

AML in Internet Gaming: Where Are We? Where Are We Going?

STUART HOEGNER, GAMING COUNSEL PC
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Introduction

- Presentation:
<http://www.gamingcounsel.co/pdf/UNLV%20presentation%20draft.pdf>
- Paper:
<http://www.gamingcounsel.co/pdf/Draft%20AML%20Paper.pdf>
- Brief review of the article
- Discussion of:
 - Definition of money laundering
 - Limitations on the paper's analysis
 - New payment technologies



Overview

- Definition of money laundering & carve-outs
- How money laundering is undertaken
- Limitations on the analysis
- Organizations and jurisdictions surveyed:
FATF; Alderney; Isle of Man; Kahnawá:ke;
Malta; Nevada

Overview (cont'd)

- Five recommendations:
 1. Regulation
 2. Risk-based approach
 3. Transparency
 4. Traceability
 5. Control & security
- Payment instrumentalities: PayPal & Bitcoin



Best Practices Summary for Internet Gaming Regulators

REGULATION

- Establish suitable rules, procedures, and institutions to regulate Internet gaming and ancillary activity.
- Regulation must be robust and continuing.
- Regulators must have sufficient resources to do their jobs.

RISK-BASED APPROACH

- Assessing risk should be in accordance with international norms and standards.
- Must be dynamic and flexible in order to address new risks; reject overly mechanical approaches.
- Minimum standards still apply, which are also subject to constant refinement.
- Pay particular attention to new technologies, especially new technologies that favour anonymity or otherwise undercut effective anti-money laundering procedures.

TRANSPARENCY

- Regulators must fully inquire into prospective licensees and their associates; the cost of licensure must be commensurate with a high standard.
- Regulated MVTS and financial intermediaries should be favoured over unregulated parties; intermediaries accepting cash should be approached with caution.
- Strong due diligence and enhanced due diligence minimums are needed. Separate from the minimum thresholds, operators must have robust internal feedback on activity that may generate risks.
- Each player may have only one gaming account per operator.
- Transactions and business with certain parties (e.g., on the OFAC list) should be prohibited outright.

(cont'd on next notes page)

Money Laundering Typologies

- Internet gaming is not illegal in the regulated jurisdiction
- What about the jurisdiction in which the customer is based?



Best Practices Summary for Internet Gaming Regulators (cont'd from previous notes page)

TRACEABILITY

- Customers, business partners, and transactions should be funnelled through financial choke points; cash should never be accepted by Internet gaming operators from customers or business partners.
- Sources of funds should be ascertained as part of a heightened risk profile and above higher transaction thresholds. Determining the origin of funds must be mandatory in certain cases.
- Suitable record-keeping and suspicious transaction reporting standards are required to round out traceability of transactions.

CONTROL & SECURITY

- Strongly prefer licensees to be locally-incorporated. In any event, ensure that regulators have sufficient levers to control and discipline its licensees meaningfully.
- Regulators must have timely access to relevant records and be able to control access to those records.
- A suitably trained and independent money laundering reporting officer must be appointed; other staff in the organization must receive anti-money laundering training.
- Tipping-off should be prohibited and good-faith disclosures about suspected money laundering should be protected within the bounds of applicable law.

Money Laundering Typologies

Definitions of Money Laundering:

- EU Third Directive—Art. 1(2)(c)
- 18 U.S.C. § 1956(a)(1)(A)(i)
 - Violations of the Travel Act, the Illegal Gambling Business Act, and the Wire Act included in “specified unlawful activity” punishable under 18 U.S.C. § 1956
- Subsection 462.31(1) of the Canadian Criminal Code



EU THIRD DIRECTIVE ON THE PREVENTION OF THE USE OF THE FINANCIAL SYSTEM FOR THE PURPOSE OF MONEY LAUNDERING AND TERRORIST FINANCING—ART 1, § 2:

For the purposes of this Directive, the following conduct, when committed intentionally, shall be regarded as money laundering:

(a) the conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his action;

(b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity;

(c) the acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity;

(d) participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing points.

Money Laundering Typologies

Compare:

- Nevada—A “closed” system
- Alderney & Kahnawá:ke (as examples)—
Leave to others to determine legality of
accepting wagers from outside of the licensing
jurisdiction

Money Laundering Typologies

Result:

- Nevada avoids the “illegal underlying wager” problem that *may* otherwise give rise to money laundering
- What does this mean for future regulation of Internet gaming?

Money Laundering Typologies

Raising the Bar:

Permissive

Restrictive



Money Laundering Typologies

Raising the Bar:

Permissive Restrictive Nevada



Limitations

What is the Size of the Problem?

- Key point—often overlooked
- No excuse for 'do-nothing' approach

New Technologies

Thoughts About Specific Payment Mechanisms:

- PayPal
- Bitcoin

Lessons For New Technologies?

Questions & Wrap-Up

