory systems.<sup>12</sup> The rapid proliferation of new technology continues to subvert existing legal regimes and demands policy makers to develop new regimes that are applicable to the online arena. The pace at which technology adapts impedes on policy makers ability to develop relevant AML/CTF legislative schemes. This report will focus on the threat posed by online casinos to the ability for authorities to detect money laundering and terrorist financing on a global scale. By observing various international regulatory regimes, policy makers can draw upon implementation and enforcement mechanisms to influence other AML/CTF regimes, including Australia.

## 2.3 RISKS OF MONEY LAUNDERING VIA ONLINE CASINOS

Money laundering and terrorist financing threaten the integrity and stability of a financial system. In particular, the transnational nature of online casinos enhances such threats as it fosters a market where money can be transferred swiftly from one jurisdiction to another.<sup>13</sup> On a global scale, millions of individuals gamble using internet-based casino services and devices.<sup>14</sup> Online

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<sup>7</sup> Peter Gerbrands et al, 'The effect of anti-money laundering policies: an empirical network analysis' (2022) 11(15) *EPJ Data Science* 1.

<sup>8</sup> Ibid.

<sup>9</sup> Friedrich Schneider and Ursula Windischbauer 'Money laundering: some facts' (2008) 26(3) *European Journal of Law and Economics* 387, 394.

<sup>10</sup> Shacheng Wang and Xixi Zhu, 'Evaluation of Potential Cryptocurrency Development Ability in Terrorist Financing' (2021) 15(4) *Policing: A Journal of Policy and Practice* 2329.

<sup>11</sup> Australian Government Attorney-General's Department, *Anti-money laundering and counter-terrorism financing*, (Web Page) <<https://www.ag.gov.au/crime/anti-money-laundering-and-counter-terrorism-financing>>.

<sup>12</sup> William Gaviyau and Athenia Bongani Sibindi, 'Global Anti-Money Laundering and Combating Terrorism Financing Regulatory Framework: A Critique' (2023) 16(7) *Journal of Risk and Financial Management* 313.

<sup>13</sup> Patrícia Godinho Silva, 'Recent developments in EU legislation on anti-money laundering and terrorist financing' (2019) 10(1) *New Journal of European Criminal Law* 57, 58.

<sup>14</sup> Nerilee Hing et al, 'How structural changes in online gambling are shaping the contemporary experiences and behaviours of online gamblers: an interview study' (2022) 22 *BMC Public Health* 1620.

casinos present a unique risk of illicit activity as they offer instantaneous 24/7 access from remote locations, on a non-public forum with the option to use digital currencies.<sup>15</sup> The inherent characteristics of online casinos fosters cross-jurisdictional access for participants to generate fast money turnovers from remote placement and real-time withdrawal of 'layered' illicit monies.<sup>16</sup> As a result, the development of online commercial and financial entities has increased the ease at which criminals can launder illicit funds without the detection of a country's law enforcement regime. These transactions can occur across international borders and jurisdictions via unregulated markets which are not subject to the oversight of governing agencies. This has presented newly emerging threats to domestic and global financial markets as policy makers must adapt legislative regimes to account for the unprecedented nature of gambling.

## 2.4 THE FINANCIAL ACTION TASK FORCE

The FATF is an intergovernmental organisation that set global standards for the mitigation of transnational ML and TF risks. Founded in 1989, the FATF's Recommendations serve as the principal instrument for AML/CTF globally and play a crucial role in coordinating global action to combat ML and TF. The FATF recommends a risk-based approach to AML/CTF regime, including various preventive measures to be followed by Designated Non-financial Business and Professions ('DNFBPs') such as casinos. The purpose of applying obligations over DNFBPs is to enhance the transparency of all transactions and ensure they are reported to the appropriate authoritative body. This enhances the collaborative approach amongst entities where illicit transactions can be readily identified, monitored, investigated and prosecuted by the governing authorities. This fosters a cohesive and cooperative AML/CTF framework which aims to detect and disrupt money laundering at various levels of the scheme.

There are 40 Recommendations in total. Although the FATF Recommendations are not legally binding in international law, they carry substantial influence and are widely esteemed. To gauge both technical compliance with these standards and the efficiency of their implementation, States are evaluated through a mechanism known as Mutual Evaluation Reviews ('MERs'), which are conducted by peers in the international community. MERs provide an extensive assessment of the effectiveness of a country's AML/CTF system and its compliance with the 40 FATF Recommendations as of the time of the on-site visit, resulting in the rating of a countries compliance with each recommendation as either Compliant, Largely Compliant, Partially Compliant or Non-Compliant. The rating of a country as non-compliant with several recommendations may result in them being placed on either the FATF's black or grey list.

The classification of a country on the FATF's black or grey list can carry significant practical and symbolic implications, affecting its standing and reputation in the realm of international finance

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<sup>15</sup> Ibid.

<sup>16</sup> Slobodan Tomic, 'Regulatory Approach to Anti-Money Laundering in Online Gambling in the UK' in Doron Goldbarsht and Louis de Koker (eds), *Financial Technology and the Law* (Springer, Cham, 2022) 53, 54.



and security.<sup>17</sup> Despite lacking legal enforceability, these recommendations have wielded substantial influence in shaping global AML/CTF endeavours.<sup>18</sup> This can be contrasted against several legally binding treaties including the UN Convention against Corruption and the UN Convention against Transnational Organised Crime, which have not demonstrated the same level of efficacy in addressing the issue of ML. While these conventions share a common purpose of addressing ML, they have not coalesced into a self-standing treaty rule that obligates states to prevent and prohibit ML effectively. This fragmentation in the legal framework raises concerns about the overall effectiveness of the existing AML/CTF regime.

## 2.5 MALTA

Malta has firmly established itself as a key player in the global gaming sector, hosting an estimated 10% of the global online gaming trade.<sup>19</sup> As of 2022, three-hundred and fifty gaming companies operate in Malta, and one-hundred and ninety-six of these companies operate with a Business-to-Consumer (B2C) gaming service license.<sup>20</sup> This thriving gaming industry has made significant contributions to the Maltese economy, accounting for 9.6% of the total value added to the previous year.<sup>21</sup> Given the industry's substantial size and growth,<sup>22</sup> it is unsurprising that Malta's AML/CTF regulatory frameworks have come under increased scrutiny by the FATF in recent years.

In April 2021, Malta's technical compliance with the FATF's Recommendations to combat illicit financial activities was found to be satisfactory.<sup>23</sup> Malta was either compliant or largely compliant with each FATF standard. However, the effectiveness of Malta's AML/CTF regime was found to be weak in some areas. Consequently, in June of 2021, Malta was placed under increased monitoring ('grey-listed') by the FATF.<sup>24</sup> At the time, the FATF noted three key strategic deficiencies in Malta's regime to counter ML and TF. One of these deficiencies relates to Malta's Beneficial Ownership (BO) regime and discussed below.

While a follow-up evaluation is yet to be released, it is noteworthy that Malta was removed from FATF grey-list in October of 2021.<sup>25</sup> This move by the FATF reflects Malta's commitment to implementing the reforms outlined in its AML/CTF action plan, which was developed by Malta in collaboration with the FATF and The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL).

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<sup>17</sup> Anton Moiseienko, 'Does International Law Prohibit the Facilitation of Money Laundering?' (2023) 36(1) *Leiden Journal of International Law* 109, 114.

<sup>18</sup> *Ibid* 113.

<sup>19</sup> PR Newswire, 'HraiGamble Group Analyzes the Impact of Malta's Gambling Industry on the EU', *Yahoo Finance* (Web Page, 18 September 2023) <<https://finance.yahoo.com/news/hraigamble-group-analyzes-impact-maltas-090000768.html>>.

<sup>20</sup> Malta Gaming Authority, 'Annual Report 2022' (Web Page, 2023) <<https://annualreport.mga.org.mt/>>.

<sup>21</sup> *Ibid*.

<sup>22</sup> *Ibid*.

<sup>23</sup> Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), *Anti-money laundering and counter-terrorist financing measures: Malta* (1<sup>st</sup> Enhanced Follow-up Report, April 2021) 18.

<sup>24</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring - June 2021' (Web Page, June 2021) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-june-2021.html>>.

<sup>25</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring - October 2021' (Web Page, October 2021) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-october-2021.html>>.

## 2.6 UNITED KINGDOM

The United Kingdom's online casino industry has witnessed unprecedented growth in recent years. The UK's remote gambling sector achieved a Gross Gambling Yield (GGY) of £6.4 billion, with three key segments driving this success.<sup>26</sup> Online casino games were the standout, generating £3.9 billion, primarily fuelled by a £3 billion contribution from slot games. Remote betting accounted for £2.4 billion of the GGY, while remote bingo, though smaller in scale, still added a significant £183.5 million to the industry's overall revenue.<sup>27</sup> As this industry expands, so do the risks associated with illicit financial activities.

In 2018, the FATF concluded that overall, the UK's AML/CTF regime is effective in many respects and is a global leader in promoting corporate transparency. Further, the UK was found to have been highly effective in investigating, prosecuting, and convicting a range of ML and TF activity, partly due to the powerful tools available to law enforcement agencies to obtain beneficial ownership and other information. However, the UK was deemed to have several areas of weakness, including supervision and the reporting and investigation of suspicious transactions.

Following the release of the 2018 MER on the UK's efforts, the country has introduced several measures aimed at strengthening its regulatory framework.<sup>28</sup> DNFBPs, which encompass casinos, are mandated to develop comprehensive documentation for the assessment of risks pertaining to ML and TF within their operational frameworks. Casino operators in the UK generally exhibit a solid grasp of the specific risks they confront in the context of ML and TF.<sup>29</sup> However, this understanding can vary from one casino to another within the industry. According to the MER, in 2018 there were 325 registered casinos in the UK, comprising of remote and non-remote licensed casinos, remote and on and off-course betting, remote and non-remote bingo and lotteries, and arcades.<sup>30</sup> These diverse sectors exhibit varying degrees of risk associated with ML and TF. Certain forms of gambling activities proved more susceptible to these risks than others. Primarily, ML activities in the gambling sector involve criminals utilising the proceeds of their unlawful endeavours, such as theft or the sale of illegal goods, for leisure and entertainment purposes. In essence, they employ casinos and other gambling outlets to enjoy the profits from their illicit activities, rather than explicitly attempting to conceal or 'clean' their ill-gotten gains. Consequently, this is not widely regarded as a significant issue within the industry and is generally perceived as having a low risk for being used for illegal financial activities.<sup>31</sup>

Accordingly, in 2022 the FATF issued an updated assessment of the UK's measures to tackling ML

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<sup>26</sup> Gambling Commission, *Statistics and Research* (Web Page, 31 October 2023) <<https://www.gamblingcommission.gov.uk/about-us/statistics-and-research>>.

<sup>27</sup> *Ibid.*

<sup>28</sup> Financial Action Task Force, *The United Kingdom's Measures to Combat Money Laundering and Terrorist Financing*, (Mutual Evaluation Report, 7 December 2018).

<sup>29</sup> *Ibid.* 27.

<sup>30</sup> *Ibid.*

<sup>31</sup> *Ibid.* 28.

and TF, resulting in the country's re-rating on Recommendation 13 from partially compliant to compliance, resulting in the UK being rated as compliant on 24 recommendations and largely compliant on 15 recommendations.

The EU, through its AML Directives, has consistently strived to align its legal framework with international AML standards, demonstrating a robust commitment to implementing global AML obligations. This commitment is evident in the EU's prompt adoption of directives, in response to updates by the FATF. Despite the UK's departure from the EU, its AML regulations are poised to remain largely intact due to their alignment with FATF standards and United Nations frameworks. The updated Political Declaration, released in October 2019, articulates the UK and EU's shared vision. It underscores the importance of including collaboration in AML/CTF measures as a component of this relationship. Furthermore, the AML provisions in the EU-UK Trade and Cooperation Agreement ('TCA') underscore a continued commitment to AML standards. The TCA includes provisions for AML within the context of law enforcement and judicial cooperation in criminal matters. It commits both the EU and the UK to specific AML standards and procedures while facilitating the sharing of critical information between the two parties. Of particular significance is the obligation to share beneficial ownership information between competent authorities in a timely and cost-free manner, reinforcing existing practices regarding central registers of beneficial ownership that are publicly accessible and shared with relevant authorities to combat ML.<sup>32</sup> However, the potential for changes lies in the UK's autonomy to set AML regulations outside the EU framework, potentially aligning them with its specific economic interests. Currently, the UK is compliant on 24 FATF recommendations, largely compliant on 15 and partially compliant on 1.<sup>33</sup>

## 2.7 CURAÇAO

According to the Curaçao's Public Prosecutors Office (PPO) and foreign gambling authorities, Curaçao is one of the top three countries in the world hosting the servers of online gambling sites.<sup>34</sup> Currently, Curaçao is not on the FATF's list of High-Risk Jurisdictions subject to a Call for Action ('black list') or a Jurisdictions under Increased Monitoring ('grey list').<sup>35</sup> However, Curaçao's Minister of Finance indicated that Curaçao is at risk of getting grey-listed in the future.<sup>36</sup> In the hopes of preventing this, and as a method of improving Curaçao's international reputation, there has been significant reform in the online casino licensing regime in 2023.

Curaçao is a member of the Caribbean Financial Action Task Force (CFATF), being an organisation

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<sup>32</sup> Norman Mugarura, 'The Implications of Brexit for UK anti-money laundering regulations: Will the Fourth AML Directive be Implemented or be Binned?' (2018) 21(1) *Journal of Money Laundering Control* 5, 16.

<sup>33</sup> Financial Action Task Force, *United Kingdom* (Web Page) < [<sup>34</sup> Ministerie van Financiën, 'National Risk Assessment \(On\) Money Laundering Curaçao 2020' \(NRA Report, 05 February 2023\) 107 \(NRA 2020\).](https://www.fatf-gafi.org/en/countries/detail/united-kingdom.html#:~:text=Today%2C%20the%20United%20Kingdom%20is,partially%20compliant%20on%201%20Recommendation.>.</a></p></div><div data-bbox=)

<sup>35</sup> Financial Action Task Force, 'Black and grey lists' (Webpage, 2023).

<sup>36</sup> Marese O'Hagan, 'LOK provides "safety net" from grey-listing, says Curaçao minister' (Webpage, 27 September 2023).

of states and territories within the Caribbean basin which have agreed to implement common counter-measures against ML and TF. In 2015, the CFATF issued a fifth follow-up report in respect of Curaçao, noting that since the adoption of the MER in 2012, Curaçao has strengthened its legal and institution AML/CTF framework, however, remains partially compliant in respect of nine core and key recommendations.

## 2.8 CANADA

Canada's AML/CTF framework is comprised of a comprehensive set of domestic legislation and enforcement mechanisms to combat money laundering and terrorist financing. The regime intricately balances the need to combat money laundering, while respecting the constitutional division of powers, the Canadian Charter of Rights and Freedoms and the privacy rights of Canadians. At the international level, Canada works collaboratively with the FATF, FATF Regional Bodies, the Egmont Group and other international bodies. This fosters a network of information sharing to identify emerging trends and challenges and develop international best practice standards to combat money laundering and terrorist financing.

In September 2016, the FATF released Canada's Mutual Evaluation Report finding a generally strong policy and operation of AML/CTF legislation and regulations.<sup>37</sup> In 2021, Canada's technical compliance was upgraded in regard to compliance measures surrounding 'politically exposed persons, wire transfers, reliance on third parties, reporting of suspicious transactions, and designated non-financial businesses and professions'.<sup>38</sup> Presently, Canada operates a robust AML/CTF framework and is compliant with 11 Recommendations and largely compliant with an additional 23 Recommendations.<sup>39</sup>

## 2.9 GIBRALTAR

Gibraltar is a British Overseas Territory located at the southern tip of the Iberian Peninsula and has been recognised as an attractive jurisdiction for establishing online casino operations. Their attractiveness is attributed to a combination of its regulatory environment, favourable tax regime, and advanced infrastructure. Historically, Gibraltar has been a maritime hub due to its strategic geographical location. However, in recent decades, its economy has diversified, with the online gambling sector becoming a key pillar.<sup>40</sup> By the early 2000s, Gibraltar established itself as an attractive location for online gaming companies looking for a well-regulated and business-friendly environment.<sup>41</sup>

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<sup>37</sup> Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures – Canada* (Fourth Round Mutual Evaluation Report, September 2016).

<sup>38</sup> Department of Finance Canada, *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (Consultation Paper, 6 June 2023) 11.

<sup>39</sup> *Ibid.*

<sup>40</sup> Hills, George. "Rock of Contention: A History of Gibraltar." London: Robert Hale, 1974

<sup>41</sup> "Why Gibraltar is a Hotspot for Gaming and Crypto Currently", <<https://www.lep.co.uk/culture/gaming/why-gibraltar-is-a-hotspot-for-gaming-and-crypto-currently-3437957?>>

However, its rapid ascent in the online gaming world has not been without challenges. With increased scrutiny from international bodies, Gibraltar has had to continually evolve its legislative framework, specifically its AML/CTF regulations. The balance between competing economic interests and stringent international compliance requirements has been a recurrent theme for the territory, leading to increased scrutiny.

Gibraltar is a member of the Committee of Experts on the Evaluation of Anti-Money Laundering Measures (MONEYVAL). Since 2015, Gibraltar's AML/CTF legal framework has improved significantly and provides a solid basis for the authorities to detect, investigate and prosecute ML and TF offences. In 2022, Gibraltar committed to working with the FATF and MONEYVAL to strengthen the effectiveness of its AML/CTF regime, however, remains listed on the FATF grey list, demonstrating the perceived need for stronger AML/CTF framework provisions. Being listed on the FATF's "grey list" implies that while the jurisdiction is not currently labelled as a high-risk area, there are strategic deficiencies in its AML/CTF measures that need to be addressed.<sup>42</sup>

As of 2023, there is approximately 38 online gambling companies in Gibraltar and many of these are listed on the London Stock Market. The online gambling industry in Gibraltar employs over 1,800 people, which is more than 14 per cent of its entire workforce.<sup>43</sup> This figure is quite large when you consider that the total population is 33,768 and the gross geographical area is only 2.5 square miles.

# REQUIREMENTS FOR ESTABLISHING AN ONLINE CASINO

## 3.1 MALTA

The key national gaming regulator in Malta is the MGA. The MGA issues the various gaming licenses available in Malta. For online gaming, the relevant licence is Malta's 'B2C' licence. This license permits the licensee to engage in remote gaming services, as well as land-based casinos, commercial bingo halls, and national lotteries.<sup>44</sup>

Only companies established in the European Economic Area (EEA) are eligible to receive a gaming

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<sup>42</sup> Financial Action Task Force (2020). "Jurisdictions under Increased Monitoring." FATF Reports

<sup>43</sup> 'Why Gibraltar is a Hotspot for Gaming and Crypto Currently', <<https://www.lep.co.uk/culture/gaming/why-gibraltar-is-a-hotspot-for-gaming-and-crypto-currently-3437957?>>.

<sup>44</sup> Malta Gaming Authority, 'B2C Licences' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/b2c-licences/>>.

licence through the MGA.<sup>45</sup> It is therefore necessary for interested foreign parties to register a company in the EEA before they begin the gaming licence application process. To register a company in Malta, typically the process takes two weeks<sup>46</sup> and incurs a registration fee of no more than €2,500 (approximately \$4,100 AUD), in addition to a pre-determined minimum share capital.<sup>47</sup> To acquire a B2C gaming licence, the MGA requires the company to have a minimum share capital of €100,000 (approximately \$170,000 AUD).<sup>48</sup>

Alternatively, a foreign gaming operator who is already licensed in the EEA, or another permitted jurisdiction, may supply their gaming services in or from Malta where they have acquired a Recognition Notice from the MGA.<sup>49</sup> A permitted jurisdiction is one that the MGA determines to offer regulatory safeguards 'largely equivalent to' those offered by Maltese law.<sup>50</sup>

A Recognition Notice essentially has the same effect as an MGA-issued gaming licence, permitting the foreign operator to provide their gaming services in Malta. However, a Recognition Notice must be annually renewed, whereas an MGA license is valid for 10 years.<sup>51</sup>

### 3.1.1 Application Process

#### A Fit and Proper

The MGA will first undergo an assessment of whether the applicant is fit and proper. The applicant will need to complete an entity declaration form provided for on the MGA site.<sup>52</sup> This allows the MGA to review the applicant's company constitution, share register, declaration of source funds, and so on. Based on this information, the MGA will assess whether the entity is legitimate. The Director must also submit a personal declaration form with the application.

#### B Funding Review and Business Plan

The applicant must submit a financial management form so that the MGA can assess the applicant's source of funds as well as the source and extent of the wealth of its Ultimate Beneficial Owners ('UBOs').<sup>53</sup> The MGA will determine whether the applicant is financially stable to sustain the license and verify that the income sources of the company are legitimate.

The MGA provides applicants with a system documentation checklist, which is essentially a list of all the documentation the applicant must submit with their application.<sup>54</sup> Relevantly, it sets out

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<sup>45</sup> *Gaming Authorisation Regulations* (Malta) 20 July 2018 [S.L.583.05], art 10(1).

<sup>46</sup> Albert Loffe, 'Creating a Company in Malta: Benefits and Requirements', *Immigrant Invest* (Web Page, accessed October 2023) <<https://imin-malta.com/blog/company-registration-malta/>>.

<sup>47</sup> Malta Business Registry, 'Registration and Fee Structure' (Web Page, accessed October 2023) <<https://mbr.mt/registration-and-fee-structure/>>.

<sup>48</sup> Malta Gaming Authority, *Licence Fees and Taxation* (Guidance Note, version 2, February 2023) 6.

<sup>49</sup> *Gaming Authorisation Regulations* (Malta) 20 July 2018 [S.L.583.05], art 22(1).

<sup>50</sup> Malta Gaming Authority, 'Recognition Notices' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/recognition-notices/>>.

<sup>51</sup> *Ibid.*

<sup>52</sup> See Malta Gaming Authority, 'Remote Gaming Services' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/b2c-licences/remote-gaming-services/>>.

<sup>53</sup> Malta Gaming Authority, *Application Process* (Guidance Note, version 1, February 2023) 3.

<sup>54</sup> See Malta Gaming Authority, 'Remote Gaming Services' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/b2c-licences/remote-gaming-services/>>.

that the applicant must provide the MGA with detailed documentation of their business plan and AML/CTF plan including Know Your Client (KYC) and Customer Due Diligence (CDD) procedures.

### *C Operational and Statutory Requirements*

Operational requirements relate to the applicant's technical set up. The MGA provides system audit checklists and system review checklists so the applicant can confirm ('check off') that their proposed business plan fulfils MGA's requirements, as well as the broader statutory requirements, relating to casino technical operation and documentation.<sup>55</sup>

#### *3.1.2 Requirements of a Licensee*

On successful application, the applicant (now licensee) will receive a 10-year gaming licence from the MGA. To continue to hold their licence, a licensee is subject to various financial obligations and reporting requirements, set out below.

#### *A Relevant Fees and Taxation in Malta for B2C Gaming Service Licence*

- One-time licence application fee: €5000 (approx. \$8500 AUD).
- Application fee for renewal of license: €5000 (approx. \$8500 AUD).
- Annual maintenance fee for Recognition Notice: €5000 (approx. \$8500 AUD).
- Fixed annual license fee: €25,000 (approx. \$42,500 AUD).
- Gaming tax: 5% annual gaming revenue
- Remote Gaming Tax Capping per licensee per remote gaming license €466,000 per annum<sup>56</sup> (approx. \$771,000 AUD).
- 'Compliance Contribution' fee: depends on earnings, minimum €15,000; maximum €375,000 (approx. \$25,000 AUD and \$621,000 AUD, respectively).

#### *B Reporting Requirements*

B2C licensees are required to submit various key reports to the MGA Compliance Department at regular intervals.<sup>57</sup>

##### *(a) Monthly Reports*

**Alternative Dispute Resolution (ADR) Report:** this report provides to the MGA information about any disputes the licensee is involved in that relates to their gaming operations. The licensee is required to have engaged an ADR provider to attempt to settle these disputes. The MGA must be

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<sup>55</sup> Ibid.

<sup>56</sup> Advocates Primei, 'Maltese Remote Gaming Licences (Web Page, 24 July 2019) <<https://advocatesprimei.com/maltese-remote-gaming-licences/>>.

<sup>57</sup> See Malta Gaming Authority, 'Reporting Requirements' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/compliance/licensees-information-reporting-requirements/reporting-requirements/>>.

informed of the outcomes of ADR processes and any rulings subsequently made.

**Gaming Tax Report:** this report sets out that the licensee has met its tax and compliance contribution obligations.

**Player Funds Report:** the licensee must provide the MGA all month-end balances related to player funds, jackpot funds, and player-designated bank account balances. These balances need to be verified by documentation evidence. The objective of this report is to determine whether the licensee is able to financially cover the player and jackpot dues.<sup>58</sup>

#### *(b) Six-monthly Reports*

**Interim Financial Statement:** the licensee must report to the MGA its half-yearly financial position and provide the MGA with a Statement of Comprehensive Income. This report enables the MGA to assess the financial performance and stability of licensees.

**Industry Performance Returns Report:** within this report, the licensee must provide the MGA with information relating to their customer's accounts, responsible gambling procedures (including self-exclusion requests and gambling limits), the licensee's company employment information and business trends.

#### *(c) Annual Reports*

**Audited Financial Statements:** this includes an audit report of the licensee's financial performance signed by the auditor, a director's report, and a statement of income and cash flow statement. The licensee will also have to submit player funds account balance information and a gaming revenue declarations form.

### *C Compliance Requirements*

The Licensee will be subject to scheduled compliance audits of its operations by an MGA approved service provider.<sup>59</sup> The MGA will also conduct regular compliance reviews of the licensee's operations, review the incident reports submitted by licensees, and conduct on-site audits to review live studio operations where relevant.<sup>60</sup>

#### *3.1.3 AML/CTF Requirements*

The licensee must elect a person to hold a key AML/CTF function within the company, known as the Money Laundering Reporting Officer (MLRO) role.<sup>61</sup> The elected person needs to be appraised by the MGA prior to their appointment to assess their competence and suitability for the role. The MLRO is responsible for ensuring the gaming operator complies with the relevant AML/CTF

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<sup>58</sup> Ibid.

<sup>59</sup> See Malta Gaming Authority, 'What is a Compliance Audit?' (Web Page, accessed October 2023) < <https://www.mga.org.mt/faqs/what-is-a-compliance-audit/> >.

<sup>60</sup> Ibid.

<sup>61</sup> See Malta Gaming Authority, *Fact Sheets 2023* (Guidance Note, accessed October 2023).



obligations set out by the MGA and Malta’s various gaming legislation and regulations (examined in Part IV of this report).

Casino operators are obliged to conduct thorough and regularly updated AML/CTF business risk assessments, and must have satisfactory AML/CTF policies and procedures in place. This includes employing a rigorous customer identity verification processes as well as a strict customer acceptance policy, in order to limit the potential for unidentifiable or fraudulent customers using the gaming services for ML and/or TF purposes.

Further, the gaming service provider must have sufficient oversight of their gaming operations in order to detect and report suspicious transactions to the Financial Intelligence Analysis Unit (FIAU). Certain alert systems may be built into the online casino technical infrastructure, that notify casino operators of potential suspicious activity by customers. This makes oversight somewhat easier. Licensees must also be diligent in their record-keeping so that all transactions are recorded and may be reviewed by the FIAU. Once again, the digital nature of online casinos makes this task less taxing on operators.

## **3.2 UNITED KINGDOM**

### *3.2.1 The Gambling Commission*

The Gambling Commission (“GC”) serves as the regulatory authority overseeing all gambling service providers in the UK. Its authority derives from the *Gambling Act 2005* allowing it to oversee operations of the gambling industry.<sup>62</sup> These include casinos, both physical and remote, ensuring compliance with AML/CTF regulations.

### *3.2.2 Remote Casino Operating Licence*

The GC issues this license, which authorises the provision of casino games to customers through diverse online channels, including websites, mobile phones, television, and other digital services.<sup>63</sup> This broad category encompasses a variety of games, such as poker, roulette, blackjack, and online slot games.

### *3.2.3 Application Fees*

Are dependent on GGY, starting at £4,224 – 91,686.<sup>64</sup>

### *3.2.4 Annual Fees*

Are dependent on GGY, starting at £4,199 – 793,729 plus 125,000 for each additional 500 million

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<sup>62</sup> *Gambling Act 2005* (UK) 53 Eliz 2, c 19.

<sup>63</sup> Gambling Commission, *Remote Operating Licence* (Web Page, 9 February 2023) <<https://www.gamblingcommission.gov.uk/licencees-and-businesses/licences-and-fees/remote-casino-operating-licence#:~:text=The%20remote%20casino%20operating%20licence,well%20as%20online%20slot%20games.>>.

<sup>64</sup> *Ibid.*

of annual GGY above 1 billion.<sup>65</sup>

### 3.2.5 *The Application*

The application must be submitted through the GC website and the associated application fee must be paid. The processing time for an operating license is approximately 16 weeks.<sup>66</sup> Businesses are required to provide an extensive array of information, including, but not limited to, policies and procedures, rules of play, details of gambling software, an operational model diagram, a business plan, bank statements for all accounts covering the preceding six months, audited accounts, profit and loss projections for the upcoming three years, an ownership structure diagram, a management hierarchy, and individual identity documents.<sup>67</sup>

When assessing suitability, the GC necessitates evidence to support and enable assessment in specific areas, ensuring that there is an understanding of the legislation overall and that the arrangements will meet social responsibility requirements. As part of this process, applicants are required to disclose their own identity as well as the identities of individuals pertinent to the application, including corporate owners associated with the business. This includes providing details about financial and other circumstances, both past and present, and outlining the resources available for carrying out the licensed activities. Furthermore, the evaluation encompasses an assessment of the honesty and trustworthiness of both the applicant and individuals relevant to the application, an examination of their experience, qualifications, and historical background, and a review of any criminal records, both for the applicant and those pertinent to the application.

### 3.2.6 *The Licence Conditions and Codes of Practice*

The Licence Conditions and Codes of Practice ('LCCP'), established by the GC, function as a dynamic regulatory framework that undergoes continuous updates, adapting to the evolving industry landscape and the emergence of new insights regarding the most effective strategies for fostering socially responsible gambling.<sup>68</sup> It outlines the mandatory requirements that all licensees must adhere to hold a GC licence. Licensees are obligated to establish suitable policies and procedures for the handling of cash and cash equivalents, aimed at mitigating the risk of crimes such as ML and TF.<sup>69</sup> These policies and procedures must be effectively implemented, regularly reviewed, and appropriately revised to ensure their ongoing effectiveness, considering any guidance or directives published by the GC.

Section 12, *Anti-Money Laundering*, outlines specific procedures for preventing ML and TF, which apply to all operating licensees.<sup>70</sup> Firstly, licensees are required to conduct a comprehensive risk

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<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> Ibid.

<sup>68</sup> Gambling Commission, *Online Licence Conditions and Codes of Practice* (Web Page, 12 September 2022) <<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/online>>.

<sup>69</sup> Ibid s 5.1.1.

<sup>70</sup> Ibid s 12.

assessment, assessing the likelihood of their business being exploited for ML and TF.<sup>71</sup> This risk assessment should be considered appropriate and revisited as needed, especially in response to changes in circumstances, such as the introduction of new products, payment methods, or shifts in customer demographics. Following the completion of the risk assessment, licensees must establish and maintain suitable policies and procedures designed to prevent ML and TF. Lastly, they must ensure that these policies and procedures are effectively implemented, regularly reviewed, and adjusted as necessary to maintain their efficacy, while considering any new guidelines published by the GC.

Section 12.1.2 specifically pertains to all remote casino operating licenses where any of the licensee's remote gambling equipment is situated outside of Great Britain.<sup>72</sup> In this context, licensees are obligated to adhere to Parts 2 and 3 of the *Money Laundering Regulations 2007* (UK) (MLR), or the corresponding provisions of any UK Statutory Instrument that may amend or replace those regulations, specifically concerning casinos. This requirement applies even if the MLR does not otherwise apply to their business.

Section 15.2 mandates the reporting of key events and other reportable incidents that could significantly affect the nature or structure of a licensee's business.<sup>73</sup> Licensees are obliged to inform the GC in such cases. This includes the appointment of an individual to a 'key position' with overall responsibility for the licensee's AML/CTF compliance, or for reporting known or suspected ML or TF activities. Upon such an appointment, licensees are required to notify the GC of the appointed individual's identity within 14 days.<sup>74</sup>

### 3.2.7 *Barriers to Entry*

The GC exercises regulatory oversight over the ownership, management, and employment within gambling operations to mitigate the involvement of criminals. They utilise rigorous background checks and assessments, applicable to both domestic and international applicants, to evaluate individuals' suitability for these positions and uphold the industry's integrity.

#### a) *Market Entry Controls*

The GC has implemented stringent rules to prevent individuals with criminal backgrounds from owning or managing gambling enterprises. To verify an applicant's criminal history, the GC employs the services of the Disclosure and Barring Service ('DBS'). These controls are enforced to maintain the integrity of the industry and prevent illegal activities.

#### b) *Operating Licenses*

Operating licenses from the GC are a mandatory requirement for running a gambling business. As

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<sup>71</sup> Ibid s 12.1.1.

<sup>72</sup> Ibid s 12.1.2.

<sup>73</sup> Ibid s 15.2.

<sup>74</sup> Ibid s 15.2.3.

a part of the licensing procedure, the commission carries out a 'F&P test,' evaluating the fitness and propriety, or suitability, of the owners and senior managers.

c) *Personal Licenses*

Employees engaged in gaming activities and responsible for handling cash are also required to obtain personal licenses. These licenses undergo similar background checks to guarantee that individuals with prior criminal records are not placed in sensitive roles within the industry.

d) *Overseas Applicants*

When an applicant for a gambling license originates from another country, the GC mandates the submission of a police report from their home country. This report aids the commission in evaluating the applicant's background and any potential criminal history.

e) *Regulatory compliance*

Applicants must exhibit stringent adherence to the dynamic regulations, particularly by maintaining robust AML and KYC procedures to deter ML and ensure the verification of their customers' identities.

f) *Financial Requirements*

Operators are required to demonstrate financial stability by providing evidence of sufficient capitalisation, ensuring their ability to fulfill player obligations, such as paying out winnings.

### 3.2.8 *Implementation and Enforcement Mechanisms Employed by the Gambling Commission*

The GC actively monitors and investigates licensees to confirm their continued adherence to the fitness and propriety test criteria even after the issuance of a license. They proactively scrutinise various sources for risk indicators and employ the strategies below to safeguard the industry's integrity.

a) *Risk-Based Supervision*

The GC uses a risk-based approach to oversee the gambling industry where they prioritise their efforts based on the level of risk associated with each operator. This allows the GC to allocate their resources more effectively by focusing on higher-risk areas of the industry, address issues more efficiently, and provide tailored requirements to specific risks posed by different operators.<sup>75</sup>

b) *Triggers for Monitoring*

Factors that can prompt actions include alterations in the ownership of a gambling establishment,

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<sup>75</sup> Gambling Commission, *New FATF Guidance for Risk-Based Supervision* (Web Page, 10 May 2021) <<https://www.gamblingcommission.gov.uk/licensees-and-businesses/notice/new-fatf-guidance-for-risk-based-supervision>>.

modifications to a license, and the routine supervisory activities of the commission.<sup>76</sup> By utilising triggers for monitoring the GC can detect issues or events in the early stages. The proactive approach enables the GC to prevent problems from escalating and becoming difficult to resolve.

#### c) *Regular Review of Licenses*

Personal licenses for individuals engaged in the industry undergo a review every five years, ensuring that they continue to adhere to the fitness and propriety criteria for the duration of their involvement in the gambling sector.<sup>77</sup> High Impact Operators typically face regular inspections, usually occurring every two to three years. However, the frequency of these inspections can vary depending on the perceived level of risk, with higher-risk casino operators undergoing more frequent oversight. Smaller operators primarily undergo control adequacy assessments during the licensing process. Following the acquisition of a license, these operators are subject to monitoring through desk-based reviews.

#### d) *Action against Unlicensed Operators*

The GC conducts active investigations and takes measures against unlicensed gambling operators. In the year 2016, they launched investigations into 24 unlicensed online casinos. These operators were detected through a combination of continuous monitoring, public reports, and information from law enforcement agencies.<sup>78</sup> When unlicensed operators are identified, the commission acts, which may involve issuing cease and desist letters, directing the operators to halt their unlicensed activities.

#### e) *Penalties*

The GC imposes an array of mechanisms to enforce compliance with rules and regulations among gambling operators. These instruments include issuing warnings, modifying, or adding license conditions, suspending, or revoking licenses, imposing financial penalties, and disclosing enforcement outcomes to the public. The choice of action taken is contingent upon the nature and gravity of the operator's non-compliance.<sup>79</sup>

### 3.3 CURAÇAO

In 1993, with the *National Ordinance on Offshore Games of Hazard* (NOOGH), Curaçao became one of the first countries to offer online gambling licenses.<sup>80</sup> Curaçao's licensing system involves

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<sup>76</sup> Gambling Commission, *The Prevention of Money Laundering and Combating the Financing of Terrorism* (Web Page, 30 May 2023) <<https://www.gamblingcommission.gov.uk/guidance/the-prevention-of-money-laundering-and-combating-the-financing-of-terrorism/prevention-of-ml-and-combating-the-financing-of-terrorism-part-6-6-ongoing-monitoring>>.

<sup>77</sup> Gambling Commission, *Guidance to Licensing Authorities* (Web Page, 19 April 2023) <<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/part-2-personal-licences>>.

<sup>78</sup> Gambling Commission, *Unlicensed Gambling* (Web Page) <<https://www.gamblingcommission.gov.uk/about-us/impact-metric/so3-keeping-crime-out-of-gambling/unlicensed-gambling>>.

<sup>79</sup> Gambling Commission, *Statement of Principles for Determining Financial Penalties* (Web Page, 23 March 2023) <<https://www.gamblingcommission.gov.uk/policy/statement-of-principles-for-determining-financial-penalties/statement-of-principles-for-determining-financial-penalties-introduction>>.

<sup>80</sup> Ron Mendelson, 'Why Curacao Online Gaming Licenses deserve a better reputation' (Webpage, 29 January 2020).

two kinds of licences: master licenses and sub-licenses. Pursuant to NOOGH, master licenses were issued by the Minister of Justice, but since December 2019, the Minister of Finance was assigned the responsibility for these licenses and for the regulation of the sector.<sup>81</sup> Each kind of online gambling licence covers all types of games, including live casino games. However, the difference is that only master license holders may issue sub-licenses. The number of master licenses is small and only four entities currently hold one.<sup>82</sup> The current license holders are: E-Gaming (Cyberluck Curacao), Gaming Services Provider, Curacao Interactive Licensing, and Antillephone.

The holders of these master licenses do not operate online gambling sites.<sup>83</sup> Instead, they provide sub-licenses to others. There are two kinds of sub-licensees issued by master license holders: businesses to client (B2C), and businesses to business (B2B).<sup>84</sup> For example, a company running an online casino would need a B2C license while a company selling software to a company running an online casino would need a B2B license. The specific requirements to be met to receive a sub-license differs depending on the individual master license holder. Each have their own process and internally assess the applications. The requirements listed by E-Gaming when applying for a B2C license are: that the business must be registered in Curaçao, the company must have a well-defined business plan as well as financial projections, and they must have a Know Your Customer (KYC) process.<sup>85</sup> As the application to a master license holder is made privately, there are no clear standards as to how these requirements are applied practice. The standards applied are at the discretion of the master license holder.

In theory, sub-licensees are bound to the same requirements as master license holders. However, master license holders are responsible for compliance and enforcement of these requirements and the regulatory bodies of Curaçao have little oversight into this process. In its National Risk Assessment, it states that ‘statistics on the number of sub-licenses during the review period were not available’.<sup>86</sup> However, more than 600 sub-licensees have been reported by the master license holders.<sup>87</sup> This indicates that Curaçao was reliant on reporting made by the master license holders on request, however, there was no independent body under which sub-licensees were registered. As a result, compliance to industry requirements was managed solely by the master license holders since Curaçao was unaware of how many sub-licensees even existed, never mind their compliance levels. In essence, this meant that the issuance of online gambling licenses, and practical control over these licenses, was privatised in the form of the master license holders.<sup>88</sup>

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<sup>81</sup> NRA 2020 (n 1) 107.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Ibid.

<sup>85</sup> Curaçao E-Gaming, ‘Apply for a CEG Gaming License’ (Webpage, 2023).

<sup>86</sup> NRA 2020 (n 1) 107.

<sup>87</sup> Ibid.

<sup>88</sup> Daniel O’Boyle, ‘Curaçao to overhaul regime with new regulator, higher bars to entry’ (Webpage, 22 July 2022).

### 3.4 CANADA

In Canada, online casinos are regulated under the same legislation as all other casinos and DNFBPs. Pursuant to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*<sup>89</sup> ('*Proceeds of Crime Act*'), a casino includes a government, organisation, board, or operator which 'conducts and manages a lottery scheme'<sup>90</sup> and is accessible to the public through the Internet or other digital networks.<sup>91</sup> This is a relatively unique aspect of Canada's AML/CTF regime as both land-based casinos and online casinos are dealt with synonymously. This report will demonstrate the way in which this approach to collectively govern all forms of casinos within unified legislation can be utilised to increase online casino regulation in Australia without disrupting core federal legal tenants.

In Canada, as all gambling is regulated by provincial or territorial authorities the process of establishing an online casino varies across provinces. Generally, the company will need to be registered as an acceptable business form with the Trade Register of Canada. Once registered, the casino must obtain the necessary license in the respective province it wishes to operate in, and the gambling supplies must be certified. As provinces are granted the power to 'conduct and manage'<sup>92</sup> all gaming activity, most have established Lottery Corporations which serve as governing entities.<sup>93</sup> One example is the Ontario Lottery and Gaming Corporation which conducts and manages all gaming in Ontario. Other examples include the British Columbia Lottery Corporation, the Loto-Quebec, and Atlantic Lottery.

Most provincial governments have implemented regulatory schemes whereby all companies operating gaming-related services must be registered by the provincial gaming regulator.<sup>94</sup> This regulator is established at provincial level and reports to the Lottery Corporation that governs its province. For example, in Ontario, the Alcohol and Gaming Commission of Ontario regulates all entities providing gaming services, and reports to the Ontario Lottery and Gaming Corporation. Since 2022, the Alcohol and Gaming Commission of Ontario introduced a subsidiary which oversees the registration and regulation of all entities providing online gambling services via iGaming Ontario, a new Ontario online gaming market.<sup>95</sup> Ontario is the only Canadian province with a unique licensing scheme tailored towards online casino services. However, this new regulatory approach will be examined in greater detailed throughout the course of this report. In respect of online casinos, the company must also have a website with a registered domain name. Thus, the casino's registration is acquired at a province or territorial level thereby subjecting the casino to the provincial regulations. Once licensed, the casino is recognised in Canadian law and

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<sup>89</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

<sup>90</sup> *Ibid* s 5(k1).

<sup>91</sup> *Ibid*.

<sup>92</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 5(k1).

<sup>93</sup> Global Legal Group, 'Canadian Gaming 2.0 2023', *ICLG - Gambling Laws and Regulations* (online, 7 December 2022) <<https://iclg.com/practice-areas/gambling-laws-and-regulations/2-canadian-gaming-2-0>>.

<sup>94</sup> *Ibid*.

<sup>95</sup> *Ibid*.

subject to provincial laws and various obligations under the *Proceeds of Crime Act*.<sup>96</sup>

## 3.5 GIBRALTAR

### 3.5.1 *Initial Engagement:*

Before beginning the formal application process, applicants are advised to engage with the Gibraltar Gambling Division (GGD) and the Gambling Commissioner (GC). This pre-licensing phase serves as an opportunity for early assessment of the operator's suitability and competence.<sup>97</sup> During this stage, the applicant's controllers, proposed management, and other key facets of the proposed operation are reviewed.

### 3.5.2 *Application Submission:*

Once the Gambling Division and Gambling Commissioner have deemed the potential applicant to be suitable, they can move forward with the formal application process. This process requires detailed information about the business, including its corporate structure, sources of funding, and a comprehensive business plan. Additionally, details about governance, policies, procedures, consumer protection measures, and social responsibility strategies must be outlined at this stage.<sup>98</sup>

### 3.5.3 *Regulatory Due Diligence:*

A key component of the application process is the regulatory due diligence. This aims to establish the ultimate beneficial ownership and control of the business.<sup>99</sup> It's imperative for the application to have complete transparency, especially around trusts and other structures. This ensures that individuals or entities with a criminal history or connections do not gain control over online casino businesses in Gibraltar.

### 3.5.4 *Assessment of Executive Management:*

The executive management of the applying entity must demonstrate their personal competence. This is assessed through the business plan they present and their strategies for effective governance of the business. This stage may require key individuals to provide certificates of good conduct, especially from jurisdictions they've worked or resided in or hold nationality from.<sup>100</sup> The Licensing Authority will review the previous regulatory history of these individuals.

### 3.5.5 *Decision Phase:*

If the Licensing Authority finds the applicant's information satisfactory and believes they meet the

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<sup>96</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

<sup>97</sup> *Ibid.*

<sup>98</sup> Gambling Commissioner, *Code of Practice for the Remote Gambling Industry: Anti-Money Laundering, Countering the Financing of Terrorism and Counter Proliferation Financing Arrangements v 1.0.2023 (2023)*

<sup>99</sup> *Ibid.* s6

<sup>100</sup> Gambling Division, 'Further Guidance on Politically Exposed Persons, Source of Wealth and Source of Funds, Beneficial Ownership, Targeted Financial Sanctions and Proliferation Financing'



standards set by Gibraltar, an "in principle" decision to approve the license will be made.<sup>101</sup> However, it's important to note that the actual license will not be issued until the entire due diligence process is completed and the business plan is thoroughly evaluated.

### 3.5.6 *Issuance of License:*

Upon successful completion of all the above stages and once the Licensing Authority is convinced of the applicant's suitability, a license will be granted. A "go-live" date will be agreed upon, marking the commencement of the operator's regulated activities in Gibraltar.

### 3.5.7 *Timescales:*

The duration for processing a license can vary. However, a high-quality application that addresses all requirements comprehensively can generally be processed over a period of around 5-7 months<sup>102</sup>.

### Capital and Other Prerequisites for Establishing Online Casinos in Gibraltar:

**Proven Financial Stability & Capital:** Applicants must demonstrate that they have the financial capacity to operate a gambling business. This means that they should have sufficient funds not only to establish and run the casino but also to ensure prompt payouts to winners and handle operational costs<sup>103</sup>. Licensees must maintain adequate working capital to finance ongoing operational costs. The specific amount tends to vary based upon the projected size and nature of the online casino.<sup>104</sup> This ensures that they can meet both their short-term and long-term financial obligations, including potential prize payouts to customers.

**Economic Contribution:** Licensees are expected to establish a significant presence in Gibraltar and contribute to its economy, indicating a need for substantial capital. This could also mean renting office space, establishing technical infrastructure, or other tangible evidence of operations based in Gibraltar.

**Business Plan:** A comprehensive business plan is essential. This should detail the source of legitimate funding and the anticipated revenue and expenditure. It should also outline strategies to handle potential financial challenges when they arise. Regulatory due diligence will focus on establishing the ultimate beneficial ownership of the business. This means applicants must provide detailed information about shareholders, directors, trusts, and anyone else who has a significant stake or control in the company.<sup>105</sup> The corporate structure of the group to which the applicant belongs should be clear and transparent.

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<sup>101</sup> Ibid.

<sup>102</sup> HM Government of Gibraltar. "Remote Gambling." 2015. < <https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling>>.

<sup>103</sup> Ibid.

<sup>104</sup> Ibid.

<sup>105</sup> Gambling Division, 'Further Guidance on Politically Exposed Persons, Source of Wealth and Source of Funds, Beneficial Ownership, Targeted Financial Sanctions and Proliferation Financing'

Personnel: Key personnel, including shareholders, directors, and executive managers involved in the management and operation of the business in Gibraltar, should be identified.<sup>106</sup> These individuals might be required to provide certificates of good conduct, especially from places where they have worked, resided, or hold nationality.

# AML/CTF LEGISLATIVE FRAMEWORK

## 4.1 MALTA

### 4.1.1 *Malta's Gaming Act*

Malta's Gaming Act ('the Gaming Act') came into force in August 2018.<sup>107</sup> The primary objective of the Gaming Act is stated to be 'the regulation of gaming services from and within Malta', and 'for the establishment and functions of the Malta Gaming Authority'.<sup>108</sup>

Part III of the Gaming Act establishes the MGA and gives it various powers and functions relating to gaming regulation in Malta. The Gaming Act states that the MGA is responsible for, amongst other things, the regulation and supervision of all Maltese gaming practices and operations,<sup>109</sup> granting gaming licences,<sup>110</sup> receiving and investigating complaints relating to gaming operations in Malta and facilitating resolutions,<sup>111</sup> and advising the Maltese government on the formulation of policies related to the gaming sector.<sup>112</sup>

Subsequent parts of the Gaming Act are predominately addressed to gaming participants ('players') and 'authorised persons'. 'Authorised persons' are defined to include MGA-authorized gaming licensees.<sup>113</sup> Responsible gaming measures are mentioned,<sup>114</sup> however, the Gaming Act itself does not address AML/CTF in depth. Malta has further legislation targeted at ML and TF specifically, discussed below.

### 4.1.2 *Prevention of Money Laundering Act*

The Prevention of Money Laundering Act ('PML Act') came into force in September 1994, and was most recently amended in 2020.<sup>115</sup> The PML Act covers all instances of ML in Malta, so is not limited to ML practices in the gaming sector. Under article 2, a broad definition of 'money laundering' is set out. Article 3 then makes ML an offence, and provides maximum penalties of

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<sup>106</sup> Gambling Commissioner, 'Remote Technical and Operating Standards for the Gibraltar Gambling Industry Gambling Commissioner's Guidelines - v.1.1.0' 2012.

<sup>107</sup> *The Gaming Act (Malta)* 1 August 2018 [CAP.583] (*'The Gaming Act'*).

<sup>108</sup> *Ibid* 1.

<sup>109</sup> *Ibid* art 7(1)(a).

<sup>110</sup> *Ibid* art 7(1)(o).

<sup>111</sup> *Ibid* art 7(1)(d).

<sup>112</sup> *Ibid* art 7(1)(j).

<sup>113</sup> *Ibid* art 2.

<sup>114</sup> *Ibid* art 21(1).

<sup>115</sup> *Prevention of Money Laundering Act (Malta)* 23 September 1994 [CAP.373].

€2,500,000 (approx. \$4.1 million AUD) and/or eighteen years imprisonment for those found guilty of ML.<sup>116</sup>

The PML Act established the FIAU in Malta.<sup>117</sup> The FIAU is a Maltese government agency that handles financial intelligence in Malta, not dissimilar to AUSTRAC in Australia. Article 16 of the PML Act sets out the functions of the FIAU, which includes to receive and investigate reports of suspicious financial activities, to monitor compliance and to cooperate with authorities within or outside Malta regarding AML/CTF implementation and enforcement, and to supervise and report on financial activities within Malta.<sup>118</sup> The Act also provides that the MGA is an agent and delegate of the FIAU.<sup>119</sup>

In 2017, the PML Act was amended to establish the National Co-ordinating Committee on Combatting Money Laundering and Funding of Terrorism (NCC).<sup>120</sup> The purpose of the NCC, as set out by the PML Act, is to draw up national strategy and policies to combat ML/TF.<sup>121</sup> The NCC develops yearly action plans that set goals for Maltese AML/CTF policy and attempt to prioritise certain AML/CTF risk mitigation in Malta. The most recent NCC report substantially concerns the use and regulation of VFAs in Malta's gaming sector (discussed in Part V).

#### 4.1.3 *Prevention of Money Laundering and Funding of Terrorism Regulations*

The Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR) is subsidiary legislation in Malta that entered into force in January of 2018.<sup>122</sup> The regulations supplement the PML Act and were drafted with the intention of implementing certain European Union (EU) directives on the prevention of the use of the financial system for the purpose of ML and TF. The PMLFTR may not apply to gaming services that the FIAU determines has a proven low risk of ML/TF because of the nature or the scale of the operations.<sup>123</sup>

The PMLFTR sets out that gaming providers must properly document, and make available to the FIAU, satisfactory and regularly updated risk-assessments of the ML/TF threats that arise out of its activities or business.<sup>124</sup> Whether the risk assessment is satisfactory will be determined by the FIAU or its agents (including the MGA) according to the nature and size of the gaming operations.<sup>125</sup> The PMLFTR further provides that certain policies and procedures must be followed by gaming providers, including CDD measures, risk management procedures including customer acceptance policies and internal controls, and regular independent audits and record keeping.<sup>126</sup>

Finally, the PMLFTR authorises the FIAU to issue legally binding procedures and guidance on

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<sup>116</sup> Ibid art 3(1).

<sup>117</sup> Ibid art 15.

<sup>118</sup> Ibid art 16.

<sup>119</sup> Ibid art 18.

<sup>120</sup> Ibid art 12A.

<sup>121</sup> Ibid art 12A(2).

<sup>122</sup> *Prevention of Money Laundering and Funding of Terrorism Regulations* (Malta) 1 January 2018 [S.L.373.01] ('PMLFTR').

<sup>123</sup> Ibid art 3(1).

<sup>124</sup> Ibid art 5.

<sup>125</sup> Ibid art 5(1).

<sup>126</sup> Ibid art 5(5).

casino licensees, called ‘Implementing Procedures’.<sup>127</sup> The most recent Implementing Procedures issued by the FIAU were released in 2018, and revised in 2020. These procedures are provided to all Maltese casino licensees so that they may ‘understand and fulfil their obligations under the PMLFTR’.<sup>128</sup> Part II of the 2018 Implementing Procedures is specifically catered to remote gaming licensees, and provides useful information about the ML and TF risks specific to the remote gaming sector, as well as how such risks should be addressed.

#### 4.1.4 *The Implementing Procedures*

Some key obligations of ‘subject persons’ under the Implementing Procedures are to conduct risk-assessments and engage in CDD. Each will be discussed in turn.

##### A *Risk-based Supervision*

The FATF’s Recommendation 1 is that countries apply a risk-based approach to their AML/CTF regimes.<sup>129</sup> This approach involves countries identifying, assessing and understanding the ML and TF risks for the country, and based on these understandings, allocating the most resources and preventative measures towards the greatest identified risks.<sup>130</sup>

In Malta, all AML/CTF authorities, including the FIAU and the MGA, follow a risk-based approach. Additionally, licensees of online casinos are required to adopt a risk-based approach when addressing their operation’s ML and TF risks. Guidance for online casino operators in adopting such an approach is provided for in the FIAU’s Implementing Procedures for the Remote Gaming Sector.<sup>131</sup>

The foundation of the risk-based approach is a thorough risk-assessment that enables the online casino operator to identify the potential ML/TF risks that arise from its operations. The Implementing Procedures require licensees to undertake risk assessments of its activities, as well as risk-assessments of its customers.<sup>132</sup> Risk assessments are required to be updated annually, and additionally, whenever there are any changes whatsoever to an operator’s business activities.<sup>133</sup>

Customer-specific risk-assessments involve verifying the identity of the customer in order to build their risk-profile. Customers that are Politically Exposed Persons (PEPs), as well as their family and business associates, are mandatorily classified as high-risk customers.<sup>134</sup> Customers that are residents of countries that have a weak AML/CTF system, and are known for high levels of

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<sup>127</sup> Ibid art 17.

<sup>128</sup> Financial Intelligence Analysis Unit, *Implementing Procedures Part I* (18 October 2021) 30.

<sup>129</sup> Financial Action Task Force, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations* (adopted February 2012, updated February 2023) 10 <<https://www.fatfgafi.org/content/dam/fatfgafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>> (*FATF Recommendations*).

<sup>130</sup> Ibid Recommendation 1.

<sup>131</sup> See Financial Intelligence Analysis Unit, *Implementing Procedures Part II* (02 July 2020) (*Implementing Procedures Part II*).

<sup>132</sup> Ibid 2.2.1.

<sup>133</sup> Ibid.

<sup>134</sup> Ibid 2.1.4.

corruption, are also to be considered high-risk.<sup>135</sup>

## B *Customer Due Diligence*

Once the casino operator has identified and assessed the risk of their customers, they must apply a level of CDD in order to mitigate risk. CDD involves casino operators monitoring and assessing customer's activity in their online casino, documenting their transactions, and reporting any suspicious transactions to the FIAU.<sup>136</sup> For high-risk customers, Enhanced Due Diligence (EDD) is required, which may involve licensees collecting further personal information about their customers, inquiring further about their source and extent of wealth, and devoting more resources to the ongoing review of their activities and transactions.<sup>137</sup> Licensees are expected to flag and scrutinise any inconsistencies between the personal details the customer provides to the licensee, and the personal details the licensee retrieves about the customer from external information sources, such as the customer's bank account and IP address.<sup>138</sup>

CDD obligations are only triggered when a player carries out a transaction on the online casino platform amounting to €2,000 (approx. \$3450 AUD) or more.<sup>139</sup> Transactions include deposits, withdrawals, bets, winnings and linked transactions (a series of bets or winnings, for example).<sup>140</sup>

## 4.2 UNITED KINGDOM

### 4.2.1 *Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017* (UK) ('MLR')

Effective since the 16<sup>th</sup> of June 2017, the Act aims to implement the EU Fourth Money Laundering Directive and adhere to the FATF's standards and recommendations. It builds upon the *Money Laundering Regulations 2007* and introduced significant changes including:

- *A Risk Assessments*

Regulated entities are required to conduct and document risk assessments to identify and evaluate ML and TF risks associated with operations to determine the level of due diligence necessary.<sup>141</sup> Risk factors that must be considered include customers, location, products and services and transactions. Entities should routinely assess this risk outlook to ensure they have identified all the areas pertinent to their specific business, especially considering that risks easily can evolve.

- *B Internal Controls*

Depending on the size and nature of the business, companies should establish an independent

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<sup>135</sup> Ibid 2.2.2.

<sup>136</sup> Ibid 3.1.

<sup>137</sup> Ibid 3.2.

<sup>138</sup> Ibid.

<sup>139</sup> *PMLFTR* (n 41) art 9(1).

<sup>140</sup> *Implementing Procedures Part II* (n 50) 3.3.2.

<sup>141</sup> *Money Laundering, Terrorist Finance and Transfer of Funds (Information on the Payer) Regulations 2017* (UK) Ch 2.

audit function tasked with assessing and appraising the effectiveness of the company's AML/CTF policies, procedures, and controls.<sup>142</sup>

- *C Policies and Procedures*

Businesses are required to maintain written policies, controls, and procedures aimed at effectively managing and mitigating the risks associated with ML, TF, and data protection requirements.<sup>143</sup> These policies, controls, and procedures should be tailored to the company's size and operations, approved by senior management, subject to regular reviews and updates, and communicated internally throughout the organisation.

- *D Training and Awareness*

Businesses are required to offer their staff adequate training regarding money laundering and terrorist financing. This training ensures that staff are informed about data protection laws that are pertinent to the MLRs implementation.<sup>144</sup> It is also essential to keep a written record of all training sessions.

- *E Customer Due Diligence*

Businesses must take reasonable measures to verify clients' identities. They are obligated to conduct CDD both prior to establishing a business relationship and when any factors pertinent to client risk assessment undergo changes. This includes changes in the client's identity, identification of a transaction that deviates from their understanding of the client and any alterations in the services that are being provided to the client.<sup>145</sup>

- *F Simplified Due Diligence and Enhanced Due Diligence*

SDD measures can be employed when a client has been evaluated as having a low risk of involvement in money laundering and terrorist financing activities. The MLR 2017 provides a detailed list of factors that must be considered when determining whether a client poses a minimal risk of money laundering and terrorist financing.<sup>146</sup> If these factors indicate a low risk, SDD measures can then be implemented.

EDD should be applied when there is a higher risk of ML or TF.<sup>147</sup> The MLR stipulates a list of factors that must be considered to assess whether there is a higher risk of ML and TF. At a minimum, these regulations require an examination of the background and purpose of the transaction, as well as an increased frequency in the monitoring of the business relationship.

- *G Record Keeping and Data Protection*

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<sup>142</sup> Ibid s 21.

<sup>143</sup> Ibid s 19.

<sup>144</sup> Ibid s 24.

<sup>145</sup> Ibid pt 3 ch 1.

<sup>146</sup> Ibid pt 3 ch 3.

<sup>147</sup> Ibid pt 3 ch 2.

Businesses are required to retain copies of documents and records for a period of five years following the cessation of the business relationship or the completion of the transaction.<sup>148</sup>

- *H Supervision and Registration*

The enforcement of these regulations falls under the purview of various supervisory authorities, depending on the specific type of business or profession involved.<sup>149</sup> For instance, Casinos are supervised by the GC. These regulators possess the authority to conduct inspections, audits, and levy penalties in cases of non-compliance.

#### 4.2.2 *Proceeds of Crime Act 2002 (UK)*

In the UK, the definition of ML is established in the *Proceeds of Crime Act 2002* (POCA). It encompasses all activities related to handling or possessing criminal property, which includes not only possessing the proceeds of one's own criminal activities but also facilitating any actions related to handling or possessing criminal property.<sup>150</sup>

#### 4.2.3 *Terrorism Act 2000 (UK)*

The *Terrorism Act 2000* (UK) criminalises various aspects of terrorist financing.<sup>151</sup> Specifically, it constitutes an offense to utilise or possess funds for the purpose of terrorism, gather funds for terrorism, or engage in arrangements to supply funds or property for terrorism.<sup>152</sup> These provisions are crafted to counteract and deter the financing of terrorist activities and to ensure that individuals and entities engaged in such activities face legal prosecution.

#### 4.2.4 *Counter-Terrorism Act 2008 (UK)*

Schedule 7 of the Act was introduced to align the UK's AML regulations with the revised FATF recommendations, which emphasised the close connection between ML and TF.<sup>153</sup> It grants authorities extensive powers to enhance reporting and compliance rules for financial institutions, individuals, and government representatives in the UK. Additionally, directions can be issued under Schedule 7 when there is a reasonable belief that ML or FT activities are occurring within a particular institution, and when this poses a significant risk to UK national interests. Such directions can include ordering enhanced CDD, ongoing monitoring, or new obligations for systematic reporting.

#### 4.2.5 *Licensing, Compliance and Enforcement Under the Gambling Act 2005 (UK)*

The GC's responsible and proportionate utilisation of its enforcement powers plays a pivotal role in furthering the licensing objectives. Such enforcement actions are instrumental in safeguarding

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<sup>148</sup> Ibid pt 4.

<sup>149</sup> Ibid pt 6.

<sup>150</sup> *Proceeds of Crime Act 2002* (UK) pt 7.

<sup>151</sup> *Terrorism Act 2000* (UK) pt 3.

<sup>152</sup> Ibid.

<sup>153</sup> *Counter Terrorism Act 2008* (UK) sch 7.

consumers and the broader public interest, and they also serve as a deterrent against potential future violations of the relevant statutory provisions. Section 116 of the *Gambling Act 2005* (UK) grants the GC the authority to scrutinize the performance of license holders and the adherence to license conditions.<sup>154</sup> This review process aims to assess how specific groups of licensees conduct their authorised activities, with particular emphasis on compliance with the conditions attached to their operating licenses. Following a review under s 116(1) or (2) of the Act, the GC may choose various courses of action, including taking no further action, offering advice to the licensee regarding conduct, or invoking its powers outlined in s 117 of the Act.<sup>155</sup> These powers encompass the ability to issue warnings, modify, add, or remove license conditions, suspend, or revoke licenses, and impose financial penalties. It's important to note that the powers under s 117 are not mutually exclusive and may be employed in combination as necessary. The imposition of a financial penalty can occur either as a result of a review or independently when the GC believes that a license condition has been violated, as stipulated by s 82 of the Act.<sup>156</sup> Before imposing a financial penalty, the GC will formally notify the licensee in writing of its intentions, including the proposed penalty amount, the rationale behind such a penalty, and the opportunity for the licensee to provide their input.<sup>157</sup> This framework ensures transparency and due process in the GC's enforcement activities. Furthermore, recent cases involving the GC's enforcement actions are provided below for reference.

- *A 888 UK Limited*

888 UK Limited currently operates 78 websites and has received an official warning while undergoing an extensive independent audit. Notably, they had previously faced financial penalties, paying £7.8 million in 2017 for shortcomings related to the protection of vulnerable customers.<sup>158</sup> More recently, they incurred a £9.4 million fine following an investigation by the GC, which unveiled their failure to uphold standards in social responsibility and adequate AML procedures. Specifically, their ML failures encompassed practices such as permitting customers to deposit up to £40,000 before conducting source of funds ('SOF') checks, accepting verbal assurances regarding customer income, relying on open-source information to validate SOF, lacking clear guidelines for the required documents in SOF checks, permitting a single customer to spend £65,835 within just five months without conducting SOF checks, and inadequately implementing their own policies, which stipulated a 10-day period for customers to submit SOF documentation before account restrictions were applied.<sup>159</sup> In one instance, SOF documentation was not requested until three

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<sup>154</sup> *Gambling Act* (n 11) s 116.

<sup>155</sup> *Ibid* s 116.

<sup>156</sup> *Ibid* s 82.

<sup>157</sup> Gambling Commission, *Licensing, compliance and enforcement under the Gambling Act 2005* (Web Page, 23 June 2022) <<https://www.gamblingcommission.gov.uk/policy/licensing-compliance-and-enforcement-under-the-gambling-act-2005/5-regulatory-enforcement>>.

<sup>158</sup> Gambling Commission, *£9.4m fine for online operator 888* (Web Page, 1 March 2022) <<https://www.gamblingcommission.gov.uk/news/article/gbp9-4m-fine-for-online-operator-888>>.

<sup>159</sup> *Ibid*.



weeks after the 10-day trigger, leading to a customer losing £15,000 during that period.<sup>160</sup>

- *B In Touch Games*

The online gambling company, In Touch Games operating 11 websites, faced a penalty of £6.1 million following an investigation by the GC.<sup>161</sup> The investigation unveiled significant failures in their AML procedures. Touch Games was found to have inadequately considered the risk of a customer being a beneficiary of a life insurance policy, having connections to high-risk jurisdictions, and being classified as a politically exposed person ('PEP'), a family member of a PEP, or a known close associate of a PEP in their money laundering and terrorist financing risk assessment. Furthermore, the operator lacked the necessary policies, procedures, and controls to address these risk factors effectively, did not sufficiently consider the GC guidance for AML/CTF regulations and failed to ensure that their own policies, procedures, and controls were implemented effectively. In one instance, they did not adhere to their own policy of requesting SOF information from a customer who had deposited and lost £10,000 in a 12-month period. This penalty marks the third regulatory action against Touch Games. The GC's imposition of a £6.1 million fine underscores its commitment to escalating enforcement measures when regulatory failures are repeated.

- *C NSUS Limited*

The gambling operator NSUS Limited incurred a penalty of £672,829 due to their inadequacies in adhering to social responsibility and AML/CTF regulations.<sup>162</sup> Their AML/CTF shortcomings included failure to execute thorough risk assessments on business transactions vulnerable and were found to be lacking in establishing and enforcing appropriate policies, procedures, and controls for deterring ML.

Non-compliance with regulations can convey multiple messages regarding the efficacy of these regulations. The cause of non-compliance is multifaceted, pointing to potential deficiencies in regulatory enforcement, inadequacy of resources leading operators to grapple with meeting regulatory standards, and possibly signalling that the regulations need revision to ensure they are current. The GC have stated that they are actively addressing these concerns and maintaining unwavering dedication to ensuring that all casino operators adhere rigorously to regulations intended to preserve the industry's integrity.<sup>163</sup> All three companies, 888 UK Limited, In Touch Games, and NSUS Limited, have come under scrutiny for their regulatory violations, primarily centred on AML/CTF practices. However, they are not isolated cases within the industry. A common thread across these instances has been the deficiency in conducting comprehensive risk

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<sup>160</sup> Ibid.

<sup>161</sup> Gambling Commission, *£6.1m fine for online operator In Touch Games* (Web Page, 25 January 2023) <<https://www.gamblingcommission.gov.uk/news/article/gbp6-1m-fine-for-online-operator-in-touch-games>>.

<sup>162</sup> Gambling Commission, *Online Casino NSUS Limited Fined £672,000* (Web Page, 12 October 2022) <<https://www.gamblingcommission.gov.uk/news/article/online-casino-nsus-limited-fined-gbp672-000>>.

<sup>163</sup> Gambling Commission, *Enforcement* (Web Page) <<https://www.gamblingcommission.gov.uk/news/enforcement-action>>.

assessments, an indispensable facet of AML compliance. They failed to adequately weigh factors such as the SOF and the potential risks posed by their customers. Furthermore, each of these companies demonstrated a lack of the requisite policies, procedures, and controls necessary to effectively address these identified risk factors. Equally concerning was their inability to ensure the implementation of their own policies. Consequently, all three companies incurred financial penalties as a direct consequence of their regulatory shortcomings, albeit in varying amounts. These penalties underscore the gravity of the violations and the pressing need for enhanced AML practices within the online casino industry.

### 4.3 CURAÇAO

Curaçao has a comprehensive AML/CTF legal framework in place that complies with international standards.<sup>164</sup> The laws are the same for all sectors, however, there are varying regulations depending on the type of business or profession. In general, the FATF recommendations have been included in the following two National Ordinances: the *National Ordinance Identification when Rendering Services* (NOIS) and the *National Ordinance Reporting Unusual Transactions* (NORUT). National Ordinances are the primary and formal legislative instruments applicable at the national level in Curaçao.<sup>165</sup> They are issued by the Government and the Parliament jointly and enacted by the Governor. They serve as a framework for policy and as an instrument to regulate behaviour. However, the legal authority arising from a National Ordinance can be, and usually is, delegated. The bodies to which authority is delegated can make provisions and guidelines which are enforceable, and non-compliance can lead to sanctions.<sup>166</sup>

The AML/CTF legislative framework in Curaçao is made up of ‘executive decrees, regulations, and provisions and guidelines (P&Gs)’.<sup>167</sup> All supervised institutions must implement the preventative measures contained in the P&Gs, including measures such as Customer Due Diligence (CDD), reporting and record keeping.<sup>168</sup> The main legislation applicable for online casinos operating in and from Curaçao are NORUT and NOIS.<sup>169</sup> Pursuant to this legislation, the Curaçao Gaming Control Board (GCB) issues ‘AML/CFT regulation and guidelines, periodically performs AML/CFT compliance audits, enforces compliance, and provides AML/CFT training opportunities for the gaming sector’.<sup>170</sup> The AML/CTF supervision of this sector was entrusted to the GCB in February 2019.<sup>171</sup> The NORUT and the NOIS include provisions for the Central Bank of Curaçao to perform examinations and evaluate compliance with AML/CTF requirements.<sup>172</sup> These laws also include

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<sup>164</sup> NRA 2020 (n 1) 107.

<sup>165</sup> Ibid.

<sup>166</sup> Ibid.

<sup>167</sup> Ibid.

<sup>168</sup> Ibid.

<sup>169</sup> Curaçao Gaming Control Board, ‘Anti-Money Laundering’ (Webpage, 2023).

<sup>170</sup> Curaçao Gaming Control Board, ‘Regulatory Scope’ (Webpage, 2023) (CGB Regulatory Scope).

<sup>171</sup> NRA 2020 (n 1) 107.

<sup>172</sup> Caribbean Financial Action Task Force, ‘Anti-Money Laundering and Combating the Financing of Terrorism: Curaçao (Mutual Evaluation Report, 25 June 2012) 9 (MER 2012).

provisions which cover sharing information with other relevant authorities.<sup>173</sup> The AML/CTF legislation also defines circumstances (called ‘indicators’) which indicate when a transaction are deemed unusual and must be reported to the Curaçao Financial Intelligence Unit (FIU Curaçao).<sup>174</sup> The FIU Curaçao is the body responsible for receiving, analysing, and disseminating information regarding AML/CTF concerns.

The GCB is the regulatory body responsible for the licensing and supervision of the Curaçao online gambling sector on behalf of the Minister of Finance.<sup>175</sup> It is important to note that the authority to grant, amend, revoke, and suspend licenses was only issued to the GCB in March 2020.<sup>176</sup> Additionally, the authority over online casinos in general is also recent as it was only granted to the GCB in February 2019, previously it was limited to land-based casinos.<sup>177</sup> The GCB is responsible for issuing licenses, supervision and enforcement of AML/CTF regulations and the general promotion of responsible gambling.<sup>178</sup> Non-compliance with the relevant legislation can lead to sanctions, varying from fines to the revocation of the online gambling license.<sup>179</sup> However, in the online gambling industry administrative sanctions have not yet been applied because the GCB as the supervisory body has only recently been appointed. Once ‘the legislative process to appoint a unified gambling regulator for Curaçao’ is finalised ‘the GCB will obtain the necessary enforcement powers to enforce compliance with laws and regulations’.<sup>180</sup>

#### 4.3.1 2023 changes: National Ordinance on Games of Chance (LOK)

Curaçao in the process of modernising its gambling legislation to bring it in line with international standards and is aiming to ‘adopt a responsible and comprehensive gaming policy that incorporates all gaming activities that are and will be licensed within the jurisdiction of Curacao’.<sup>181</sup> The Government is currently drafting the National Ordinance on Games of Chance (LOK).

The LOK will replace the CGB with the Curaçao Gaming Authority (CGA) as an independent body responsible for granting licenses, ensuring compliance with the law, and providing neutral oversight in the implementation of regulations.<sup>182</sup> The new licences will come with fees as the Curaçao Government attempts to increase the direct revenue gained from the online gambling sector.<sup>183</sup> The fees for B2C licences will be expected to be: an application fee of around €4,000, an annual licence fee of around €12,000 and a monthly €250 regulatory fee per URL.<sup>184</sup> All existing sub-licensee will be ‘grandfathered’ into the new system and have the opportunity to convert their

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<sup>173</sup> Ibid.

<sup>174</sup> CGB Regulatory Scope (n 19).

<sup>175</sup> Ibid.

<sup>176</sup> Ibid.

<sup>177</sup> Ibid.

<sup>178</sup> Ibid.

<sup>179</sup> MER 2012 (n 21) 9.

<sup>180</sup> Ibid.

<sup>181</sup> Ministry of Finance, ‘Gaming Legislation: Regulated gaming in Curaçao’ (Webpage, 2023).

<sup>182</sup> O’Boyle (n 12).

<sup>183</sup> Ibid.

<sup>184</sup> Ibid.

license to an interim licence which will last for 12 months.<sup>185</sup> However, to be eligible for conversion the sub-licensee must be registered with the CGB.<sup>186</sup> The new licence will have more stringent controls and enhanced AML/CTF measures. Additionally, licensees will be required to have a minimum of three employees in ‘key positions’ physically within Curaçao.<sup>187</sup> As part of the wider AML/CTF guidance, Curaçao licensed operators must: prohibit multiple accounts, prohibit internal transfers between users, all users who have a total lifetime deposit of US \$2000 should have their account blocked until they provide proof of identity and residence, all users who request a withdrawal of any amount must first provide proof of identity and residence, ‘and any transaction exceeding US \$2,500 must be reported to the FIU’.<sup>188</sup>

Curaçao is currently preparing for this new regulatory regime. The next stage towards implementing the LOK began on 1 November 2023 with the account registration opening in the GCB portal.<sup>189</sup> As of November 15, applications for online gambling licenses can be made at the portal on the GCB website.<sup>190</sup> Before an application can be made, a verified account must first be opened. To be considered a verified account, the account must be registered in the name of a Curaçao company, and a unique email address attached to that company along with a signed letter of authorisation.<sup>191</sup> This information will be verified by the GCB before a completed application can be made.<sup>192</sup> If an application is successful, the applicant will receive an interim Curaçao licence and will have six months to submit any further required documentation.<sup>193</sup>

#### 4.3.2 *Reasons for the change*

A significant push for the new system came about due to pressure from the Dutch government as Curaçao is a constituent country of the Kingdom of Netherlands.<sup>194</sup> The Dutch government is concerned operators based in Curaçao targeting regulated markets, including its own shores, and Curaçao promised to address the issues as a result.<sup>195</sup>

Javier Sylvania, Curaçao’s Minister of Finance, stated that they are aiming to change Curaçao’s international reputation. Sylvania acknowledged that Curaçao’s online gambling licenses have the reputation of being quick and easy to obtain accompanied by lesser obligations regarding monitoring compared to other jurisdictions.<sup>196</sup> However, the intention is for LOK to reverse this sentiment. The goal of the new legislation to ensure that Curaçao knows who owns the businesses operating within its borders by conducting appropriate and a consistent level of due diligence and

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<sup>185</sup> Ibid.

<sup>186</sup> Ibid.

<sup>187</sup> Ibid.

<sup>188</sup> Amanda Gore, ‘An assessment of AML risks linked to accepting crypto-payments in the gambling sector (A regulator’s guide)’ (University of Nevada Las Vegas International Center for Gaming Regulation (2023) 19.

<sup>189</sup> iGB Editorial Team, ‘Curaçao portal opens for gaming licence registrations’ (Webpage, 1 November 2023).

<sup>190</sup> Ibid.

<sup>191</sup> Ibid.

<sup>192</sup> Ibid.

<sup>193</sup> Ibid.

<sup>194</sup> O’Boyle (n 12).

<sup>195</sup> Ibid.

<sup>196</sup> iGaming NEXT, ‘iGaming NEXT Valletta 2023: Live stream Day 02’ (YouTube, 22 June 2023) 04:07:54–04:17:05 <<https://www.youtube.com/watch?v=no28UoTcvQQ>>.

transparency regarding the source of funds.<sup>197</sup> Ultimately, Curaçao is seeking to move away from the reputation as the 'red-headed stepchild of the gambling industry' and instead holding all operators accountable to internationally recognised standards.<sup>198</sup>

Additionally, the LOK has been described as a 'safety net preventing grey listing'.<sup>199</sup> Curaçao's next scheduled onsite assessment for the next Mutual Evaluation Report by the CTFATF is in 2024, with the plenary meeting in 2025.<sup>200</sup> The FATF has already criticised Curaçao's failure to apply 'sufficient fines for anti-money laundering failings'.<sup>201</sup> It is clear that Curaçao is worried that they will be grey listed as a result of this assessment and are hoping to prevent this with the new legislation. Currently, the Minister of Finance considers Curaçao at risk for grey listing if AML/CTF systems are not improved.<sup>202</sup>

## 4.4 CANADA

### 4.4.1 General Principles

Canada's AML/CTF regime applies a risk-based approach to deter, identify, and disrupt money laundering activity in online casinos. According to the Department of Finance Canada, Canada's comprehensive regime is based on three interdependent pillars:<sup>203</sup>

1. Policy and coordination: assessing money laundering and terrorist financing risks on a domestic and international level;<sup>204</sup>
2. Prevention and detection: supervising, and enforcing AML/ATF compliance and collecting and analysing intelligence;<sup>205</sup> and
3. Investigation and disruption: identifying, investigating, prosecuting, and sanctioning money laundering and terrorist financing offences.<sup>206</sup>

As aforementioned, this approach largely implements the recommendations and principles endorsed by the FATF.<sup>207</sup> Canada's scheme combines a comprehensive legislative framework with a horizontal law enforcement approach which aim to cohesively redress money laundering and terrorist financing. A risk-based approach identifies and assesses all risks, to determine the level of severity of each risk.<sup>208</sup> This allows risks to be systematically ranked and mitigated in accordance to the level of threat posed to Canada's AML/CTF framework. This approach aims to foster a

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<sup>197</sup> Ibid.

<sup>198</sup> Ibid.

<sup>199</sup> O'Hagan (n 3).

<sup>200</sup> Financial Action Task Force, 'Caribbean Financial Action Task Force (CFATF)' (Webpage, 2023).

<sup>201</sup> O'Hagan (n 3).

<sup>202</sup> Ibid.

<sup>203</sup> Department of Finance Canada, *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (Consultation Paper, 6 June 2023) 9.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Ibid.

<sup>207</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012).

<sup>208</sup> Ibid 6.

comprehensive and cooperative system whereby various regulatory bodies collaborate to redress money laundering and terrorist financing in Canada.

#### 4.4.2 Key Legislation

Primarily, Canada's AML/CTF regime is founded in the *Criminal Code*<sup>209</sup> as a central tenant governing all casino transactions. Section 197(1) of the *Criminal Code*<sup>210</sup> generally prohibits all forms of gambling, unless they are captured by the Section 207 exception. Section 207<sup>211</sup> allows provincial governments to 'conduct and manage'<sup>212</sup> forms of gaming which are approved or endorsed in their own province via regulatory measures. Ultimately, this establishes a provincial governance system where each Canadian province or territory implements their own regulatory enforcement regime to complement the federal AML/CTF Regime. All provincial and territorial regulation is subject to the overarching principles provided in the *Criminal Code*<sup>213</sup> and *Proceeds of Crime Act*.<sup>214</sup>

The *Proceeds of Crime Act*<sup>215</sup> is Canada's federal legislation which aims to combat money laundering and terrorist financing, and establishes the Financial Transactions and Reports Analysis Centre of Canada ('FINTRAC') to oversee the regime.<sup>216</sup> In addition, the legislation sets out the overarching roles and responsibilities of authoritative regime partners, as well as the DNFBPs which are subject to AML/CTF guidelines, such as casinos. Currently, there are more than 24,000 reporting entities that play a critical role in preventing and detecting money laundering and terrorist financing in Canada's economy.<sup>217</sup> The legislative framework encompasses numerous core FATF Recommendations by imposing obligations such as compliance program, know your client, customer due diligence reporting obligations, record keeping obligations, travel rules and ministerial directives. This framework is complemented by various provincial regulations and guidelines that provide clarity on the expectations of the businesses operating in Canada's financial market. As a result, Canada's framework aims to function cohesively to uphold the standards set by the FATF Recommendations<sup>218</sup> and comprehensively tackle money laundering and terrorist financing.

#### 4.4.3 Application to Online Casinos

In 2014, the *Proceeds of Crime Act*<sup>219</sup> was amended to extend its application to capture online

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<sup>209</sup> *Criminal Code*, RSC 1985, c C-46.

<sup>210</sup> *Ibid* s 197(1).

<sup>211</sup> *Ibid* s 207.

<sup>212</sup> *Ibid*.

<sup>213</sup> *Ibid*.

<sup>214</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

<sup>215</sup> *Ibid*.

<sup>216</sup> *Ibid* s 41.

<sup>217</sup> Department of Finance Canada, *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (Consultation Paper, 6 June 2023) 49.

<sup>218</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012).

<sup>219</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

casinos. Section 5 (k 1)<sup>220</sup> was amended to include all ‘lottery schemes’<sup>221</sup> which are ‘accessible to the public through the Internet or other digital networks’.<sup>222</sup> This amendment was implemented in response to many emerging trends and risks posed by disruptive technologies in the online financial sector, such as virtual transactions and currencies. Cryptocurrencies and virtual payment technologies have been recognised as ‘innovations that substantially alter existing markets and operations due to vastly superior attributes’.<sup>223</sup> Furthermore, the FATF have readily identified new payment technologies as money laundering and terrorist financing risks.<sup>224</sup> The digitization of financial transactions has interfered with institutions ability to conduct ‘know your customer’ and customer due diligence to identify typical transactions, and subsequently suspicious transactions.<sup>225</sup> Such risks are amplified in jurisdictions which lack comprehensive financial regulation and compliance measures in place for financial and non-financial institutions. Therefore, Canada’s adaption of legislation to capture technological changes elucidates the effective implementation of a risk-based approach in siloing constituent threats and systematically implementing countermeasures.

#### 4.4.4 Obligations of Online Casinos

In particular, Sections 7,<sup>226</sup> 7.1,<sup>227</sup> 9,<sup>228</sup> 12<sup>229</sup> and 20<sup>230</sup> of the *Proceeds of Crime Act* outline the various reporting requirements that Casino’s must submit to FINTRAC to assist the monitoring and identification of money laundering and terrorist financing. These obligations extend to all financial institutions as well as DNFBPs. Each reporting and record keeping obligation aims to simultaneously enhance Canada’s compliance with various FATF Recommendations.<sup>231</sup>

Firstly, all entities must implement a comprehensive compliance program to reflect all obligations and associated Regulations.<sup>232</sup> This includes appointing a compliance officer, developing written compliance policies for the institution, conducting risk assessments and analysis, maintaining compliance training for all employees, and implementation a review of the effectiveness of the compliance progress every two years at a minimum.<sup>233</sup> This requirement establishes a strong foundation of accountability and transparency for all financial institutions and DNFBPs.

Secondly, all entities must conduct ‘know your client’ and ‘customer due diligence’ procedures to

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<sup>220</sup> Ibid s 5(k1).

<sup>221</sup> Ibid.

<sup>222</sup> Ibid.

<sup>223</sup> Eray Arda Akartuna, Shane D Johnson and Amy E Thornton, ‘The money laundering and terrorist financing risks of new and disruptive technologies: a futures-oriented scoping review’ (2022) *Security Journal* 10.1057/s41284-022-00356-z:1-36, 2.

<sup>224</sup> Financial Action Task Force ‘Money Laundering Using New Payment Methods’ (Report, 2010).

<sup>225</sup> Eray Arda Akartuna, Shane D Johnson and Amy E Thornton, ‘The money laundering and terrorist financing risks of new and disruptive technologies: a futures-oriented scoping review’ (2022) *Security Journal* 10.1057/s41284-022-00356-z:1-36, 3.

<sup>226</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 7.

<sup>227</sup> Ibid s 7.1.

<sup>228</sup> Ibid s 9.

<sup>229</sup> Ibid s 12.

<sup>230</sup> Ibid s 20.

<sup>231</sup> Financial Action Task Force, ‘International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations’ (Report, February 2012) 14.

<sup>232</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 9.6(1).

<sup>233</sup> Ibid s 156(1).

verify the identity of all persons involved in certain activities and transactions.<sup>234</sup> This includes ongoing monitoring requirements, measures to confirm the accuracy of beneficial ownership information, and third-party determination requirements. These measures ensure institutions apply a risk-based approach to customer due diligence in order to establish a business relationship that can efficiently manage money laundering and terrorist financing risks. The implementation of these requirements embodies the principles founded in the FATF's Recommendation 10.<sup>235</sup> Furthermore, entities must take reasonable measures to assess whether a customer is a politically exposed persons (PEP)<sup>236</sup> and heads of international organisations (HIO).<sup>237</sup> This requires assessment of whether a person is a PEP or a HIO who is entrusted with a core function of an international organisation. Such measures are fundamental to ensure further risk-management systems are in place for customers who pose a higher risk of unfavourable transactions. The PEP and HIO obligations are enforced, in addition to the typical customer due diligence obligations. Evidently, these measures enliven Canada's international obligations under Recommendation 12.<sup>238</sup>

Thirdly, online casino must submit a number of reports in instances where there is knowledge or reasonable grounds to suspect money laundering or terrorist financing activities are occurring. This is summarised as: suspicious transaction reports,<sup>239</sup> terrorist property reports,<sup>240</sup> large cash transaction report,<sup>241</sup> large virtual currency transaction reports,<sup>242</sup> electronic funds transfer reports,<sup>243</sup> and casino disbursement reports.<sup>244</sup> In addition, Casino's must follow the 24-hour rule require any relevant report to be promptly submitted to FINTRAC upon knowledge or reasonable suspicion. Such obligations legislate the principles found in recommendation 20<sup>245</sup> and 22,<sup>246</sup> which extends all customer due diligence and record keeping obligations to DNFBPs including casinos.

Fourthly, there are various record keeping obligations enforcing entities to retain a copy of all reports submitted to FINTRAC, including the aforementioned suspicious transaction reports, terrorist property reports, large cash transaction report, large virtual currency transaction reports, and electronic funds transfer reports.<sup>247</sup> In addition, institutions must retain records of certain

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<sup>234</sup> Ibid ss 84(a), 105(7)(a), 109(4)(a), 112(3)(a).

<sup>235</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012) 14.

<sup>236</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 9.3(3).

<sup>237</sup> Ibid.

<sup>238</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012) 16.

<sup>239</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations*, SOR/ 2002-184, s 12.

<sup>240</sup> Ibid.

<sup>241</sup> Ibid s 144.

<sup>242</sup> Ibid.

<sup>243</sup> Ibid.

<sup>244</sup> Ibid.

<sup>245</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012) 19.

<sup>246</sup> Ibid.

<sup>247</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations*, SOR/ 2002-184, s 6.



transactions, accounts, and client identification information for a minimum of five years from the date of transactions to ensure FINTRAC has access to all examine relevant reports.<sup>248</sup> Some examples of the information required to be retained are: large cash and virtual currency transaction records;<sup>249</sup> records of transactions over \$3,000;<sup>250</sup> electronic fund transfers of \$1,000 or more;<sup>251</sup> records of virtual currency transfers in amounts equivalent to \$1,000 or more;<sup>252</sup> foreign standard currency<sup>253</sup> and virtual currency exchange transaction tickets;<sup>254</sup> account records;<sup>255</sup> credit card account and transaction records;<sup>256</sup> prepaid payment product account and transaction records;<sup>257</sup> and trust records.<sup>258</sup> Akin, this fulfills Canada's international obligations under Recommendation 11.<sup>259</sup>

Fifthly, the travel rule ensures certain information accompanies a sent or received electronic fund transfer or a virtual currency transfer.<sup>260</sup> This obligation is not a distinct requirement, but it is encompassed within the entities record keeping requirements. However, fulfilling this rule is fundamental to meeting various virtual currency and electronic fund transfer requirements under the legislative scheme. This means all casinos must retain information of the name, address, a count number of the transferer and the beneficiary of all transactions.<sup>261</sup>

#### 4.4.5 Canada's Enforcement Regime

Canada has a horizontal framework comprised of federal agencies, provincial, regional and municipal regulatory law enforcement bodies, and private sector entities. These agents act side-by-side to collaboratively enforce the legislative regime and requirements. The Regime is operated by 13 federal departments and agencies each possessing its own responsibilities and duties, including: Canada Border Services Agency (CBSA), Canada Revenue Agency (CRA), Canadian Security Intelligence Service (CSIS), Department of Finance Canada, Department of Justice Canada, Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), Global Affairs Canada (GAC), Innovation, Science and Economic Development Canada (ISED), Office of the Superintendent of Financial Institutions (OSFI), Public Prosecution Service of Canada (PPSC), Public Safety Canada (PS), Public Services and Procurement Canada (PSPC), and Royal Canadian

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<sup>248</sup> Financial Transactions and Reports Analysis Centre of Canada, 'Record keeping requirements for financial entities', *Guidance and resources for businesses (reporting entities)* (Web Page) <<https://fintrac-canafe.canada.ca/guidance-directives/recordkeeping-document/record/fin-eng>>.

<sup>249</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations*, SOR/ 2002-184, ss 10-11.

<sup>250</sup> *Ibid* s 12(m).

<sup>251</sup> *Ibid* s 12(o).

<sup>252</sup> *Ibid* s 12(r).

<sup>253</sup> *Ibid* s 12(l).

<sup>254</sup> *Ibid* s 12(t).

<sup>255</sup> *Ibid*.

<sup>256</sup> *Ibid* s 13(a).

<sup>257</sup> *Ibid* s 14(1)(a).

<sup>258</sup> *Ibid* s 15(1).

<sup>259</sup> Financial Action Task Force, 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations' (Report, February 2012) 15.

<sup>260</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 9.5.

<sup>261</sup> Financial Transactions and Reports Analysis Centre of Canada, 'Travel rule for electronic funds and virtual currency transfers', *Guidance and resources for businesses (reporting entities)* (Web Page) <<https://fintrac-canafe.canada.ca/guidance-directives/transaction-operation/travel-acheminement/1-eng>>.

Mounted Police (RCMP).<sup>262</sup>

Most importantly, the entire federal regime is coordinated and overseen by the Department of Finance Canada. Section 41<sup>263</sup> of the *Proceeds of Crime Act*<sup>264</sup> establishes FINTRAC as a regulatory agency to supervise the regime by detecting, preventing and deterring money laundering while protecting individuals' privacy. Under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*,<sup>265</sup> FINTRAC has the power to issue penalties for any entities found in violation of the *Proceeds of Crime Act*.<sup>266</sup> This includes the authority to issue administrative monetary penalties,<sup>267</sup> harm-done assessment guides<sup>268</sup> and instigate criminal charges under Part 5<sup>269</sup> by declaring information to the relevant authorities.<sup>270</sup>

In addition, the regime utilizes provincial law enforcement agencies, as well as provincial and territorial regulators to assist regulation of casino and financial activities. For example, all online gambling activities in Alberta are regulated by the Alberta Gaming, Liquor and Cannabis Commission.<sup>271</sup> Akin, the British Columbia Lottery Corporation regulates all online gaming activity in its respective province.<sup>272</sup> These provincial agencies are involved in identifying, investigating and combatting these illicit activities.<sup>273</sup> Canada's horizontal regulatory scheme established a strong network of authorities working cohesively to address money laundering and terrorist financing.

## 4.5 GIBRALTAR

### 4.5.1 Key Regulators & Legislative Pieces:

**The Gambling Act 2005:** The primary legislation governing all gambling operations in Gibraltar.<sup>274</sup> It mandates that all gambling operations must be licensed, and it provides the framework for the issuance and regulation of such licenses.

**The Proceeds of Crime Act 2015 (POCA):** A piece of legislation addressing money laundering and the financing of terrorism.<sup>275</sup> It outlines the obligations of businesses, including online casinos, to prevent the use of their services for money laundering or terrorist financing.

**Anti-Money Laundering Code of Practice:** This provides "interpretive guidance" to Gibraltar's

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<sup>262</sup> Department of Finance Canada, *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (Consultation Paper, 6 June 2023) 9.

<sup>263</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 41.

<sup>264</sup> *Ibid.*

<sup>265</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*, SOR/2007-292.

<sup>266</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

<sup>267</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*, SOR/2007-292, s 5.

<sup>268</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 40.

<sup>269</sup> *Ibid* pt 5.

<sup>270</sup> *Ibid* s 55(3).

<sup>271</sup> *Alberta Gaming, Liquor and Cannabis Commission* (Web Page) <<https://aglc.ca/>>.

<sup>272</sup> *British Columbia Lottery Corporation* (Web Page) <<https://www.bclc.com/>>.

<sup>273</sup> Department of Finance Canada, *Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime Strategy 2023-2026* (Report, 2023) 5.

<sup>274</sup> *Gibraltar Gambling Act 2005* (Gibraltar)

<sup>275</sup> *Proceeds of Crime Act 2015* (Gibraltar)

gambling industry regarding the provisions of the Gambling Act and POCA.<sup>276</sup> It gives clear directions about the expected AML procedures and controls that need to be in place for online gambling operators.

**The Gambling Commissioner's Enforcement and Sanctions Policy:** Specifically pertaining to AML/CFT breaches, this policy provides guidelines on potential enforcement actions and sanctions that may be levied upon licensees in case of non-compliance.<sup>277</sup>

**The Licensing Authority:** The Licensing Authority in Gibraltar is responsible for issuing licenses and ensuring that operators adhere to the conditions of their licenses. Traditionally, it has been inclined towards licensing blue-chip companies with a track record in gambling in other jurisdictions. However, they also consider funded start-ups and businesses relocating from other areas.

**The Gambling Commissioner:** The Gambling Commissioner operates under the Gambling Act's provisions and is empowered to ensure that licensees maintain their operations in line with their licenses. The Commissioner is also responsible for drawing up and issuing codes of practice for good conduct in gambling businesses. This includes "The Generic Code" which provides 'interpretive guidance' to Gibraltar's gambling industry about the Act's provisions.<sup>278</sup>

**Advertising Guidelines:** All advertisements related to gambling must be truthful and accurate.<sup>279</sup> They should be targeted solely at adults and not be appealing to minors. Licensees should also ensure that websites used for advertising do not have links to content that is violent, immoral, or accessible to minors.

**Consumer Protection Standards:** The regulatory environment emphasizes consumer protection. Licensees are obligated to provide mechanisms to ensure responsible gaming, data protection, and handle customer complaints promptly and efficiently.<sup>280</sup> Licensees must also ensure that customers' personal information is collected and stored securely, adhering to data protection standards.

**Technical Standards and Testing:** Gibraltar has established Remote Technical and Operating Standards to offer detailed guidance to its remote gambling industry, ensuring the products and services adhere to Gibraltar's regulatory framework.<sup>281</sup> Online casinos must ensure their offerings (games) have been tested and certified by approved test houses to comply with Gibraltar's technical standards.

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<sup>276</sup> Gambling Commissioner, 'Code of Practice for the Remote Gambling Industry: Anti-Money Laundering, Countering the Financing of Terrorism and Counter Proliferation Financing Arrangements - v.1.0.2021 (2021)

<sup>277</sup> Gambling Commissioner, 'Enforcement and Sanctions Policy in respect of AML/CFT Failings' 2022.

<sup>278</sup> Gambling Commissioner, 'Code of Practice for the Gambling Industry' 2012

<sup>279</sup> Gambling Commissioner, 'Code of Practice for the Remote Gambling Industry: Anti-Money Laundering, Countering the Financing of Terrorism and Counter Proliferation Financing Arrangements - v.1.0.2021 (2021)

<sup>280</sup> Ibid.

<sup>281</sup> Gambling Commissioner, 'Remote Technical and Operating Standards for the Gibraltar Gambling Industry Gambling Commissioner's Guidelines - v.1.1.0 (2012)

Gibraltar Financial Intelligence Unit (GFIU): Plays a vital role in combating money laundering and terrorist financing. It is responsible for receiving, analysing, and disseminating financial intelligence to law enforcement agencies.

The National Coordinator for Anti-Money Laundering and the Combatting of Terrorist Financing: Responsible for ensuring a coordinated approach in Gibraltar to combat money laundering and terrorist financing. The coordinator provides regular updates and guidance, ensuring the jurisdiction stays aligned with international best practices.

#### *4.5.2 Barriers to Entry in Gibraltar's Online Casino Sector:*

**Stringent Licensing Requirements:** Gibraltar's Licensing Authority typically prefers blue-chip companies that have a proven track record in gambling from other jurisdictions. This can create an entry barrier for newer companies or those without an established reputation in the industry.

**Detailed Due Diligence:** Applicants must undergo rigorous due diligence, focusing on determining the ultimate beneficial ownership and control of the business. This process demands transparency around trusts, corporate structures, and other frameworks, which might be considered intrusive by some operators.

**Operational Costs:** Although Gibraltar offers a competitive tax regime for gambling operators, businesses still face significant costs, including licensing fees, the necessity for local presence, and compliance costs associated with meeting the jurisdiction's regulatory standards. Licensed operators are expected to make substantial economic contributions to Gibraltar. This includes employing local talent, renting office spaces, and making tax contributions. Gibraltar's licensing fees, while competitive, contribute directly to the local economy. As of 2023, the fee for a remote gaming B2C operator stands at £100,000, and there are different licensing fees for various types of operators.<sup>282</sup>

**Reputation and Conduct Checks:** Executive management of prospective companies must demonstrate their competence through a cogent business plan and proposals for effective governance. Key individuals may need to provide certificates of good conduct, and their previous regulatory history is considered.

**Consumer Protection Measures:** The emphasis on consumer protection, while necessary, can be seen as a barrier by some operators due to the extensive measures and systems they must implement to ensure responsible gambling, handle complaints, and more.

**AML and Compliance Regulations:** The stringent anti-money laundering (AML) AND Counter terrorism financing (CTF) standards can be demanding, especially with the constant evolution of international AML frameworks. Staying compliant requires significant investment in systems,

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<sup>282</sup> HM Government of Gibraltar. "Remote Gambling." 2015. < <https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling>>.

training, and monitoring mechanisms.

#### 4.5.3 *Economic Considerations of Gibraltar's Online Casino Sector:*

Given that the online gaming sector contributes about 25 per cent of the GDP in Gibraltar, it's understandable that the government wants companies in the sector to be as successful as possible.<sup>283</sup> Companies based in Gibraltar pay 10 per cent corporation tax, PAYE and just 0.15 per cent of Gross Gambling Yield.<sup>284</sup> Additionally, there's no income tax, capital gains tax or Value Added Tax to be paid. This makes it a highly attractive position to the companies that are based there with online businesses. Due to this, roughly 75 per cent of UK betting activity takes place from Gibraltar.<sup>285</sup>

#### 4.5.4 *Monitoring of the Legislative Framework:*

Licensed entities are subject to continuous monitoring to ensure adherence to AML/CTF requirements. This includes checks on customer due diligence, transaction monitoring, and reporting of suspicious activities.

- **Threshold-Based Monitoring:** Transactions exceeding a certain limit, either in frequency or amount, trigger automatic reviews. This helps in identifying large or repetitive transactions which might be indicative of money laundering.
- **Behaviour-Based Monitoring:** Using advanced analytics and AI, some platforms can identify unusual patterns in customer behaviour, flagging transactions that deviate from a customer's typical activity.
- **Cross-Checking with Sanctions Lists:** Transactions are routinely cross-referenced against international sanctions lists to ensure no funds are being transacted with entities or individuals that are under restrictions or embargoes.

#### Suspicious Transaction Reporting:

- **Internal Review:** If a transaction or a series of transactions are flagged as suspicious, they are subjected to an internal review process. If the suspicion is validated, it moves to the next stage.
- **Reporting to GFIU:** Suspicious transactions, once validated internally, are reported to the Gibraltar Financial Intelligence Unit (GFIU). This needs to be done in a timely manner, ensuring swift action can be taken if required.

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<sup>283</sup> 'Why Gibraltar is a Hotspot for Gaming and Crypto Currently', <<https://www.lep.co.uk/culture/gaming/why-gibraltar-is-a-hotspot-for-gaming-and-crypto-currently-3437957?>>.

<sup>284</sup> Ibid.

<sup>285</sup> Andrew Lyman, 'Gambling Division, Government of Gibraltar – Written evidence (GAM0026)' UK Parliament 2019

# USE OF CRYPTOCURRENCIES

Cryptocurrencies and Virtual Assets (VAs) have seamlessly woven themselves into the global financial fabric, finding integration as both investments and payment tools within the legitimate economy and present a real challenge to AML/CTF regimes. The initial purchase of cryptocurrency can often be traced back to its source, but subsequent transactions are typically conducted with a high degree of anonymity, making them exceedingly challenging to detect.<sup>286</sup> Indeed, VAs can be anonymised, and in certain instances, it is possible to perform anonymous transfers and fund transactions.<sup>287</sup> This presents issues for conducting effective identification and verification of VA users, as well as effective monitoring of VA sources and use. For these reasons, VAs and VASPs may be attractive to criminals engaging in ML and/or TF.

## 5.1 THE FATF AND VIRTUAL ASSETS

Before October of 2018, the FATF Recommendations did not expressly mention “virtual assets” or “virtual asset service providers”.<sup>288</sup> It was not until June of 2019 that an interpretive note was added to the Recommendations that expressly set out how FATF standards apply to VAs and VASPs.<sup>289</sup> This interpretive note was most recently revised and updated in June of 2021, largely for clarification purposes. As it currently stands, the FATF Recommendation 15 and its corresponding interpretive note impose four main obligations regarding VA and VASP risk mitigation:

1. Risk assessments: countries are required to identify, assess and understand the ML and TF risks that VAs and VASPs present, and then implement proportionate measures to mitigate these risks. VASPs should also be required to conduct these risk-assessments and take effective actions to mitigate their ML and TF risks.<sup>290</sup>
2. Licensing and registration: at minimum VASPs should be required to be licensed or registered in the jurisdiction(s) where they are created. The licensing or registration process should prevent criminals from holding, or being the BO of, or having a controlling interest or management function in, a VASP. VASPs that operate unlicensed or unregistered should be identified by countries and have sanctions imposed.<sup>291</sup>
3. Compliance monitoring: VASPs should be subject to risk-based supervision and monitoring by competent authorities to ensure they are implementing relevant FATF Recommendations to mitigate ML and TF risks. VASPs should also be subject to national AML/CTF regulatory regimes.

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<sup>286</sup> Doron Goldbarsht, ‘New Payment Systems, Potential Counter-Terrorist Financing Risks and the Legal Response in the United Kingdom’ in Katie Benson, Colin Kind and Clive Walker (eds), *Assets, Crimes, and the State* (Routledge, Taylor, and Francis Group, 2020) 125, 130.

<sup>287</sup> Christian Leuprecht, Caitlyn Jenkins and Rhianna Hamilton, ‘Virtual Money Laundering: Policy Implications of the Proliferation in the Illicit Use of Cryptocurrency’ (2023) 30(4) *Journal of Financial Crime* 1036, 1040.

<sup>288</sup> See *FATF Recommendations* (n 48) 140.

<sup>289</sup> *Ibid.*

<sup>290</sup> *Ibid* 76-7.

<sup>291</sup> *Ibid* 76.

Competent authorities should be able to conduct inspections, compel the production of information and impose sanctions on VASPs.<sup>292</sup>

4. International cooperation: VASP supervisors should exchange information promptly and constructively with their foreign counterparts in order to effectively combat risks of ML and TF in this arena.<sup>293</sup>

## 5.2 THE EUROPEAN UNION AND CRYPTO-ASSETS

In June of 2023, the new EU law titled ‘Markets in Crypto-Assets Regulation’ (MiCA) entered into force.<sup>294</sup> The MiCA intends to institute uniform EU market rules for crypto-assets.<sup>295</sup> Like the FATF Standards, the MiCA sets out transparency and disclosure requirements for the issuance and trading of crypto-assets (to counter VA anonymisation and allow for ease of tracing) and requirements for the authorisation and supervision of crypto-asset service providers (also known as VASPs). Such measures intend to enable authorities to detect suspicious transactions and have in place systems and procedures that can mitigate the risks of ML using VAs.

## 5.3 MALTA

### 5.3.1 *Virtual Financial Assets Act*

Malta was one of the first countries globally to have enacted a framework for the regulation of VAs.<sup>296</sup> In 2018, Malta introduced their Virtual Financial Assets Act (VFAA).<sup>297</sup> Notably, the VFAA focuses on the regulation of VASPs and a new functionary called the ‘VFA Agent’.

In line with Recommendation 15 of the FATF, The VFAA prohibits VASPs from operating in Malta without a valid license granted by the Maltese Financial Services Authority (MFSA).<sup>298</sup> To obtain a licence, a VASP is subject to various checks relating to their governance, business model, level of competence, systems, and controls<sup>299</sup> – not unlike the checks that the MGA undertakes in relation to casino license applicants. The purpose of this check is to ensure that the VASP is fit and proper, legitimate, and able to meet their license obligations.

Under the VFAA, all VASPs must appoint a VFA Agent.<sup>300</sup> ‘VFA Agent’ is defined in article 2(2) of the VFAA to mean a professional advocate, accountant or auditor, or firm of advocates, accountants or auditors, registered with the MFSA, who have the requisite authorisation,

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<sup>292</sup> Ibid 76.

<sup>293</sup> Ibid 77.

<sup>294</sup> Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 [2023] OJ L 150/40 (‘MiCA’).

<sup>295</sup> European Securities and Markets Authority, ‘Markets in Crypto-Assets Regulation (MiCA)’ (Web Page, accessed October 2023) <<https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/markets-crypto-assets-regulation-mica>>.

<sup>296</sup> Christopher Buttigieg and Gerd Sapiano, ‘A critical examination of the VFA framework – the VFA agent and beyond’ (2020) 14(1) *Law and Financial Markets Review* 48, 48.

<sup>297</sup> *Virtual Financial Assets Act* (Malta) 1 November 2018 [CAP.590] (‘VFAA’).

<sup>298</sup> Ibid art 13(1).

<sup>299</sup> Buttigieg and Sapiano (n 68) 48.

<sup>300</sup> VFAA (n 69) art 7(1).

qualification or experience to exercise the functions listed under articles 7 and/or 14 of the VFAA.

Some of the most notable functions of the VFA Agent, under articles 7 and 14 of the VFAA, are as follows:

- Advise and guide the VASP as to ensure their compliance with the VFAA.<sup>301</sup>
- Keep documentation evidencing the VASPs activities, to be reviewed by the MFSA where requested.<sup>302</sup>
- Act as a liaison between the VASP and the MFSA on all matters arising from the VASPs registration and business activities.<sup>303</sup>
- Submit annual compliance reports to the MFSA, regarding the VASPs compliance with their licence obligations under the VFAA.<sup>304</sup>
- Be considered a ‘subject person’.<sup>305</sup>
- Support the MFSA in reviewing VASP licence applications. Specifically, the VFA Agent must assist the MFSA in investigating the applicant, in order to determine whether they are fit and proper, and willing and able to comply with the conditions of the VFAA.<sup>306</sup>

As the VFA Agent is considered a ‘subject person’ under the VFAA, they are subject to the same AML/CTF obligations as casino licensees (who are also considered a ‘subject person’<sup>307</sup>) under the Maltese AML/CTF framework. Likewise, licenced VASPs are considered ‘subject persons’ under the VFAA.<sup>308</sup> So, both VFA Agents and VASPs are required, like casino licensees, to implement a risk-based approach to AML/CTF, engage in CDD, record-keeping, suspicious transaction reporting, and so on. Naturally, they are also subject to the same enforcement actions and sanctions where these obligations are not satisfactorily met.

As Christopher P. Buttigieg and Gerd Sapiano point out, the VFA Agent was a functionary not envisioned by the EU at the time the VFAA was introduced in Malta.<sup>309</sup> In 2019, the VFA Agent role was novel, and Malta was praised for implementing a VAs framework that was beyond what was required of them under the EU’s 5<sup>th</sup> Anti- Money Laundering Directive.<sup>310</sup>

However, the FATF, in its published guidance for a risk-based approach to VAs and VASPs, does contemplate that a jurisdiction may have multiple VASP Supervisors.<sup>311</sup> The VFA Agent can be

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<sup>301</sup> Ibid arts 7(1)(a), (c), (d).

<sup>302</sup> Ibid arts 7(1)(b), (e), (f).

<sup>303</sup> Ibid art 7(1)(h).

<sup>304</sup> Ibid art 7(1)(j).

<sup>305</sup> Ibid art 7(1)(k).

<sup>306</sup> Ibid art 14(3).

<sup>307</sup> See *PMLFTR* (n 41) art 2(1).

<sup>308</sup> *VFAA* (n 69) art 23(1).

<sup>309</sup> Buttigieg and Sapiano (n 68) 52.

<sup>310</sup> See *MiCA* (n ?).

<sup>311</sup> Financial Action Task Force, *Updated Guidance for a Risk-based Approach: Virtual Assets and Virtual Asset Service Providers* (Publication, October 2021) para 353.



characterised as a secondary VASP Supervisor to the MFSA, acting as ‘the [MFSA’s] extended supervisory arm’ and a ‘first line of defence’ for money laundering via crypto-assets.<sup>312</sup>

### 5.3.2 *The Malta Gaming Authority Policy*

In January of 2023, the MGA published its Policy on the use of Distributed Ledger Technology by Authorised Persons (the ‘Policy’).<sup>313</sup> The Policy applies to online casino operators.

The effect of the Policy is that Maltese-licensed online casinos may use and accept VAs where this use and acceptance has first been approved by the MGA.<sup>314</sup> The MGA will approve the use of Digital Ledger Technologies (DLTs) and VAs on a case-by-case basis.<sup>315</sup> As part of the application process to obtain MGA approval, licensees are required to provide the MGA with their updated risk assessment and implement AML/CTF procedures that address the integration of DLTs and VAs into their operations.<sup>316</sup>

The Policy provides that the use of VASPs by online casinos is permitted, so long as they have been authorised in terms of the VFAA.<sup>317</sup> As mentioned previously, the VFAA prohibits VASPs from operating in Malta without a valid license granted by the MFSA.<sup>318</sup>

Other key Policy obligations for casino licensees include: VAs Limits: financial limits for virtual assets must be set out in fiat terms.<sup>319</sup> Exchange of VAs: the exchange and sale of VAs is not permitted on online casino platforms.<sup>320</sup> Rates of VA Exchange: due to the volatility of VAs, there exists different exchange rates of the same VAs amongst different exchanges; Casino operators who intend to leverage VAs must designate a VA asset exchange when seeking authorisation from the MGA; and the exchange rate will then be that of the designated exchange.<sup>321</sup>

Ongoing compliance with the Policy is monitored by the MGA, who adopt a risk-based approach in their supervisory function. Supervision may be in the form of off-site and on-site monitoring, random inspections and scheduled audits, and ongoing reviews of reports and requested documentation.

## 5.4 UNITED KINGDOM

The UK has implemented the EU’s Fifth Anti-Money Laundering Directive, designed to oblige regulation and the same AML checks traditional financial institutions make but on cryptocurrency

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<sup>312</sup> Buttigieg and Sapiano (n 68) 49.

<sup>313</sup> See Malta Gaming Authority, *Policy on the use of Distributed Ledger Technology by Authorised Persons* (Policy, January 2023) (*DLT Policy*).

<sup>314</sup> Malta Gaming Authority, *Fact Sheets 2023* (Guidance Note, accessed October 2023).

<sup>315</sup> *DLT Policy* (n 85) 3.1.

<sup>316</sup> *Ibid* pt 4.

<sup>317</sup> *Ibid* pt 2.

<sup>318</sup> *VFAA* (n 69) art 13(1).

<sup>319</sup> *DLT Policy* (n 85) pt 2.5.

<sup>320</sup> *Ibid* pt 2.6.2.

<sup>321</sup> *Ibid* pt 2.7.

exchanges and wallets.<sup>322</sup>

#### 5.4.1 UK Financial Conduct Authority

The regulatory response to cryptocurrencies varies across different countries, legal status can vary, with some countries considering them as currency, security, or commodity. In the UK, Bitcoin and other cryptocurrencies have not been deemed illegal. The UK has adopted a relatively forward-looking stance toward the regulation of cryptocurrencies.<sup>323</sup> These regulations are designed to deter unlawful activities, such as ML and TF. The Financial Conduct Authority (FCA) is the AML/CTF regulator for businesses carrying out crypto asset activities under the MLR. To be registered with the FCA, crypto-asset businesses must demonstrate that both the business and owners are ‘fit and proper’, meeting ethical and professional standards in addition to requiring the businesses to identify and assess their risks of AML/CTF and mitigate those risks through establishing and enforcing adequate policies, systems and controls.<sup>324</sup> Crypto-asset exchange providers and custodian wallet providers must adhere to designated reporting obligations to uphold transparency and adhere to regulatory standards where the FCA manages a registry of such organisations. When conducting business and transactions, CDD processes must be implemented to verify the legitimacy of customers.<sup>325</sup> To ensure the above regulations are upheld, businesses must continually monitor all customers, ensuring transactions align with what they know of that customer.<sup>326</sup>

## 5.5 CURAÇAO

Curaçao currently does not specifically regulate cryptocurrencies, however, the use of them is not prohibited and they are commonly used within the online gambling industry. Crypto casinos are online casinos which use virtual currencies such as Bitcoin. They are common in Curaçao and include large platforms such as like Stake.com and Roobet.<sup>327</sup> However, despite the prolific use of cryptocurrencies and registered crypto casinos within Curaçao, they remain unregulated.<sup>328</sup> LOK is expected to include a clause officially allowing the online gambling sector to make and receive cryptocurrency payments.<sup>329</sup> At least until wider crypto regulations enter into force.<sup>330</sup> In other words, the new law will legitimise the existing practices of the use of cryptocurrencies in the online casino sector without creating any new regulations in the area.<sup>331</sup>

Curaçao expects to pass legislation in the future regulating cryptocurrencies but there are currently

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<sup>322</sup> LexisNexis, *5<sup>th</sup> Money Laundering Directive: A Guide for Adapting to Changes in Anti-Money Laundering Compliance* (Web Page) <<https://risk.lexisnexis.co.uk/insights-resources/infographic/5th-money-laundering-directive>>.

<sup>323</sup> Ibid.

<sup>324</sup> Financial Conduct Authority, *Regulation of Digital Assets in the UK* (Web Page, 25 April 2023) <<https://www.fca.org.uk/news/speeches/regulation-digital-assets-uk>>.

<sup>325</sup> Jackson Olly, ‘UK Eyes AML Rules for Bitcoin Regulation’ (22 January 2018) *International Financial Law Review* 2.

<sup>326</sup> Ibid.

<sup>327</sup> Gore (n 37) 19.

<sup>328</sup> Ibid.

<sup>329</sup> Ibid.

<sup>330</sup> Ibid.

<sup>331</sup> Ibid.

no plans for the law as the focus is on LOK and the systemic change which will result from it. It is likely that cryptocurrencies will remain largely unregulated for some time. However, with the new licensing regime higher AML/CTF compliance requirements and thresholds will be expected, and these will extend to the use of cryptocurrencies. However, Curaçao's National Risk Assessment has recommended that the regulatory bodies 'obtain the necessary expertise and IT tools to investigate cases involving new technologies like cryptocurrencies'.<sup>332</sup> This indicates that Curaçao is currently lacking the tools necessary to address the risks of cryptocurrencies to AML/CTF policies.

Therefore, while cryptocurrencies are not exempt from AML/CTF requirements Curaçao will have great difficulty in investigating and preventing illegal financial activities using cryptocurrencies. It will likely be up to the operators to ensure there are proper frameworks in place. Whether the CGA has the proper authority and powers to ensure operators do so remains to be seen once LOK has come into effect.

#### *5.5.1 Interaction and cooperation with international regulations/organisations*

The most significant interaction and cooperation Curaçao has in relation to AML/CTF measures is with the CFATF. The CFATF is the Caribbean branch of the FATF and is responsible for investigating compliance with the FATF Recommendations in its 25 member states, largely through the use of Mutual Evaluation Reports.<sup>333</sup> Curaçao has been very responsive to recommendations from the CFATF resulting from the 2012 Mutual Evaluation Report.<sup>334</sup> As a result of the MER it made significant legislative reform and the upcoming assessment for the next MER in 2024/25 has contributed to influencing Curaçao in its aim to overhaul its licensing regime via LOK to prevent FATF grey listing.

#### *5.5.2 Other organisations*

According to the National Risk Assessment report, the National Anti-Money Laundering, Counter Financing of Terrorism and Counter Financing of Proliferation Committee (AML/CFT/CFP Committee) acts as the point of contact and the coordinating body between international and regional organisations for AML/CTF and Curaçao.<sup>335</sup> Its members consist of governmental bodies, including the PPO, 'the Department of Legislation and Legal Affairs, the Department of Justice, and the Directorate of Foreign Relations Affairs; the private sector can also be involved for consultation purposes'.<sup>336</sup> However, there is seemingly no direct contact method for the AML/CTF/CFT Committee available online. Presumably, this means that contact must be made directly with the individual bodies who are members of the AML/CTF/CFT Committee.

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<sup>332</sup> NRA 2020 (n 1) 35.

<sup>333</sup> Caribbean Financial Action Task Force, 'Curaçao Jurisdiction exiting the Third Round of Mutual Evaluations' (Webpage, 2023).

<sup>334</sup> Ibid.

<sup>335</sup> NRA 2020 (n 1) 5.

<sup>336</sup> Ibid 37.

## 5.6 GIBRALTAR

Gibraltar's transformation from a bustling port to an international finance hub has been marked by its adaptability to emerging sectors, with cryptocurrency being a prominent one. As e-commerce and online gaming witnessed a surge in Gibraltar, the intersection of online gaming with cryptocurrency, termed as "crypto gaming", started to gain traction. Given Gibraltar's history with online gaming and its hospitable environment for crypto businesses, crypto gaming found a favourable ecosystem to thrive in.<sup>337</sup> Notably, Gibraltar's attractiveness in the cryptocurrency sector can be traced back to its taxation environment. The region does not impose capital gains or dividend tax on cryptocurrencies, and crypto exchanges are recognised as legitimate businesses. This is complemented by a favourable 10% corporate income tax rate, making the integration of gaming and cryptocurrency a lucrative opportunity for businesses.<sup>338</sup>

The recent international post-pandemic crypto event held in October 2021, which saw 300 crypto enthusiasts and investors attend, underscores the territory's growing prominence in the crypto space. Furthermore, with Gibraltar housing some of the biggest names in the online industry, such as Lottoland, the potential for integrating cryptocurrency into their platforms provides ample opportunities for innovation and growth in the crypto-gaming sector.

Gibraltar's approach to cryptocurrency regulation is both progressive and cautionary. The initiation of the 2018 regulatory regime based on English law marked a pivotal moment, establishing Gibraltar as a leading finance hub for blockchain firms.<sup>339</sup> In 2018, Gibraltar initiated a groundbreaking regulatory regime specifically tailored for firms operating in the distributed ledger technology (DLT) sector, which includes cryptocurrencies. The framework, introduced under the Distributed Ledger Technology (DLT) Regulations 2018, was the culmination of a detailed consultation process between Gibraltar's government, the private sector, and various global cryptocurrency and blockchain experts.<sup>340</sup> The regime includes provisions on principle-based regulation, consumer protection and risk management for DLT providers.

This move attracted several industry-leading entities, like the major crypto exchange Huobi and crypto and payments platform Xapo. The regime was designed to ensure the secure and transparent operation of crypto businesses, making Gibraltar stand out, especially post the revelations from the 2015 Panama Papers.<sup>341</sup>

The regulation-first approach that Gibraltar employs provides a structured framework for crypto businesses but also serves as a measure against Anti-Money Laundering (AML) and Counter-

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<sup>337</sup> Thomas, Mark, 'Is Gibraltar the right place to launch a regulated cryptocurrency exchange?' The Dubrovnik Times, 2023.

<sup>338</sup> HM Government of Gibraltar. "Remote Gambling." 2015. < <https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling>>.

<sup>339</sup> Nagrani, V, Provasoli, A, 'Gibraltar Introduces a Regulatory Framework for Distributed Ledger Technology' Chambers and Partners. 2018.

<sup>340</sup> HM Government of Gibraltar, 'Gibraltar Regulator Refreshes Jurisdiction's Distributed Ledger Technology Regulation' - 631/2020.

<sup>341</sup> Lopez, Hannah, 'Gibraltar regulates firms operating in the crypto space' Hassans. 2022

Terrorist Financing (CTF).<sup>342</sup> Given the decentralized and often anonymous nature of cryptocurrency transactions, AML/CTF compliance is crucial. Gibraltar's regulatory framework emphasizes the need for reputable operations that understand the commercial and reputational benefits of functioning under a respected regulatory framework. By ensuring only certified brands operate within its jurisdiction, Gibraltar is not only upholding its reputation but also instilling trust among investors and stakeholders about the legitimacy and security of the crypto transactions taking place in the region.<sup>343</sup>

# CHALLENGES WITH EXISTING LEGISLATIVE REGIME

## 6.1 MALTA

### 6.1.1 Beneficial Ownership Information

Corporate transparency is a major challenge to AML/CTF regimes. As Maria Jofre identifies in her 2022 report on financial crime, legitimate companies may be exploited by criminals 'to conceal illegal profits and assets and hide the identity of their beneficial owners'.<sup>344</sup> The identification of beneficial owners is so important for AML/CTF purposes, as it ensures that financial sources can be traced and the flow of funds to terrorist organisations and individuals can be disrupted.

#### Malta's Beneficial Ownership Regime

In June of 2021 Malta was 'grey-listed' by the FATF, partly due to Malta's poor ability to detect inaccurate company BO information, and lack of effective sanctions that could dissuade those providing inaccurate BO information.<sup>345</sup>

In response to their 'grey-listing', Malta's FIAU released revised Implementing Procedures with a special focus on BO. The revised Procedures introduced a new eleven-page definition of 'beneficial owner',<sup>346</sup> as well as further clarification for 'subject persons' (including online casino operators) about their obligations in identifying and verifying BO structures.<sup>347</sup>

Additionally, since 2018 Malta has had a publicly accessible, centralised BO Register.<sup>348</sup> This is in line with Malta's obligations under the EU's 5<sup>th</sup> Anti-Money Laundering Directive.<sup>349</sup> The purpose

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<sup>342</sup> Gomez, J, Triay, J 'Fintech Laws and Regulations Gibraltar 2023' 2023

<sup>343</sup> Ibid.

<sup>344</sup> Maria Jofre, 'Network analysis for financial crime risk assessment: the case study of the gambling division in Malta' (2022) 23(2) *Global Crime* 148, 148.

<sup>345</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring – June 2022' (Web Page, June 2022) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-june-2022.html>>.

<sup>346</sup> *Implementing Procedures Part I* (n 47) 4.2.2.1.

<sup>347</sup> Ibid 4.3-4.3.3.

<sup>348</sup> See Malta Business Registry, 'About MBR' (Web Page, May 26 2021) <<https://registry.mbr.mt/ROC/>>.

<sup>349</sup> *Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU* [2018] OJ L 156, art 30.

of the central Register held by the Malta Business Registry (MBR) is to make company ownership information apparent and unambiguous to law enforcement agencies, regulators, other businesses and the public.<sup>350</sup>

After Malta's 'grey-listing', the powers and capacities of the MBR were enhanced under Malta's BO Regulations.<sup>351</sup> Under the amended article 12(1) of the BO Regulations, the MBR has enhanced supervisory powers enabling it to conduct physical on-site investigations of companies. This enables the MBR to verify the BO information submitted by the company to the Registry, and impose sanctions where such information is substantially out-of-date, inaccurate, or has been intentionally concealed.<sup>352</sup>

Notably, the BO Regulations also introduced a new obligation on registered companies. Companies must now provide annual confirmation of the registered BO, in addition to the regular provision of information on changes in their BO.<sup>353</sup> Failure to provide this confirmation annually gives the MBR grounds to strike off a company.<sup>354</sup> This ensures the MBR is continually updated to provide the most accurate and relevant information on BO.

MONEYVAL was satisfied with these changes to Malta's BO Regulations in 2021, awarding the Maltese BO framework with a score of 'Largely Compliant' with Recommendation 24 of the FATF on global BO standards.<sup>355</sup> In October of 2021, Malta was removed from the FATF 'grey-list', the FATF noting that they were pleased with the progress Malta made in addressing and repairing their BO regime's deficiencies.<sup>356</sup>

### Opportunities for Improvement

Studies have shown that criminals are employing complicated ownership structures, such as circular ownership schemes, to obscure their BO information and the affiliations companies may have with high-risk individuals, companies or groups.<sup>357</sup> Concerningly, the EU's DATACROS project found that in 2021, Malta was among the countries with the highest concentration of 'anomalously complex companies',<sup>358</sup> and the country with the most companies with at least one PEP among their beneficial owners.<sup>359</sup>

To address these risks, BO Registers should take into account broader ownership structures of companies, including subsidiaries and parent companies.<sup>360</sup> The MBR does not currently request or

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<sup>350</sup> Malta Business Registry, *Guidance on the Register of Beneficial Owners of Commercial Partnerships* (Guidance Note, 2020), 5.

<sup>351</sup> *Companies Act (Register of Beneficial Owners) Regulations* (Malta) 1 January 2018 [S.L.386.19].

<sup>352</sup> *Ibid* art 12(4).

<sup>353</sup> *Ibid* art 6A(1).

<sup>354</sup> *Ibid* art 9(3).

<sup>355</sup> Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), *Anti-money laundering and counter-terrorist financing measures: Malta* (1<sup>st</sup> Enhanced Follow-up Report, April 2021), para 49.

<sup>356</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring – October 2021' (Web Page, October 2021) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-october-2021.html>>.

<sup>357</sup> See Jofre (n 94).

<sup>358</sup> *Ibid* 151.

<sup>359</sup> *Ibid* 151, citing Transcrime, 'Developing a Tool to Assess Corruption Risk Factors in Firms' Ownership Structures – Final Report of the DATACROS Project' (2021) *Università Cattolica Sacro Cuore* <<https://www.transcrime.it/datacros/>>.

<sup>360</sup> Jofre (n 94).

require this information from companies in Malta, according to the ‘Declaration on Beneficial Owners’ official registry forms.<sup>361</sup>

### 6.1.2 Foreign Judgements and Offshore Liability

#### ‘Bill 55’

In June of 2023, Malta amended the Gaming Act to protect the status of the Maltese gaming license from ‘unfounded challenges’.<sup>362</sup> The amendment means that MGA licenced casino operators will be protected from certain foreign judgements relating to the provision of their gaming services, so long as the casino operates as authorised by the MGA and is lawful in terms of Maltese legislation. The foreign judgements that casino operators are shielded from are those that conflict with or undermine the legality of the Maltese gaming framework.<sup>363</sup> So, where an MGA-licensed casino’s operations are legal in Malta, Malta will refuse recognition or enforcement of any foreign judgement made against an MGA-licensed casino operator.<sup>364</sup>

The amendment, also known as ‘Bill 55’, is reported to be a response to recent legal precedents established in Austria and Germany, where MGA-licensed gaming operators, apparently serving Austrian and German consumers illegally, were held liable for these player’s losses.<sup>365</sup> For example, in November of 2022, MGA-licensed remote gaming operator ‘PokerStars’ was ordered by a German court to pay back €58,000 in losses to German players who had accessed their gaming services.<sup>366</sup> This was because online casinos were not yet legal in Germany at the time the losses were incurred.<sup>367</sup>

Bill 55 was first utilised by a Maltese court in July of 2023, when Austrian plaintiffs sought to enforce a garnishee order, obtained in Austria, against a Maltese-licensed gaming company.<sup>368</sup> The Maltese Civil Court blocked enforcement of this foreign judgement, citing the recent amendment to the Gaming Act.<sup>369</sup>

#### International Responses

Austria, Germany, and most recently, lawyers in the Netherlands, have criticised Malta’s Gaming Act amendment on the basis of its potential incompatibility with European Law.<sup>370</sup> The German gambling regulator has specifically argued that the Maltese legislation is in breach of the Recast

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<sup>361</sup> See Malta Business Registry, ‘Official Registry Forms’ (Web Page, accessed October 2023) <<https://mbr.mt/promo/official-registry-forms/>>.

<sup>362</sup> Malta Gaming Authority, ‘Amendments to the Gaming Act introduced through Bill 55’ (News Release, 21 June 2023) <<https://www.mga.org.mt/amendments-to-the-gaming-act-introduced-through-bill-55/>>.

<sup>363</sup> *The Gaming Act* (n 26) art 56A(a)(i).

<sup>364</sup> *Ibid* s 56A(b).

<sup>365</sup> Marese O’Hagan, ‘Top German state court: PokerStars must pay back €58k in pre-treaty losses’, *iGB* (Web Page, 8 November 2022) <<https://igamingbusiness.com/legal-compliance/legal/top-german-state-court-pokerstars-must-pay-back-e58k-in-pre-treaty-losses/>>.

<sup>366</sup> *Ibid*.

<sup>367</sup> *Ibid*.

<sup>368</sup> Jenny Orlando-Salling, ‘Not With a Bang But a Whimper: Has Constitutional Supremacy in Malta Drawn Its Guns on the Primacy of European Union Law?’, *Verfassungsblog* (Blog Post, 22 August 2023) <<https://verfassungsblog.de/not-with-a-bang-but-a-whimper/>>.

<sup>369</sup> *Ibid*.

<sup>370</sup> Zak Thomas-Akoo, ‘Dutch lawyers lobby government over controversial Malta law’, *iGB* (Web Page, 31 August 2023) <<https://igamingbusiness.com/legal-compliance/dutch-lawyers-malta-gambling-law/>>.

Brussels Regulation (RBR);<sup>371</sup> an EU Regulation concerning the recognition and enforcement of legal decisions between EU member states.<sup>372</sup>

In response, the MGA pointed to article 45 of the RBR, which allows a member state ('A') to refuse to recognise another member state's ('B') legal judgement where such a recognition would be 'manifestly contrary' to A's public policy.<sup>373</sup> The MGA has emphasised that the intention behind Bill 55 was to 'enshrine into law the long-standing public policy of Malta in relation to the gaming sector', and that the amendment is simply an 'interpretation of the *ordre public* grounds for refusal envisaged' by article 45 of the RBR.<sup>374</sup>

In July of this year, in response to the significant criticisms of the amendment, the European Commission committed to an examination of Bill 55's compatibility with EU law.<sup>375</sup> As of October 2023, the European Commission are yet to share their findings.

### Evaluation

Arguably, Bill 55 enhances Malta's appeal as a jurisdiction for gaming operators to "set up shop". By offering a regulatory environment that provides extensive legal protection to licensed operators, Malta becomes a more attractive, and therefore a more competitive, destination for gaming providers.<sup>376</sup> A secondary positive effect of the amendment may be that Maltese licensees are more inclined to obediently follow the conditions of their licence, as to fail to meet these conditions may expose them to foreign legal liability.

Conversely, it is notable that Bill 55 is being challenged by multiple EU member states. Its potential incompatibility with EU law seems to have isolated Malta as a country unwilling to cooperate with its European peers.<sup>377</sup> This will be especially concerning if Malta refuses to recognise foreign judgements that aim to combat transnational financial crime, including ML and TF. As a law that seemingly reduces the potential for international cooperation in the remote gaming context, it does not seem to promote AML/CTF objectives.

## 6.2 CURAÇAO

While the political commitment to proper AML/CTF measures must be acknowledged, it is not always given a high priority in practice.<sup>378</sup> Over the past few years the AML/CTF legislative framework has been amended. However, the process is very slow and has taken Curaçao a long

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<sup>371</sup> Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast) [2012] OJ L 351 ('Recast Brussels Regulation').

<sup>372</sup> Zak Thomas-Akoo, 'GGL says Malta Bill 55 not compatible with EU law', *iGB* (Web Page, 23 August 2023) <<https://igamingbusiness.com/legal-compliance/ggl-says-malta-bill-55-not-compatible-with-eu-law/>>.

<sup>373</sup> Recast Brussels Regulation (n 121) art 45(1)(a).

<sup>374</sup> Malta Gaming Authority, 'MGA addresses queries on 'Bill 55' following recent remarks in the media' (News Release, 24 August 2023) <<https://www.mga.org.mt/mga-addresses-queries-on-bill-55-following-recent-remarks-in-the-media/>>.

<sup>375</sup> Zak Thomas-Akoo, 'European Commission to scrutinise Malta gaming bill', *iGB* (Web Page, 25 July 2023) <<https://igamingbusiness.com/legal-compliance/european-commission-to-scrutinise-malta-gaming-bill/>>.

<sup>376</sup> Helena Grech, 'A deeper look at Malta's Bill 55: from praise to criticism, and everything in-between', *iGaming Capital.MT* (Web Page, 21 July 2023) <<https://igamingcapital.mt/a-deeper-look-at-maltas-bill-55-from-praise-to-criticism-and-everything-in-between/>>.

<sup>377</sup> *Ibid.*

<sup>378</sup> *Ibid* 11.



time to carry out. Although the legislative framework contains all the necessary provisions and rules, the effectiveness of the enforcement of these laws is limited. Curaçao's primary challenge in enforcing AML/CTF compliance lies in the scarcity of resources available to the regulatory bodies, including staff and finances, which has limited their ability to monitor and prosecute cases effectively. Additionally, the regulatory authorities did not have the authority to enforce compliance. When the CGA was granted regulatory authority in 2019, it did not have the authority to issue fines.<sup>379</sup> Sylvania, the Minister of Finance, acknowledged that the GCA lacked the necessary tools and permissions to effectively oversee the online gambling industry and that this has resulted in poor governance and limited practices regulating gaming operations, especially in relation to AML measures.<sup>380</sup>

A similar issue in relation to lack of resources and authority exists in relation to the FIU Curaçao. While the quality of intelligence gathered and processed by the FIU Curaçao is largely a strength, the organisation lacks the capacity and technical facilities to properly carry out its duties.<sup>381</sup> Although the NORUT grants the FIU Curaçao the authority to direct access to the databases of other organisation so as to obtain, in reality FIU Curaçao does not actually have actual direct access yet.<sup>382</sup> While some organisations 'do provide a periodic data dump', others only provide information upon written request by the FIU Curaçao.<sup>383</sup> As such, a lot of information is only obtained on a case by case basis.<sup>384</sup> This also means that investigated subjects are disclosed, which prevents the required confidentiality of FIU Curaçao investigations.<sup>385</sup>

A further issue resulting from the lack of resources and access to information is the impact this has on the proper evaluation of the effectiveness of measures. For example, the National Risk Assessment made by Curaçao was constantly hindered by a lack of information and statistics.<sup>386</sup> Considering this report is vital in highlighting the strengths and weakness of the current framework, this severely impacts the reliability of recommendations made by the report and how effective they may be in addressing the problems. Therefore, while the AML/CFT legislative framework in Curaçao can be considered comprehensive and does not appear to have any significant gaps, there is a significant need for improving its practical implementation.<sup>387</sup> The institutions responsible for implementing and managing AML/CTF measures and their effectiveness need to be strengthened.<sup>388</sup>

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<sup>379</sup> GCB Regulatory Scope (n 19).

<sup>380</sup> iGaming NEXT (n 45).

<sup>381</sup> NRA 2020 (n 1) 11.

<sup>382</sup> Ibid 39.

<sup>383</sup> Ibid 39.

<sup>384</sup> Ibid 39.

<sup>385</sup> Ibid 39.

<sup>386</sup> Ibid 11.

<sup>387</sup> International Monetary Fund, 'Kingdom of the Netherlands – Curaçao: Staff Concluding Statement of the 2023 Article IV Mission' (Media Release, 31 May 2023).

<sup>388</sup> Ibid.

## 6.3 CANADA

### 6.3.1 Technological Change

The Regime aims to continually adapt to changes in the financial sector in order to remain relevant and effective. These changes have led to extensive controls in place to regulate Canadian online gambling sites. For example, online casinos businesses are required to have measures embedded throughout the onboarding process that eliminates the capacity for participants to be anonymous.<sup>389</sup> This means a user cannot subsequently anonymously participate in online casinos games once registered. These features mean a participant's identity and residency in the relevant province must be verified by a registered lottery corporation prior to granting them permission to participate in online casinos. There are further restrictions in regard to the source and amount of funds that can be deposited into online accounts, and all transactions are monitored with specialised technology.<sup>390</sup> Most provinces require all funds to be deposited from and withdrawn into Canadian financial institutions. This imposes an additional layers of reporting obligations held by the financial institutions under the *Proceeds of Crime Act*.<sup>391</sup>

As this report previously mentioned, Canada's Mutual Evaluation Report in 2016<sup>392</sup> found the country implemented a generally strong AML/CTF regime. However, the report noted that 'financial intelligence could be used to a greater extent by investigators'<sup>393</sup> and that 'money laundering investigation and prosecution results were not commensurate with Canada's risk profile'.<sup>394</sup> Canada has since implemented various additional measures to address technical compliance deficiencies and was updated on its AML/CTF compliance. These additional measures included the obligations for Regime partners conduct assessments and publish strategic intelligence reports to provide policy makers with the information needed to address emerging gaps and promote awareness of emerging risks. Throughout the COVID-19 pandemic the regime partners conducted detailed assessments of consumer transactions and published strategic intelligence reports. These strategic intelligence reports assist policy makers to understand the shift towards digitalization in the financial sector and subsequently influence relevant legislative change. This led to the Department of Finance Canada's 2023 update of the National Inherent Risk Assessment (NIRA), which assessed the inherent money laundering and terrorist financing risks faced by specific sectors and products in Canada.<sup>395</sup> Such efforts demonstrate the capacity for Canada's regime to be readily adapted to reflect current trends and global changes.

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<sup>389</sup> Global Legal Group, 'Canadian Gaming 2.0 2023', *ICLG - Gambling Laws and Regulations* (online, 7 December 2022) < <https://iclg.com/practice-areas/gambling-laws-and-regulations/2-canadian-gaming-2-0>>.

<sup>390</sup> Global Legal Group, 'Canadian Gaming 2.0 2023', *ICLG - Gambling Laws and Regulations* (online, 7 December 2022) < <https://iclg.com/practice-areas/gambling-laws-and-regulations/2-canadian-gaming-2-0>>.

<sup>391</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17.

<sup>392</sup> Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures – Canada* (Fourth Round Mutual Evaluation Report, September 2016).

<sup>393</sup> *Ibid.*

<sup>394</sup> *Ibid.*

<sup>395</sup> Department of Finance Canada, *Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime Strategy 2023-2026* (Report, 2023) 5.

### 6.3.2 Jurisdictional Enforcement

Although Canada has a relatively strong framework, there are a few issues in relation to the enforcement of the Regime. As established, the federal government allows each province and territory to regulate and license their own online gambling operations. This causes issues with jurisdictional and international enforcement. Section 6(2)<sup>396</sup> of the *Criminal Code*<sup>397</sup> states that ‘no person shall be convicted... of an offence committed outside of Canada’.<sup>398</sup> The inherent feature for online casinos to operate across borders impedes with the ability to capture such offshore activity. This is because it is difficult for regulatory bodies to identify the jurisdiction in which the criminal enterprise of money laundering is occurring. Furthermore, the Canadian government power of extra-jurisdictional force is not capable of being exercised to address gaming activities. Ultimately, this means if a particular online casino has no nexus to Canada, it cannot be taken to be providing services in Canada. Moreover, Canadian law enforcement authorities are unable to commence criminal prosecution to charge offshore online casino operators. Therefore, the required nexus to Canada’s jurisdictions threatens to jeopardize the integrity of Canada’s federal AML/CTF regime.

Secondly, the provincial and territorial regime structure poses further difficulties in enforcement across different Canadian jurisdictions. The provincial governments do not have legislative power to enact legislation restricting interprovincial or international casino transactions. Provinces such as Quebec, British Columbia, and Ontario, have established their own online gambling sites, which are regulated by provincial gaming authorities. In other provinces and territories, online gambling may be restricted or not offered at all. For example, in Alberta, online gambling is not currently offered by the provincial gaming authority, but residents are able to illegally access offshore online gambling sites as all activity remains unmonitored. As aforementioned, under the *Criminal Code*,<sup>399</sup> all casino activity is illegal unless it is governed and licensed by a province.<sup>400</sup> If it is licensed, it is subject to Canada’s money laundering controls and legislation. If it is not licensed, and is operating illegally, it is not subject to Canada’s AML/CTF Regime. This raises potential issues present in Canada’s detection and enforcement mechanisms as residents can still access the online casinos illegally. Nevertheless, some provinces have demonstrated the capacity to harness the structural design of Canada’s AML/CTF framework subvert federal enforcement barriers.

### 6.3.3 Opportunities with Existing Legislative Regime

#### iGaming Ontario

At a provincial level, Ontario has implemented an alternative gaming authority to combat this issue. It was reported that Ontarians provide almost \$1 billion per annum on online gambling, with

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<sup>396</sup> *Criminal Code*, RSC 1985, c C-46, s 6(2).

<sup>397</sup> *Ibid.*

<sup>398</sup> *Ibid.*

<sup>399</sup> *Ibid.*

<sup>400</sup> *Ibid* s 197(1).

an estimated 70% occurring on unregulated markets and websites.<sup>401</sup> The provincial government recognised the online gaming market as a key source of revenue and economics opportunity. Thus, the development of iGaming aimed to formulate a balance between AML/CTF legislative framework and legislative harm minimization framework such as responsible gaming; consumer and community protection; and customer verification protections. In 2020, the Ontario government announced its strategy to establish 'iGaming Ontario', a new subsidiary of the Alcohol and Gaming Commission of Ontario.<sup>402</sup> The iGaming subsidiary aimed to regulate an open and secure online gambling market accessible to residents.<sup>403</sup> This subsidiary would operate as a distinct commercial entity from the Alcohol and Gaming Commission of Ontario, yet subsume the duties to 'conduct and manage'<sup>404</sup> gaming activities, with a lens towards online casinos. As a legal entity, the iGaming subsidiary was the provider of gaming services, not the operator. The operator would enter into a commercial agreement effectively transferring iGaming's gambling responsibilities and duties to the licensed operator. Essentially, this means all licensed operators would function as a legal agent for iGaming. This framework means operators with a commercial agreement are governed by Ontario's provincial legislation such as the *Gaming Control Act 1992*<sup>405</sup> which enforces obligations and requirements of operators and gaming-related service suppliers. In 2021, the Canadian Attorney General, Doug Downey, stated the government was determined to 'work with industry, responsible gaming advocates and regulatory partners to ensure Ontario is a world leader in building a safe online gaming environment that meets consumer expectations'.<sup>406</sup> The aim of the subsidiary was to develop a market which could encompass offshore operators, as well as province-based operators. This concept revolutionised the AML/CTF framework and display Ontario as an international leader in online gaming regulation.

In 2021, the Ontario government announced the launch of iGaming and began entering commercial agreements with private operators on behalf of the province in preparation of opening the gaming market.<sup>407</sup> The registration process for iGaming operators is two-step: (i) operators must enter into a commercial agreement with the provincial government; (ii) the operators must obtain a license and be registered in Ontario. The commercial agreements are incentivised by offering revenue share and operator protections to all operators offering the online gaming services via iGaming's regulated framework. This aim of incentivisation is to attract the operators previously operating in the unregulated offshore market. In addition, all operators must apply to be

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<sup>401</sup> Alcohol and Gaming Commission of Ontario, 'At One-Year Anniversary of Ontario Internet Gaming Market, New Study Shows over 85 per cent of Players are Playing on Regulated Sites', *Lottery and Gaming* (Blog Post, 4 April 2023) <<https://www.agco.ca/blog/lottery-and-gaming/apr-2023/one-year-anniversary-ontario-internet-gaming-market-new-study-shows>>.

<sup>402</sup> Ontario Government, 'A model for internet gaming in Ontario' (Discussion Paper, Province of Ontario, 3 March 2021).

<sup>403</sup> Alcohol and Gaming Commission of Ontario, 'Ontario Government launches iGaming Ontario, a subsidiary of the AGCO', *Lottery and Gaming* (Blog Post, 6 July 2021) <<https://www.agco.ca/blog/lottery-and-gaming/jul-2021/ontario-government-launches-igaming-ontario-subsiidiary>>.

<sup>404</sup> *Criminal Code*, RSC 1985, c C-46, s 207(1).

<sup>405</sup> *Gaming Control Act*, SO 1992, c 24.

<sup>406</sup> Ontario Government, 'Ontario Creating a Safe, Legal and Competitive Online Gaming Market' (Press Release, 6 July 2021) <<https://news.ontario.ca/en/release/1000471/ontario-creating-a-safe-legal-and-competitive-online-gaming-market>>.

<sup>407</sup> Alcohol and Gaming Commission of Ontario, 'Ontario Government launches iGaming Ontario, a subsidiary of the AGCO', *Lottery and Gaming* (Blog Post, 6 July 2021) <<https://www.agco.ca/blog/lottery-and-gaming/jul-2021/ontario-government-launches-igaming-ontario-subsiidiary>>.

a registered gaming operator with the Alcohol and Gaming Commission of Ontario and pay a regulatory fee of \$100,000 annually per site.<sup>408</sup> Most importantly, there is no residency requirement for registrations, meaning any non-Canadian entity wishing to provide online gambling services in Ontario can obtain a license.<sup>409</sup> Furthermore, there is no limit of the number of licenses granted or any requirement to be linked to a land-based operator.<sup>410</sup> The commercial structure of the scheme offers a unique response to the federal jurisdictional enforcement issues requiring a nexus to Canada.

The benefits of this scheme are three-fold: (i) allowing the Ontario government to oversee all online casinos ensure market integrity; (ii) residences are provided with a secure and competitive environment with responsible gambling protections; (iii) offshore online casino operators are incentivised to obtain iGaming licenses to obtain greater entitlement are profit shares. In 2022, the iGaming market opened to all licenses operates with commercial agreements.<sup>411</sup> Upon its launch, the Alcohol and Gaming Commission of Ontario established the Registrar's Standards for Internet Gaming providing standards that operators must uphold to address areas of regulatory risk.<sup>412</sup> As of 31 October 2022, all registrants were required to cease unregulated gaming activities in the Ontario market under the Registrar's Standards.<sup>413</sup> This effectively dismantled the unregulated market as those registered with iGaming were required to comply with the Standards in order to access the benefits of the iGaming market. Since its launch, the iGaming subsidiary has fostered a successful open online gaming market with 45 operators offering services with more than 5,000 certified games accessible in the province.<sup>414</sup> Market research demonstrates that 85.3% of participants who accessed online gambling in the past three months gambled on regulated sites.<sup>415</sup> Ultimately, the iGaming market demonstrates the capacity for robust and modernised AML/CTF framework to displace the unregulated online gaming market. Ontario's approach has revolutionised regulatory approaches in the technological era and can be drawn upon as integration best practice to regulating online casinos. This demonstrates the need for legislative schemes to expand to address preventative AML/CTF legislation as well as foster harm minimization for regulated gaming markets across international jurisdictions.

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<sup>408</sup> Alcohol and Gaming Commission of Ontario, 'Internet Gaming Operator Application Guide', *Lottery and Gaming* (Web Page) <<https://www.agco.ca/lottery-and-gaming/guides/internet-gaming-operator-application-guide>>.

<sup>409</sup> Ibid.

<sup>410</sup> Ibid.

<sup>411</sup> Alcohol and Gaming Commission of Ontario, 'Overview of Internet Gaming in Ontario', *Lottery and Gaming* (Web Page) <<https://www.agco.ca/overview-internet-gaming-ontario>>.

<sup>412</sup> *Gaming Control Act*, SO 1992, c 24, s 3.8.

<sup>413</sup> Ibid.

<sup>414</sup> Alcohol and Gaming Commission of Ontario, 'At One-Year Anniversary of Ontario Internet Gaming Market, New Study Shows over 85 per cent of Players are Playing on Regulated Sites', *Lottery and Gaming* (Blog Post, 4 April 2023) <<https://www.agco.ca/blog/lottery-and-gaming/apr-2023/one-year-anniversary-ontario-internet-gaming-market-new-study-shows>>.

<sup>415</sup> Ibid.

## 6.4 GIBRALTAR

### 6.4.1 Alignment with International AML/CTF Standards

Over the years, Gibraltar has made significant strides in positioning itself as an international finance and tech hub. While it has put many regulatory frameworks in place, it has faced scrutiny from international bodies regarding the effectiveness and enforcement of these frameworks. Gibraltar's inclusion on the FATF grey list highlights the belief that there are key areas where Gibraltar needs to strengthen its AML/CTF frameworks.<sup>416</sup> The grey list indicates jurisdictions with strategic deficiencies in their AML/CTF regimes but who have committed to addressing the identified deficiencies. The FATF is the global standard-bearer for anti-money laundering (AML) and counter-terrorist financing (CTF) measures. Its 40 recommendations serve as a benchmark for jurisdictions worldwide to develop and hone their regulatory and supervisory practices.

#### Some Areas of Success

1. **Risk-Based Approach (RBA):** One of the FATF's primary recommendation is the adoption of a risk-based approach. Gibraltar has taken steps to align its AML/CTF standards with this principle. Online casino operators in Gibraltar are mandated to conduct regular risk assessments, which inform their internal AML/CTF policies, controls, and procedures.<sup>417</sup>
2. **Customer Due Diligence (CDD):** Gibraltar's online casino operators are required to carry out rigorous CDD checks, especially for high-risk customers, which resonates with FATF's emphasis on understanding and verifying the identity of both players and beneficial owners.<sup>418</sup> This helps in detecting and reporting suspicious activities.
3. **Suspicious Activity Reports (SARs):** Drawing parallels with the FATF's guidance, Gibraltar has provisions for its licensees to promptly submit SARs to its Financial Intelligence Unit (GFIU) in cases of suspected money laundering or terrorist financing. This timely submission ensures that potential threats are swiftly mitigated.
4. **Ongoing Monitoring:** Continuous monitoring of transactions is a cornerstone of the FATF's recommendations. Gibraltar's regulatory framework mandates its online casinos to have mechanisms in place that flag unusual betting patterns or significant transactions, ensuring timely intervention.<sup>419</sup>

### 6.4.2 Challenges and Criticisms

While Gibraltar has made significant strides in aligning its AML/CTF framework with FATF

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<sup>416</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring - 23 June 2023'

<sup>417</sup> Gambling Commissioner, 'Remote Technical and Operating Standards for the Gibraltar Gambling Industry Gambling Commissioner's Guidelines - v.1.1.0 (2012)

<sup>418</sup> HM Government of Gibraltar. "Remote Gambling." 2015. < <https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling>>.

<sup>419</sup> Gambling Commissioner, 'Remote Technical and Operating Standards for the Gibraltar Gambling Industry Gambling Commissioner's Guidelines - v.1.1.0 (2012)

standards, there remain some areas of contention and room for improvement:

1. **Implementation Over Documentation:** There's a perception that while Gibraltar's legislative framework is robust on paper, its enforcement lacks consistency.<sup>420</sup> More rigorous audits and inspections by regulatory bodies could bolster its effectiveness and increase confidence within the international community.
2. **Capacity and Resources:** As with many smaller jurisdictions, there's an argument to be made about whether Gibraltar has the requisite resources, both in terms of personnel and technological infrastructure, to ensure comprehensive oversight.<sup>421</sup> Given the rapid rate of technological advancement it is increasingly difficult for smaller nations to keep up with ever evolving methods of obscuring money laundering and terrorism financing.
3. **Cross-border Collaboration:** Given the transnational nature of online gambling, enhanced collaboration with other jurisdictions, particularly those in the EU, could bolster Gibraltar's AML/CTF measures. While Gibraltar does cooperate, more proactive and frequent exchanges of information would be beneficial.<sup>422</sup> This is something that will be discussed later.

### **Collaboration with Entities like FATF and Other International Bodies**

The introduction of The Gambling Act 2005 demonstrated Gibraltar's intent to establish a transparent and robust regulatory framework for its gaming industry. However, the real litmus test for its regulatory provisions comes from its interactions and alignment with larger international entities, such as the FATF. As of recent evaluations, Gibraltar finds itself on this "grey list", a status that poses both reputational and economic risks. The inclusion on this list indicates that while Gibraltar is committed to resolving the identified strategic deficiencies, there are areas of its AML/CFT framework that require significant improvement.

1. **Risk Assessment:** While Gibraltar's financial intelligence unit has indeed incorporated FATF's risk-based approach, the evolving and multifaceted nature of online gambling, coupled with technological advancements, presents newer challenges. The granularity and effectiveness of these assessments in capturing emerging threats remain a pertinent question in the case of Gibraltar.<sup>423</sup>
2. **Customer Due Diligence (CDD):** The dynamism in online gaming operations can sometimes outpace regulatory amendments. While CDD is a cornerstone of Gibraltar's regulations, it's worth questioning the efficacy and robustness of these checks, especially in the face of innovative gambling platforms and payment methods.<sup>424</sup>

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<sup>420</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring - 23 June 2023'

<sup>421</sup> International Monetary Fund, 'Gibraltar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism' IMF Country Report No.07/157 May 2007

<sup>422</sup> Ibid.

<sup>423</sup> Moneyval, 'Anti-money laundering and counter-terrorist financing measures' Fifth Round Mutual Evaluation Report, 2019.

<sup>424</sup> Financial Action Task Force, 'Jurisdictions under Increased Monitoring - 23 June 2023'

3. Cooperation with International Jurisdictions: The global nature of online gambling and the FATF's emphasis on international cooperation mandates Gibraltar to have water-tight mechanisms for information exchange. But given its "grey list" status, it's plausible to deduce gaps or inefficiencies in this domain.
4. Economic Implications of the Grey List Status: For an economy where, online gambling plays a pivotal role, the "grey list" status can deter potential investors or businesses fearing enhanced scrutiny or reputational risks.<sup>425</sup> This could have trickle-down effects on Gibraltar's economy, employment, and fiscal health.
5. FATF's Criticisms and Gibraltar's Economic Dependence: Gibraltar's heavy reliance on the online gambling industry might be a double-edged sword. On one hand, it can be argued that this dependence ensures stringent oversight to protect economic interests. Conversely, it might also lead to potential regulatory complacency or reluctance in imposing hard-hitting measures on an industry that's a significant economic contributor.<sup>426</sup>

### **Current Gaps in the Regulatory Framework:**

The regulatory structure in Gibraltar for online casinos, while comprehensive in many respects, has exhibited certain gaps that require attention. A more in-depth analysis of these gaps offers insights into potential vulnerabilities and areas that might benefit from legislative refinement.

#### **1. Risk Assessment**

- Evolution of Threat Landscape: With the digital transformation of the online gambling sector, the threat landscape has become increasingly complex. Gibraltar's risk assessment mechanisms, while comprehensive, do not always capture the nuances of newer threats, especially those originating from novel gambling platforms, third-party integrations, and emerging payment ecosystems.<sup>427</sup>
- Frequency of Reviews: The fast-paced nature of the online casino world necessitates regular and frequent risk assessments. Static, annual, or biennial evaluations may not capture real-time threats, leaving regulatory blind spots.<sup>428</sup>
- Stakeholder Engagement: While risk assessments are conducted, there's scope for greater collaboration with industry stakeholders, technology experts, and international regulatory bodies.<sup>429</sup> Their insights can offer invaluable perspectives in understanding emerging risks.

#### **2. AML/CTF Shortcomings**

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<sup>425</sup> International Monetary Fund, 'Gibraltar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism' IMF Country Report No.07/157 May 2007

<sup>426</sup> Gomez, J, Triay, J 'Fintech Laws and Regulations Gibraltar 2023' 2023

<sup>427</sup> The Financial Action Task Force (FATF), "Guidance for a Risk-Based Approach: The Banking Sector," FATF (October 2014)

<sup>428</sup> International Monetary Fund, 'Gibraltar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism' IMF Country Report No.07/157 May 2007

<sup>429</sup> Moneyval, 'Anti-money laundering and counter-terrorist financing measures' Fifth Round Mutual Evaluation Report, 2019.



- **Real-time Monitoring:** The current mechanisms for Anti-Money Laundering and Countering the Financing of Terrorism might benefit from real-time transaction monitoring. Given the high volume of transactions in online casinos, this real-time approach can be crucial in identifying suspicious patterns promptly.<sup>430</sup>
- **International Coordination:** As Gibraltar seeks alignment with global standards like those of FATF, there's a need for stronger coordination with international entities to understand and counter cross-border money laundering activities.
- **Training and Education:** There might be a gap in adequately training staff in online casinos about the latest AML/CTF tactics and strategies. Regular training sessions, workshops, and seminars can ensure that all stakeholders are updated on the latest trends and threats.<sup>431</sup>

### 3. Consumer Protection Measures

- **Digital Addiction Mitigation:** The current framework might not be equipped enough to address the rising concern of digital gambling addiction. While traditional gambling addiction is addressed, the compulsions associated with digital platforms – characterized by ease of access and immersive experiences – require specialized interventions.<sup>432</sup>
- **Transparent Marketing:** There have been concerns globally about misleading promotions and bonuses in online gambling. Gibraltar's regulatory framework might need more stringent guidelines about transparent and honest advertising.
- **Data Security:** With online platforms collecting vast amounts of user data, the guidelines regarding data security, storage, and usage might need further bolstering. Data breaches in online casinos can have severe ramifications, both financially and in terms of user trust.<sup>433</sup>

### 4. Resource Allocation:

- **Regulatory bodies need to be equipped with the latest tools, technology, and trained personnel to efficiently monitor compliance.** Any lack in these resources can lead to ineffective monitoring. Without adequate resources, Gibraltar's regulatory bodies miss out on detecting complex money laundering schemes or may delay response times, allowing culprits to move assets or cover their tracks.<sup>434</sup> Further, since Online casino operations are predominantly digital, this demands Gibraltar's regulatory bodies to be technologically adept to monitor intricate online transactions. Given the vast amounts of micro-transactions occurring daily in online casinos, spotting suspicious activities becomes a needle-in-haystack challenge. Inadequate resources can hamper the identification of

<sup>430</sup> European Banking Authority, "Guidelines on transaction monitoring and suspicious transaction reporting," EBA/GL/2020/01 (January 2020)

<sup>431</sup> Basel Committee on Banking Supervision, "Sound management of risks related to money laundering and financing of terrorism," Bank for International Settlements (January 2014)

<sup>432</sup> Griffiths, Mark D., "Technological addictions," *Clinical Psychology Forum* 97 (1995): 14-19.

<sup>433</sup> European Union, "General Data Protection Regulation (GDPR)," *Official Journal of the European Union* (2016)

<sup>434</sup> Moneyval, 'Anti-money laundering and counter-terrorist financing measures' Fifth Round Mutual Evaluation Report, 2019.

suspicious patterns, allowing money launderers to exploit online casino platforms.

### **Balancing Business Interests and Regulations:**

- **Economic Dependency:** Gibraltar's heavy reliance on the online gambling sector poses a challenge. Regulatory bodies may inadvertently favour leniency due to the significant economic contribution of the sector, comprising of 25% of their GDP. Striking a balance between regulatory stringency and not hampering the economic contributions of the sector is a complex Endeavor.
- **Attracting Global Players:** Being seen as a conducive environment for business is crucial for Gibraltar to attract and retain global online casino operators. However, too lax an approach might compromise regulatory integrity, whereas an overly strict one might deter potential businesses opportunities.
- **Regulatory Adaptability:** The fast-paced evolution of the online gambling industry requires regulations to be agile. However, the legislative process is inherently slow, which can result in outdated regulations that either stifle innovation or inadequately regulate newer business models.

# RECOMMENDATIONS

## 7.1 AML/CTF COMPLIANCE PROGRAMS

AML/CTF programs are vital in identifying, disrupting, and preventing ML and TF. There are two key components to an AML/CTF program. The first component entails the establishment of comprehensive processes and procedures designed to assist operators in recognising, mitigating, and effectively managing the inherent risks associated with ML and TF.<sup>435</sup> This element is fundamental as it ensures that organisations are equipped to address the challenges and vulnerabilities they may reasonably encounter. By proactively identifying and addressing these risks, businesses and financial institutions can effectively safeguard their operations and the broader financial system from abuse by illicit actors.<sup>436</sup> The second component focuses on procedures for identifying customers and beneficial owners, particularly those that are PEPs and verifying their identity.<sup>437</sup> Given the elevated risks associated with PEPs, it is crucial to have robust mechanisms in place to not only identify and classify them accurately but also to verify their identities rigorously.<sup>438</sup> Overall, these two integral components, risk mitigation and customer identification, form the backbone of AML/CTF programs, which are indispensable tools in

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<sup>435</sup> Ibid 308.

<sup>436</sup> Australian Transaction Reports and Analysis Centre, *AML/CTF Programs* (Web Page) <<https://www.austrac.gov.au/business/core-guidance/amlctf-programs>>.

<sup>437</sup> Ibid.

<sup>438</sup> Paul Gilmour, 'Re-examining the Anti-Money-Laundering Framework: A Legal Critique and New Approach to Combating Money Laundering' (2023) 30(1) *Journal of Financial Crime* 35, 41.

preventing ML and TF.

## 7.2 KNOW YOUR CUSTOMER AND CUSTOMER DUE DILIGENCE PROCEDURES

Online casinos should be obligated to identify and verify the identity of their customers, whether they are occasional or regular clients. Continuous monitoring and due diligence are necessary to ensure that customer-provided information remains consistent and that the source of funds is legitimate.<sup>439</sup> KYC procedures help casinos identify high-risk customers who may be more likely to engage in money laundering or terrorist financing activities by building profiles of their customers, including their source of funds, financial history, and transaction patterns. KYC procedures can also help build trust with customers and the broader public. It shows legitimacy and that a casino is actively working to prevent illicit activities. By assessing the risk associated with each customer, casinos can take appropriate measures to mitigate these risks. Additionally, EDD is particularly important for PEPs as they are often in positions of power and influence, making them more susceptible to corruption.<sup>440</sup>

CDD is a key component of the KYC process, CDD helps online casinos identify and flag customers who exhibit high-risk behaviours or financial transactions. This includes individuals who deposit large sums of money without clear sources of income or those who make frequent withdrawals and deposits which could be signs of ML activities. Additionally, CDD can be used to assess the risk associated with each customer. Based on the customer's risk profile, they can apply enhanced due diligence measures for higher-risk customers. This may include more frequent reviews of their transactions and sources of funds. During the CDD process, online casinos verify the identity of their customers. This typically involves collecting official identification documents, such as passports or driver's licenses, and cross-referencing them with the information provided during account registration. Fake accounts used for ML and TF are more likely to be identified during this verification process. CDD should also not be limited to the initial account creation. Online casinos may continue to monitor customer accounts and transactions over time. This can help identify fake accounts that may have initially passed verification but later engage in fraudulent activities.

## 7.3 RISK-BASED APPROACH

A risk-based approach to addressing ML in online casinos focuses on identifying and mitigating the specific risks associated within the context of the operator. Firstly, casinos should conduct a comprehensive risk assessment to identify and understand the specific risks associated with their operations.<sup>441</sup> This assessment considers factors such as the types of games offered, customer

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<sup>439</sup> Ibid 42.

<sup>440</sup> Isaac Ofoeda et al, 'Anti-Money Laundering Regulations and Financial Sector Development' (2022) 27(4) *International Journal of Finance and Economics* 4085, 4088.

<sup>441</sup> Paul Gilmour (n 76) 40.

profiles, payment methods, and geographic regions served. Online casinos must then implement CDD measures that correspond to the assessed risk level of their customers. This includes verifying the identity of players, monitoring their financial transactions, and conducting ongoing monitoring of player activity. By identifying and prioritising high-risk areas or activities, organisations can allocate resources more efficiently and effectively. This ensures that resources are focused where they are most needed, reducing unnecessary costs. Risk-based approaches help casinos comply with specific legal requirements. It ensures that compliance efforts are aligned with the areas posing the highest regulatory risks, reducing the likelihood of violations and associated penalties. It is a proactive approach whereby operators can identify, assess, and mitigate risks. This approach encourages a culture of risk awareness and prevention, reducing the likelihood of costly incidents or crises. It also allows for greater flexibility in the industry, it allows organisations to scale their risk management efforts to match the size and complexity of their operations. Smaller risks can be managed with less effort, while major risks receive greater attention.

However, the challenge lies in correctly identifying and assessing risks, which can be an evolving target as technologies and financial crime methodologies change. Australia should consider implementing an advanced analytics system or a risk assessment tool to monitor and identify high-risk sectors, trends, and behaviours. Collaborative intelligence sharing with international bodies can aid in timely risk detection as well as enforcement and mitigation.

## 7.4 REPORTING OBLIGATIONS

The existence of reporting obligations acts as a deterrent to money launderers. Knowing that transactions are subject to scrutiny and that suspicious activity can be reported encourages criminals to seek other, less regulated venues for their illicit activities.<sup>442</sup> Reporting obligations are crucial for detection by requiring online casinos to monitor and identify suspicious transactions or patterns. By reporting these transactions, casinos can play a critical role in identifying potential money laundering activities, which can be valuable information for law enforcement agencies. Overall, the data collected through reporting obligations can be used by casinos to refine their risk assessments and improve their overall AML and CTF programs.<sup>443</sup> This data-driven approach can lead to more effective risk management.

In the Australian AML/CTF regulations for financial institutions, reporting entities are required to submit various financial transaction reports to AUSTRAC. Reporting entities are required to lodge suspicious matter reports ('SMR') upon forming a suspicion that a customer may be dealing with the proceeds of crime or involved an offence or tax evasion.<sup>444</sup> Similarly, Threshold transaction reports ('TTR') require reporting entities to report any transactions in physical currency beyond the

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<sup>442</sup> Joras Ferwerda et al, 'Strategies to Avoid Blacklisting: The Case of Statistics on Money Laundering' (2019) 14(6) *PloS One* 218532, 1.

<sup>443</sup> *Ibid* 8.

<sup>444</sup> Julie Walters et al, 'The Anti-Money Laundering and Counter-Terrorism Financing Regime in Australia: Perceptions of Regulated Businesses in Australia' (2012) 117(3) *Research and Public Policy* 1.

threshold amount, which is currently \$10,000 or more or the foreign currency equivalent. These methods can be applied to online casinos for the same benefits.

## **7.5 RISK SAMPLING**

Evidence suggests that the risks of money laundering through regulated gambling sites are low. Such sites can easily track electronic fund transactions and have monitoring and reporting programs for suspicious activities.<sup>445</sup> Implementation of sampling would also propose a more targeted and coordinated approach to monitoring ML risk areas through a global effort called "sampling for practical deterrents." Casino operators could undertake various forms of risk area sampling, and feedback from a selection of entities.<sup>446</sup> This approach would enhance the detection of new forms of ML.

## **7.6 PROHIBITION OF CONSUMER ACCESS**

Australia, if it wishes to prohibit consumers from participating in online gambling, should consider implementing legislation. As of today, it is also difficult to track the users of online casinos if they are using tools such as a VPN to remain anonymous on the internet. Nevertheless, if a user can be tracked then it would certainly be easier to enforce penalties against someone residing within Australia instead of foreign companies providing online casinos accessible within Australia, as is currently the case. If it were illegal to access online casinos in Australia and penalties are enforced, it would act as a deterrent for users currently using these platforms.

Australia should also consider limiting the access Australians have to online casinos via their internet service providers (ISP).<sup>447</sup> This is the approach that ACMA adopted in 2019. Since this approach was adopted, over 800 illegal gambling sites and affiliated sites have been blocked.<sup>448</sup> However, this is also not a perfect solution. It is very easy to circumvent ISP blocking by using a VPN and accessing the sites. Nevertheless, it will reduce the number of online casinos immediately visible on a google search. Having to use a VPN to access these sites adds an extra layer of work a player must put into accessing an online casino, if they are even aware that VPNs exist and how to use one. Therefore, blocking online casinos is an effective short-term measure to reduce the number of online casinos available in Australia. Over time these the platform providers will likely create new websites to get around the blocking, however, it slows down access and is therefore a useful tool in addressing the problem.

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<sup>445</sup> June Buchanan (n 4) 228.

<sup>446</sup> Ibid 220.

<sup>447</sup> Ibid.

<sup>448</sup> Australian Communications and Media Authority, 'More websites blocked to protect Australians against illegal online gambling' (Webpage, 25 October 2023).

## 7.7 PROHIBITION OF FINANCIAL INSTITUTIONS FROM PROCESSING PAYMENT TO ONLINE CASINOS

Another approach is to prohibit financial institutions, such as banks or credit card providers, from processing payments into or out of online casinos.<sup>449</sup> This approach is currently used in several countries, including the Netherlands and the United States.<sup>450</sup> There are many ‘foreign financial intermediaries that provide a means to circumvent these rules’.<sup>451</sup> However, this approach would limit the ease of depositing and withdrawing money from online casinos, reducing the accessibility of these platforms. It would also mean that the responsibility and accountability for managing AML/CTF measures in relation to online casinos are shared with financial institutions and penalties can be applied. The Australian Government is planning to legislate to prohibit the use of credit card payments for online gambling.<sup>452</sup> The Australian Government has also committed to provide Australian Communications and Media Authority (ACMA) with the power to create ‘enforceable undertakings and remedial directions powers’ to enforce this prohibition.<sup>453</sup> While this approach will not entirely prevent the flow of money into or out of Australia via illegal online casinos entirely, it would certainly make it more difficult and therefore act as a deterrent. Foreign companies hosting online casinos might also consider Australia a less attractive target and reduce the amount of targeting aimed at Australian consumers.

## 7.8 REMOVAL OF GEOGRAPHICAL LINK REQUIREMENT

Australia’s current legislative framework presents fundamental barriers in regulating online casinos due to the geographical link requirement.<sup>454</sup> This means the legislation only encompasses entities who are providing services through a ‘permanent establishment of the person in Australia’,<sup>455</sup> or a resident.<sup>456</sup> This rigid legislative framework does not recognise all offshore online casinos offering services to Australian residents. Evidently, this reflects Canada’s jurisdictional barriers faced under the *Criminal Code*.<sup>457</sup> Therefore, Canada’s approach to regulating online casino’s can be utilised to influence potential legislative change in Australia’s fight to combat online money laundering. Canada’s model offers key insights into legislative changes and potential regulatory bodies which can enhance regulation of money laundering and terrorist financing in online casinos.

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<sup>449</sup> Ibid.

<sup>450</sup> Ibid.

<sup>451</sup> Ibid.

<sup>452</sup> Australian Government, ‘Australian Government Response to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry Report: Regulation of the Use of Financial Services such as Credit Cards and Digital Wallets for Online Gambling in Australia’ (Publication, 10 May 2023).

<sup>453</sup> Ibid.

<sup>454</sup> Ibid s 6(6).

<sup>455</sup> Ibid s 6(6)(a).

<sup>456</sup> Ibid s 6(6)(b)(i).

<sup>457</sup> *Criminal Code*, RSC 1985, c C-46.

## 7.9 LEGISLATIVE AMENDMENT

One key aspect of Canada's successful AML/CTF Regime is the expansion of existing legislation to capture gambling services which are 'accessible to the public through the Internet or other digital network'.<sup>458</sup> By amending existing legislation to address emerging risks posed by technology, Canada has successfully and efficiently captured online casinos within its AML/CTF regime. This approach can be applied to section 6(4)<sup>459</sup> of the *AML/CTF Act*<sup>460</sup> to expand the definition of 'gambling services' to extend to gambling services accessible via the internet or other digital networks. This can be achieved by adding an additional item recognised under Section 6(4) Table 3<sup>461</sup>, or by amending current definitions to encompass online gambling services. This amendment is largely unintrusive to Australia's existing AML/CTF regime and has been demonstrated to effectively address technological change in the financial sector. In light of Canada's approach, it does not appear to be necessary to implement legislative amendments to remove section 6(6)<sup>462</sup> requiring designated series to have a geographical link to Australia. By drawing upon Canada's international best practice approach, policy makers can formulate regulatory regime that do not interfere with existing legal tenants.

## 7.10 A SUBSIDIARY TO AUSTRAC

The successful introduction of Ontario's iGaming subsidiary serves as an international best practice approach to greater cross-border detection and regulation in the transnational nature of the online environment. Notably, Canada's enforcement regime introduced barriers to governing offshore online casino not registered in Canadian regulatory schemes. However, Ontario's approach demonstrates the way in which such barriers can be overcome to foster open online markets subject to provincial regulation. This approach can be adapted to suit Australia's enforcement regime to establish a subsidiary of AUSTRAC. The subsidiary can function as a commercial entity alongside AUSTRAC's existing duties. However, this body will have a particular focus on overseeing AML/CTF regulations for online services captured within the new definition in Section 6(4).<sup>463</sup> By adopting Canada's commercial structural approach, the subsidiary will not interfere with AUSTRAC's regulatory roles and responsibilities. Most importantly, the subsidiary will not enforce a residency requirement for registration, but monitor and oversee all online gambling services provided to Australians. Such features aim to foster an open and regulated online casino market which enforces consumer protection and Australia's AML/CTF regulations. The delegation of duties to a separate entity will enhance the ability to adapt and manage the dynamic and new developments within the online financial sector. This will enhance focus on

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<sup>458</sup> *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17, s 5(k1).

<sup>459</sup> *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth) s 6(4).

<sup>460</sup> *Ibid.*

<sup>461</sup> *Ibid* s 6(4).

<sup>462</sup> *Ibid* s 6(6).

<sup>463</sup> *Ibid* s 6(4).

Australia's risk-based approach to systematically identify the unique emerging technological threats and curate specialised regulations to combat online casinos. Therefore, by analysing Canada's international best practice approach to online gambling regulation, Australia can improve existing regimes to be applicable to emerging trends and risks posed by disruptive technologies in the online financial sector, such as virtual transactions and currencies. Such legislative recommendation should be considered to assist Australia's holistic approach to ensure greater regulation over the everchanging technological developments in the financial sector..

## 7.11 REGULATION OF INDUSTRY PARTICIPANTS

Australia should consider increasing the legislative oversight and regulation of industry participants through the following measures:

*Internal Compliance Departments:* While external oversight is essential, proactive internal measures are equally crucial. An internal compliance department dedicated solely to AML/CTF and responsible gaming ensures that a company remains in line with regulatory guidelines and can swiftly respond to any emerging challenges.<sup>464</sup> All industry participants, irrespective of their size, should be required to establish and adequately staff an internal compliance department. This team should regularly audit and review company operations, ensuring adherence to both domestic and international regulations.

*Player Education Programs:* Many issues in online gaming arise from players being unaware of the risks or consequences of their actions. Whether it's the dangers of addiction or the implications of participating in potentially illegal financial transactions, educating players can pre-empt many problems associated with online casinos. Australia should seek to create educational campaigns or resources that players can easily access. These resources could include articles, videos, or interactive tutorials explaining the importance of responsible gaming and the dangers of participating in money laundering or other illicit activities.

*Advanced Identity Verification Systems:* One of the primary methods of combating financial fraud and ensuring responsible gaming is to know your customer (KYC). Traditional KYC methods might no longer suffice given the sophistication of modern financial crimes.<sup>465</sup> Australia should consider implementing advanced identity verification systems, which may include biometric verification, two-factor authentication, or AI-driven behaviour analysis. This not only ensures player authenticity but also helps in detecting suspicious activities more efficiently.

*Regular Employee Training:* As the frontline representatives of the industry, employees play a crucial role in ensuring compliance and responsible gaming. However, without regular training, they may inadvertently overlook violations or even engage in non-compliant behaviour

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<sup>464</sup> KPMG, 'A Brief on Anti Money laundering and Countering Financing of Terrorism Regulations, 2018 and Guidelines' 2018.

<sup>465</sup> Financial Action Task Force (FATF), 'Guidance on Digital Identity' (Report, 2020)



themselves.<sup>466</sup> Australia should look to enforce regular training sessions for employees, emphasizing the importance of AML/CTF measures and responsible gaming. These sessions should also provide practical guidelines on how to detect and report suspicious activities.

*Player Limitation Mechanisms:* Problem gambling is a genuine concern, and players sometimes might not recognise the signs until it's too late. Having mechanisms that enables players to limit their gaming can serve as a safety net.<sup>467</sup> Regulators could choose to implement systems that allow players to set spending or time limits on their gaming. Additionally, having a cool-off period or self-exclusion options can be beneficial for those who recognize signs of gambling addiction in themselves.

*Collaboration with NGOs and Counselling Services:* The online gaming industry, while a provider of entertainment, also has a responsibility towards its community. Partnering with NGOs or counselling services can help in addressing the more severe consequences of problem gaming. Regulators could seek to establish partnerships with organisations specialising in gambling addiction, direct players to these resources and perhaps even fund initiatives that help in the rehabilitation of those affected by gambling issues.

*Transparent Reporting:* Transparency not only fosters trust but also ensures that stakeholders, including players and regulators, are kept informed about a company's efforts towards compliance and responsible gaming. Australia should consider an effort to regularly publish reports detailing measures taken towards ensuring AML/CTF compliance and promoting responsible gaming. Highlight any challenges faced and the steps taken to overcome them.

## **7.12 ECONOMIC INCENTIVES WITH RESPONSIBILITY**

*Economic Incentives with Responsibility:* Gibraltar has successfully created an environment that attracts businesses through competitive licensing fees and tax structures. However, they also ensure that these businesses contribute significantly to the local economy and adhere to high standards of operation. Australia should look to offer economic incentives to attract top-tier gaming companies to Australia. However, these incentives should be coupled with requirements for significant economic contributions, such as local employment, infrastructure investment, and stringent adherence to regulatory standards.

# **CONCLUSION**

Clearly, approaches to the regulation of the online casino industry vary across the globe. Domestic regulators are charged by the FATF with assessing their unique risk profile from a ML and TF perspective and to tailor their domestic legislative response accordingly. A comparative analysis of

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<sup>466</sup> Australian Transaction Reports and Analysis Centre (AUSTRAC), 'AML/CTF compliance report' (2019)

<sup>467</sup> Productivity Commission, 'Inquiry Report into Gambling' (Report No 50, 26 February 2010) vol 2.

the approaches taken in varying contexts, across Malta, Canada, the United Kingdom, Curacao and Gibraltar, identifies several variations in the approach taken to regulate online casinos which may present opportunities for amendment within Australia.

Firstly, there are some noteworthy strengths to Malta's online casino sector from an AML/CTF standpoint. For one, Malta has been praised as a 'model state' for the regulation of crypto-currencies to combat financial crime.<sup>468</sup> Malta has been particularly proactive in the area of VFA regulation in their online casino sector, most likely with the ambition of staying competitive. However, their willingness to implement AML/CTF strategies in this context that go beyond their EU obligations demonstrates a strong commitment to becoming a state with a robust and dependable AML/CTF framework. Australia should be particularly interested in Malta's 'VFA Agent' functionality, that acts as an extra filter – in addition to the key regulator – for detecting suspicious financial activities involving VFAs and VASPs.

Malta has also done well to reform its BO identification and verification system, bringing them into line with the FATF's BO Standards. Malta, by having multiple competent entities collecting BO – including the MGA, FIAU and the MBR public register – satisfies the FATF's favoured 'multi-prong approach' to BO under Recommendation 24's interpretive note.<sup>469</sup> In this sense, Malta actually outdoes Australia, as Australia does not currently have a publicly accessible, nation-wide business registry. As of 2022, however, there have been consultations within the Federal Government to establish one.<sup>470</sup> From an AML/CTF standpoint, this would be a great step towards increasing the transparency of BO in Australia and discouraging the use of complex company structures that aim to mask problematic BO.<sup>471</sup> Australia could improve upon Malta's BO registry by collecting data on broader ownership structures, including parent companies and subsidiaries, in order to have a clearer picture of potential high-risk companies and individuals. This would improve AML/CTF risk-assessments in the online casino context.

Secondly, Curaçao's regulatory and legislative framework in relation to online gambling has a significant influence on the global sector because of its size. Considering Curaçao is one of the top three countries hosting the servers for online gambling sites any weaknesses in Curaçao's system will have a global impact. Gaining an online casino licence in Curaçao has long been considered quick, easy, and cheap. Curaçao's licensing system essentially delegated issuing licenses to third parties in the form of master licence holders as only four companies hold a master license holder. Since there are hundreds of sub-license holders issued by master license holders privately, Curaçao has had no oversight into the standards applied and even which companies hold a valid sub-license under the system. Due to pressure from the Netherlands and the international community,

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<sup>468</sup> Oleh Kulyk, 'Models of State Regulation on the Virtual Assets Market in Offshore Zones (on the Example of Bermuda Islands, Gibraltar, and Malta)' (2022) 20 *Balkan Social Science Review* 43, 54.

<sup>469</sup> See *FATF Recommendations* (n 48) 91.

<sup>470</sup> Andrew Leigh, 'Beneficial ownership register – consultation' (Media Release, 7 November 2022) <[<sup>471</sup> \*Ibid.\*](https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/media-releases/beneficial-ownership-register-consultation#:~:text=Beneficial%20owners%20are%20not%20always,requirements%20and%20obscure%20tax%20liabilities.></a>.</p></div><div data-bbox=)

Curaçao is making significant changes to its system with the process due to begin 15 November 2023. The new law, LOK, will remove the master and sub-licensee system and the new independent regulatory body, CBA, will be solely responsible for issuing licenses. The aim is to raise the bar for licenses with more comprehensive AML/CTF requirements for license holders, with sanctions applying if non-compliance is detected. LOK will also legitimise the use of cryptocurrencies, which considering Curaçao already has limited technical tools necessary to investigate cryptocurrency transactions, the lack of regulation in this area will only make investigating illegal financial activities more difficult. Considering Curaçao already has issues in enforcement of AML/CTF measures due to lack of resources and data management, how effective this new regime will be at addressing the existing weaknesses of the regime remains to be seen. As a result of the significant overhaul of the system and the significant changes which have occurred within the past few years it is difficult to properly assess the effectiveness of Curaçao's AML/CTF regime in the online casino sector. The lack of information on the topic and Curaçao's limited statistics and data collection in the area means that there is little Curaçao can teach Australia in terms of best practice. Instead, Australia should be aware of the weaknesses of the system and how that will impact Australia, especially considering the large number of online casinos originating in Curaçao. It will be some time before these weaknesses are addressed, even once LOK properly comes into force because most of Curaçao's resources will be spent setting up the new system. In the meantime, Australia will need to mitigate the impact of Curaçao's weaknesses on Australia's own AML/CTF risks in the sector.

Thirdly, the regulatory framework for online casinos in the UK serves as an example of a comprehensive approach to mitigating these risks. The UK's system is aligned with the FATF recommendations, addressing various aspects of licensing, AML/CTF policies, and ongoing oversight. The GC, as the regulatory authority in the UK, plays a central role in ensuring compliance and safeguarding the industry's integrity. The GC employs a range of implementation and enforcement mechanisms to safeguard the industry, including risk-based supervision, regular license reviews, actions against unlicensed operators, and the imposition of penalties for non-compliance. These measures help maintain the industry's integrity and protect against potential ML and TF activities. Recent enforcement actions against gambling operators highlight the importance of consistent regulatory enforcement. While many businesses have made efforts to comply with AML/CTF regulations, shortcomings still exist, and the GC is actively addressing these issues. In conclusion, the UK's AML/CTF legislative framework has made significant strides in combating ML and TF. However, ongoing challenges, including international cooperation, data analysis, and consistent enforcement, underscore the need for continuous improvement in the fight against financial crime.<sup>472</sup> The effectiveness of these regulations will ultimately be measured by their ability to deter, detect, and prosecute individuals and entities involved in ML and TF.

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<sup>472</sup> Graham Brooks, 'Online Gambling and Money Laundering: "Views from the Inside"' (2012) 15(3) *Journal of Money Laundering Control* 304, 306.

Finally, Canada's robust and comprehensive legislative scheme serves to demonstrate international best practice to approaching regulation of online casinos. It demonstrates the ability to extend current legislation, the best practice in enforcing the reporting and record keeping obligations online, and adapting the FATF Recommendation to apply to online casinos. By observing the drawback of Canada's jurisdictional enforcement mechanisms, this can be applied to Australia's approach to ensure greater cross-borders detection and regulation to account for to the transnational nature of the online environment.

# REFERENCES

## *A Articles/Books/Reports*

- Akartuna, Eray Arda, Shane D Johnson and Amy E Thornton, 'The money laundering and terrorist financing risks of new and disruptive technologies: a futures-oriented scoping review' (2022) *Security Journal* 10.1057/s41284-022-00356-z:1-36, 2
- Brooks, Graham, 'Online Gambling and Money Laundering: "Views from the Inside"' (2012) 15(3) *Journal of Money Laundering Control* 304
- Buchanan, June, 'Money Laundering Through Gambling Devices' (2018) 13(2) *Society and Business Review* 217
- Buttigieg, Christopher and Gerd Sapiano, 'A critical examination of the VFA framework – the VFA agent and beyond' (2020) 14(1) *Law and Financial Markets Review* 48
- Department of Finance Canada, *Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime Strategy 2023-2026* (Report, 2023)
- Department of Finance Canada, *Consultation on Strengthening Canada's Anti-Money Laundering and Anti-Terrorist Financing Regime* (Consultation Paper, 6 June 2023) 11
- Essa, Andrew, 'The Prohibition of Online-Casinos in Australia: is it working?' (2004) 4(1) *Law and Justice Journal* 88
- Ferwerda, Joras et al, 'Strategies to Avoid Blacklisting: The Case of Statistics on Money Laundering' (2019) 14(6) *PloS One* 218532
- Gaviyau, William and Athenia Bongani Sibindi, 'Global Anti-Money Laundering and Combating Terrorism Financing Regulatory Framework: A Critique' (2023) 16(7) *Journal of Risk and Financial Management* 313
- Gerbrands, Peter, Brigitte Unger, Michael Getzner and Joras Ferwerda, 'The effect of anti-money laundering policies: an empirical network analysis' (2022) 11(15) *EPJ Data Science* 1
- Gilmour, Paul, 'Re-examining the Anti-Money-Laundering Framework: A Legal Critique and New Approach to Combating Money Laundering' (2023) 30(1) *Journal of Financial Crime* 35
- Goldbarsht, Doron, 'New Payment Systems, Potential Counter-Terrorist Financing Risks and the Legal Response in the United Kingdom' in Katie Benson, Colin Kind and Clive Walker (eds), *Assets, Crimes, and the State* (Routledge, Taylor, and Francis Group, 2020) 125
- Gore, Amanda 'An assessment of AML risks linked to accepting crypto-payments in the gambling sector (A regulator's guide)' (University of Nevada Las Vegas International Center for Gaming Regulation (2023)

- Hills, George. "Rock of Contention: A History of Gibraltar." (London: Robert Hale, 1974).
- Hing, Nerilee, Michele Smith, Matthew Rockloff, Hannah Thorne, Alex M T Russell, Nicki A Dowling and Helen Breen, 'How structural changes in online gambling are shaping the contemporary experiences and behaviours of online gamblers: an interview study' (2022) 22 *BMC Public Health* 1620
- Jofre, Maria, 'Network analysis for financial crime risk assessment: the case study of the gambling division in Malta' (2022) 23(2) *Global Crime* 148
- Kulyk, Oleh, 'Models of State Regulation on the Virtual Assets Market in Offshore Zones (on the Example of Bermuda Islands, Gibraltar, and Malta)' (2022) 20 *Balkan Social Science Review* 43
- Leuprecht, Christian, Caitlyn Jenkins and Rhianna Hamilton, 'Virtual Money Laundering: Policy Implications of the Proliferation in the Illicit Use of Cryptocurrency' (2023) 30(4) *Journal of Financial Crime* 1036
- Levi, Michael et al, 'Can the AML System be Evaluated Without Better Data?' (2018) 69 (2) *Crime, Law, and Social Change* 307
- Maitland, Samantha et al, 'An Analysis of Money Laundering and Terrorism Financing Typologies' (2012) 15(1) *Journal of Money Laundering Control* 85
- Moiseienko, Anton, 'Does International Law Prohibit the Facilitation of Money Laundering?' (2023) 36(1) *Leiden Journal of International Law* 109
- Mugarura, Norman, 'Customer Due Diligence (CDD) Mandate and the Propensity of its Application as a Global AML Paradigm' (2014) 17(1) *Journal of Money Laundering Control* 76
- Mugarura Norman, 'The Implications of Brexit for UK anti-money laundering regulations: Will the Fourth AML Directive be Implemented or be Binned?' (2018) 21(1) *Journal of Money Laundering Control* 5
- Ofoeda, Isaac et al, 'Anti-Money Laundering Regulations and Financial Sector Development' (2022) 27(4) *International Journal of Finance and Economics* 4085
- Olly, Jackson, 'UK Eyes AML Rules for Bitcoin Regulation' (22 January 2018) *International Financial Law Review* 2
- Schneider, Friedrich and Ursula Windischbauer 'Money laundering: some facts' (2008) 26(3) *European Journal of Law and Economics* 387, 394
- Silva, Patr'icia Godinho, 'Recent developments in EU legislation on anti-money laundering and terrorist financing' (2019) 10(1) *New Journal of European Criminal Law* 57, 58
- Tomic, Slobodan, 'Regulatory Approach to Anti-Money Laundering in Online Gambling in the UK'

in Doron Goldbarsht and Louis de Koker (eds), *Financial Technology and the Law* (Springer, Cham, 2022) 53, 54

Walters, Julie et al, 'The Anti-Money Laundering and Counter-Terrorism Financing Regime in Australia: Perceptions of Regulated Businesses in Australia' (2012) 117(3) *Research and Public Policy* 1

Wang, Shacheng and Xixi Zhu, 'Evaluation of Potential Cryptocurrency Development Ability in Terrorist Financing' (2021) 15(4) *Policing: A Journal of Policy and Practice* 2329

## B Legislation

*Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth)

*Anti-Terrorism Laundering and Counter-Terrorism Financing Rules Instrument 2007 (No 1)* (Cth)

*Companies Act (Register of Beneficial Owners) Regulations* (Malta) 1 January 2018 [S.L.386.19]

*Counter Terrorism Act 2008* (UK)

*Criminal Code*, RSC 1985, c C-46

*Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU* [2018] OJ L 156

*Gambling Act 2005* (UK) 53 Eliz 2

*Gaming Control Act*, SO 1992, c 24

*Gaming Authorisation Regulations* (Malta) 20 July 2018 [S.L.583.05]

*Gibraltar Gambling Act 2005* (Gibraltar).

*Interactive Gambling Act 2001* (Cth)

*Money Laundering, Terrorist Finance and Transfer of Funds (Information on the Payer) Regulations 2017* (UK)

*Prevention of Money Laundering Act* (Malta) 23 September 1994 [CAP.373]

*Prevention of Money Laundering and Funding of Terrorism Regulations* (Malta) 1 January 2018 [S.L.373.01]

*Proceeds of Crime Act 2015* (Gibraltar)

*Proceeds of Crime Act 2002* (UK)

*Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, SC 2000, c 17

*Proceeds of Crime (Money Laundering) and Terrorist Financing Administrative Monetary Penalties Regulations*, SOR/2007-292

*Proceeds of Crime (Money Laundering) and Terrorist Financing Suspicious Transaction Reporting Regulations*, SOR/ 2002-184, ss 10-11

*Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937* [2023] OJ L 150/40

*Regulation (EU) No 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast)* [2012] OJ L 351

*Terrorism Act 2000* (UK)

*The Gaming Act* (Malta) 1 August 2018 [CAP.583]

*Virtual Financial Assets Act* (Malta) 1 November 2018 [CAP.590]

## C Other

Advocates Primei, 'Maltese Remote Gaming Licences (Web Page, 24 July 2019)  
<<https://advocatesprimei.com/maltese-remote-gaming-licences/>>

*Alberta Gaming, Liquor and Cannabis Commission* (Web Page) <<https://aglc.ca/>>

Alcohol and Gaming Commission of Ontario, 'At One-Year Anniversary of Ontario Internet Gaming Market, New Study Shows over 85 per cent of Players are Playing on Regulated Sites', *Lottery and Gaming* (Blog Post, 4 April 2023) <<https://www.agco.ca/blog/lottery-and-gaming/apr-2023/one-year-anniversary-ontario-internet-gaming-market-new-study-shows>>

Alcohol and Gaming Commission of Ontario, 'Internet Gaming Operator Application Guide', *Lottery and Gaming* (Web Page) <<https://www.agco.ca/lottery-and-gaming/guides/internet-gaming-operator-application-guide>>

Alcohol and Gaming Commission of Ontario, 'Ontario Government launches iGaming Ontario, a subsidiary of the AGCO', *Lottery and Gaming* (Blog Post, 6 July 2021)  
<<https://www.agco.ca/blog/lottery-and-gaming/jul-2021/ontario-government-launches-igaming-ontario-subsidiary>>

Alcohol and Gaming Commission of Ontario, 'Overview of Internet Gaming in Ontario', *Lottery*



and Gaming (Web Page) <<https://www.agco.ca/overview-internet-gaming-ontario>>

Australian Communications and Media Authority, 'More websites blocked to protect Australians against illegal online gambling' (Webpage, 25 October 2023)

Australian Government Attorney-General's Department, *Anti-money laundering and counter-terrorism financing*, (Web Page) <<https://www.ag.gov.au/crime/anti-money-laundering-and-counter-terrorism-financing>>

Australian Government, 'Australian Government Response to the Parliamentary Joint Committee on Corporations and Financial Services Inquiry Report: Regulation of the Use of Financial Services such as Credit Cards and Digital Wallets for Online Gambling in Australia' (Publication, 10 May 2023)

Australian Government, 'Interactive gambling' (Media Release, 2023)

Australian Transaction Reports and Analysis Centre, *AML/CTF Programs* (Web Page) <<https://www.austrac.gov.au/business/core-guidance/amlctf-programs>>

Australian Transaction Reports and Analysis Centre, *Money Laundering in Australia 2011* (Web Page, 5 April 2023) <<https://www.austrac.gov.au/business/how-comply-guidance-and-resources/guidance-resources/money-laundering-australia2011#:~:text=To%20use%20the%20proceeds%20of,have%20come%20from%20legitimate%20sources>>

British Columbia Lottery Corporation (Web Page) <<https://www.bclc.com/>>

Caribbean Financial Action Task Force, 'Anti-Money Laundering and Combating the Financing of Terrorism: Curaçao (Mutual Evaluation Report, 25 June 2012)

Caribbean Financial Action Task Force, 'Curaçao Jurisdiction exiting the Third Round of Mutual Evaluations' (Webpage, 2023)

Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism (MONEYVAL), *Anti-money laundering and counter-terrorist financing measures: Malta* (1<sup>st</sup> Enhanced Follow-up Report, April 2021)

Curaçao E-Gaming, 'Apply for a CEG Gaming License' (Webpage, 2023)

Curaçao Gaming Control Board, 'Anti-Money Laundering' (Webpage, 2023)

Curacao Gaming Control Board, 'Regulations for Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT)' (2016)

Curaçao Gaming Control Board, 'Regulatory Scope' (Webpage, 2023)

European Securities and Markets Authority, 'Markets in Crypto-Assets Regulation (MiCA)' (Web

Page, accessed October 2023) <<https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/markets-crypto-assets-regulation-mica>>

Financial Conduct Authority, *Regulation of Digital Assets in the UK* (Web Page, 25 April 2023) <<https://www.fca.org.uk/news/speeches/regulation-digital-assets-uk>>

Financial Action Task Force, *Anti-money laundering and counter-terrorist financing measures – Canada* (Fourth Round Mutual Evaluation Report, September 2016)

Financial Action Task Force, ‘Jurisdictions under Increased Monitoring - June 2021’ (Web Page, June 2021) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-june-2021.html>>

Financial Action Task Force, ‘Jurisdictions under Increased Monitoring – October 2021’ (Web Page, October 2021) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-october-2021.html>>

Financial Action Task Force, ‘Jurisdictions under Increased Monitoring – June 2022’ (Web Page, June 2022) <<https://www.fatf-gafi.org/content/fatf-gafi/en/publications/High-risk-and-other-monitored-jurisdictions/Increased-monitoring-june-2022.html>>

Financial Action Task Force, *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation: The FATF Recommendations* (adopted February 2012, updated February 2023)

Financial Action Task Force ‘Money Laundering Using New Payment Methods’ (Report, 2010)

Financial Action Task Force, *Updated Guidance for a Risk-based Approach: Virtual Assets and Virtual Asset Service Providers* (Publication, October 2021)

Financial Intelligence Analysis Unit, *Implementing Procedures Part I* (18 October 2021)

Financial Intelligence Analysis Unit, *Implementing Procedures Part II* (02 July 2020)

Financial Transactions and Reports Analysis Centre of Canada, ‘Record keeping requirements for financial entities’, *Guidance and resources for businesses (reporting entities)* (Web Page) <<https://fintrac-canafe.canada.ca/guidance-directives/recordkeeping-document/record/fin-eng>>

Financial Transactions and Reports Analysis Centre of Canada, ‘Travel rule for electronic funds and virtual currency transfers’, *Guidance and resources for businesses (reporting entities)* (Web Page) <<https://fintrac-canafe.canada.ca/guidance-directives/transaction-operation/travel-acheminement/1-eng>>

Gambling Commission, *Enforcement* (Web Page) <<https://www.gamblingcommission.gov.uk/news/enforcement-action>>

Gambling Commission, *Guidance to Licensing Authorities* (Web Page, 19 April 2023) <<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities/part-2-personal-licences>>

Gambling Commission, *Licensing, compliance and enforcement under the Gambling Act 2005* (Web Page, 23 June 2022) <<https://www.gamblingcommission.gov.uk/policy/licensing-compliance-and-enforcement-under-the-gambling-act-2005/5-regulatory-enforcement>>

Gambling Commission, *New FATF Guidance for Risk-Based Supervision* (Web Page, 10 May 2021) <<https://www.gamblingcommission.gov.uk/licensees-and-businesses/notice/new-fatf-guidance-for-risk-based-supervision>>

Gambling Commission, *Online Casino NSUS Limited Fined £672,000* (Web Page, 12 October 2022) <<https://www.gamblingcommission.gov.uk/news/article/online-casino-nsus-limited-fined-gbp672-000>>

Gambling Commission, *Online Licence Conditions and Codes of Practice* (Web Page, 12 September 2022) <<https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/online>>

Gambling Commission, *Remote Operating Licence* (Web Page, 9 February 2023) <<https://www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees/remote-casino-operating-licence#:~:text=The%20remote%20casino%20operating%20licence,well%20as%20online%20slot%20games>>

Gambling Commission, *Statement of Principles for Determining Financial Penalties* (Web Page, 23 March 2023) <<https://www.gamblingcommission.gov.uk/policy/statement-of-principles-for-determining-financial-penalties/statement-of-principles-for-determining-financial-penalties-introduction>>

Gambling Commission, *Statistics and Research* (Web Page, 31 October 2023) <<https://www.gamblingcommission.gov.uk/about-us/statistics-and-research>>

Gambling Commission, *The Prevention of Money Laundering and Combating the Financing of Terrorism* (Web Page, 30 May 2023) <<https://www.gamblingcommission.gov.uk/guidance/the-prevention-of-money-laundering-and-combating-the-financing-of-terrorism/prevention-of-ml-and-combating-the-financing-of-terrorism-part-6-6-ongoing-monitoring>>

Gambling Commission, *Unlicensed Gambling* (Web Page) <<https://www.gamblingcommission.gov.uk/about-us/impact-metric/so3-keeping-crime-out-of-gambling/unlicensed-gambling>>

Gambling Commission, *£6.1m fine for online operator In Touch Games* (Web Page, 25 January 2023) <<https://www.gamblingcommission.gov.uk/news/article/gbp6-1m-fine-for-online>>

[operator-in-touch-games](#)>

Gambling Commission, *£9.4m fine for online operator 888* (Web Page, 1 March 2022) <<https://www.gamblingcommission.gov.uk/news/article/gbp9-4m-fine-for-online-operator-888>>

Gambling Commissioner. "Code of Practice for the Remote Gambling Industry: Anti-Money Laundering, Countering the Financing of Terrorism and Counter Proliferation Financing Arrangements v 1.0.2023 (2023)."

Global Legal Group, 'Canadian Gaming 2.0 2023', *ICLG - Gambling Laws and Regulations* (online, 7 December 2022) <<https://iclg.com/practice-areas/gambling-laws-and-regulations/2-canadian-gaming-2-0>>

Gomez, J., Triay, J. "Fintech Laws and Regulations Gibraltar 2023" (2023)

Grech, Helena, 'A deeper look at Malta's Bill 55: from praise to criticism, and everything in-between', *iGaming Capital.MT* (Web Page, 21 July 2023) <<https://igamingcapital.mt/a-deeper-look-at-maltas-bill-55-from-praise-to-criticism-and-everything-in-between/>>

HM Government of Gibraltar. "Gibraltar Regulator Refreshes Jurisdiction's Distributed Ledger Technology Regulation - 631/2020."

HM Government of Gibraltar. "Remote Gambling." (2015). <https://www.gibraltar.gov.gi/finance-gaming-and-regulations/remote-gambling>.

iGaming NEXT, 'iGaming NEXT Valletta 2023: Live stream Day 02' (YouTube, 22 June 2023) 04:07:54–04:17:05 <<https://www.youtube.com/watch?v=no28UoTcvQQ>>

iGB Editorial Team, 'Curaçao portal opens for gaming licence registrations' (Webpage, 1 November 2023)

International Monetary Fund. "Gibraltar: Detailed Assessment Report on Anti-Money Laundering and Combating the Financing of Terrorism" (IMF Country Report No.07/157, May 2007)

International Monetary Fund, 'Kingdom of the Netherlands – Curaçao: Staff Concluding Statement of the 2023 Article IV Mission' (Media Release, 31 May 2023)

Lancashire Post, 'Why Gibraltar is a Hotspot for Gaming and Crypto Currently', <https://www.lep.co.uk/culture/gaming/why-gibraltar-is-a-hotspot-for-gaming-and-crypto-currently-3437957>.

Leigh, Andrew, 'Beneficial ownership register – consultation' (Media Release, 7 November 2022) <<https://ministers.treasury.gov.au/ministers/andrew-leigh-2022/media-releases/beneficialownershipregisterconsultation#:~:text=Beneficial%20owners%20are%20not%20always,requirements%20and%20obscure%20tax%20liabilities.>>

LexisNexis, *5<sup>th</sup> Money Laundering Directive: A Guide for Adapting to Changes in Anti-Money Laundering Compliance* (Web Page) <<https://risk.lexisnexis.co.uk/insights-resources/infographic/5th-money-laundering-directive>>

Loffe, Albert, 'Creating a Company in Malta: Benefits and Requirements', *Immigrant Invest* (Web Page, accessed October 2023) <<https://imin-malta.com/blog/company-registration-malta/>>

Lopez, Hannah. "Gibraltar regulates firms operating in the crypto space" (Hassans, 2022).

Lyman, Andrew. "Gambling Division, Government of Gibraltar – Written evidence (GAM0026)" (UK Parliament, 2019)

Malta Business Registry, 'About MBR' (Web Page, May 26 2021) <<https://registry.mbr.mt/ROC/>>

Malta Business Registry, 'Official Registry Forms' (Web Page, accessed October 2023) <<https://mbr.mt/promo/official-registry-forms/>>

Malta Business Registry, 'Registration and Fee Structure' (Web Page, accessed October 2023) <<https://mbr.mt/registration-and-fee-structure/>>

Malta Business Registry, *Guidance on the Register of Beneficial Owners of Commercial Partnerships* (Guidance Note, 2020)

Malta Gaming Authority, 'Amendments to the Gaming Act introduced through Bill 55' (News Release, 21 June 2023) <<https://www.mga.org.mt/amendments-to-the-gaming-act-introduced-through-bill-55/>>

Malta Gaming Authority, 'Annual Report 2022' (Web Page, 2023) <<https://annualreport.mga.org.mt/>>

Malta Gaming Authority, 'B2C Licences' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/b2c-licences/>>

Malta Gaming Authority, 'MGA addresses queries on 'Bill 55' following recent remarks in the media' (News Release, 24 August 2023) <<https://www.mga.org.mt/mga-addresses-queries-on-bill-55-following-recent-remarks-in-the-media/>>

Malta Gaming Authority, 'Recognition Notices' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/recognition-notices/>>

Malta Gaming Authority, 'Remote Gaming Services' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/applications/b2c-licences/remote-gaming-services/>>

Malta Gaming Authority, 'Reporting Requirements' (Web Page, accessed October 2023) <<https://www.mga.org.mt/licensee-hub/compliance/licensees-information-reporting-requirements/reporting-requirements/>>

Malta Gaming Authority, 'What is a Compliance Audit?' (Web Page, accessed October 2023) <<https://www.mga.org.mt/faqs/what-is-a-compliance-audit/>>

Malta Gaming Authority, *Application Process* (Guidance Note, version 1, February 2023)

Malta Gaming Authority, *Fact Sheets 2023* (Guidance Note, accessed October 2023)

Malta Gaming Authority, *Licence Fees and Taxation* (Guidance Note, version 2, February 2023)

Malta Gaming Authority, *Policy on the use of Distributed Ledger Technology by Authorised Persons* (Policy, January 2023)

Mendelson, Ron 'Why Curacao Online Gaming Licenses deserve a better reputation' (Webpage, 29 January 2020)

Ministry of Finance, 'Gaming Legislation: Regulated gaming in Curaçao' (Webpage, 2023)

Moneyval. "Anti-money laundering and counter-terrorist financing measures: Fifth Round Mutual Evaluation Report" (2019)

Nagrani, V., Provasoli, A. "Gibraltar Introduces a Regulatory Framework for Distributed Ledger Technology" (Chambers and Partners, 2018)

National Ordinance Identification when Rendering Services (Curaçao) P.B. 2017, no. 92

National Ordinance on Offshore Games of Hazard (Curaçao) PB 1993, no. 63

National Ordinance Reporting Unusual Transactions (Curaçao) P.B. 2017, no. 99

O'Hagan, Marese, 'Top German state court: PokerStars must pay back €58k in pre-treaty losses', *iGB* (Web Page, 8 November 2022) <<https://igamingbusiness.com/legal-compliance/legal/top-german-state-court-pokerstars-must-pay-back-e58k-in-pre-treaty-losses/>>

Ontario Government, 'A model for internet gaming in Ontario' (Discussion Paper, Province of Ontario, 3 March 2021)

Ontario Government, 'Ontario Creating a Safe, Legal and Competitive Online Gaming Market' (Press Release, 6 July 2021) <<https://news.ontario.ca/en/release/1000471/ontario-creating-a-safe-legal-and-competitive-online-gaming-market>>

Orlando-Salling, Jenny, 'Not With a Bang But a Whimper: Has Constitutional Supremacy in Malta Drawn Its Guns on the Primacy of European Union Law?', *Verfassungsblog* (Blog Post, 22 August 2023) <<https://verfassungsblog.de/not-with-a-bang-but-a-whimper/>>

O'Boyle, Daniel 'Curaçao to overhaul regime with new regulator, higher bars to entry' (Webpage, 11 July 2023)

O'Hagan, Marese 'LOK provides "safety net" from grey-listing, says Curaçao minister' (Webpage,

27 September 2023)

PR Newswire, 'HraiGamble Group Analyzes the Impact of Malta's Gambling Industry on the EU', *Yahoo Finance* (Web Page, 18 September 2023) <<https://finance.yahoo.com/news/hraigamble-group-analyzes-impact-maltas-090000768.html>>

Thomas, Mark. "Is Gibraltar the right place to launch a regulated cryptocurrency exchange?" (The Dubrovnik Times, 2023).

Thomas-Akoo, Zak, 'European Commission to scrutinise Malta gaming bill', *iGB* (Web Page, 25 July 2023) <<https://igamingbusiness.com/legal-compliance/european-commission-to-scrutinise-malta-gaming-bill/>>

Thomas-Akoo, Zak, 'GGL says Malta Bill 55 not compatible with EU law', *iGB* (Web Page, 23 August 2023) <<https://igamingbusiness.com/legal-compliance/ggl-says-malta-bill-55-not-compatible-with-eu-law/>>

Thomas-Akoo, Zak, Dutch lawyers lobby government over controversial Malta law', *iGB* (Web Page, 31 August 2023) <<https://igamingbusiness.com/legal-compliance/dutch-lawyers-malta-gambling-law/>>

Williams, Robert, Robert Wood and Jonathan Parke, 'Policy Options for Internet gambling' in Robert Williams, Robert Wood and Jonathan Parke (eds), *International Handbook of Internet Gambling* (Routledge, 2012) 349

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