

# **The Danish Gambling Authority's guidance on preventive measures against money laundering of criminal proceeds and financing of terrorism**



Anti-Money Laundering guidance

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# Version history

## Version 1.0 of 14 August 2019

- The first version of the guidance

## Version 1.1 of 10 January 2020

- Section 2.5: Incorporation of the note that the Danish Gambling Authority does not supervise compliance with section 36.
- Section 2.5.4: Incorporation of a new section on the Danish Gambling Authority's right to deny establishment of or set rules on special conditions for subsidiaries, branch offices or representative offices in Denmark.
- Section 2.5.5: Incorporation of a new section on the Danish Gambling Authority's obligation to give general feedback to the Money Laundering Secretariat.
- Section 5.1: Incorporation of a new section on the gambling operator's responsibility of notifying and sending in information to the Danish Gambling Authority if the operator wants to establish a branch office or a representative office in a high-risk country.
- Section 6.2.2: Additional description of what is meant by a "reliable and independent source".
- Section 6.5.1.4: Incorporation of a note to land-based casinos and retailers of land-based betting on enhanced customer due diligence measures for customers residing in a high-risk country.
- Section 6.6.1.4: Incorporation of a note to retailers of land-based betting on enhanced customer due diligence measures for customers residing in a high-risk country.
- Section 8.1 and 8.2: Incorporation of new section 25(1) and (2). Current subsections 2 and 3 is hereafter subsection 3 and 4.

## Versions 1.2 of 2 June 2022

- Relevant references to legislation are updated.
- All mentions of the State Prosecutor for Serious International and Economic Crime are replaced by the Special Crime Unit or the Money Laundering Secretariat.
- New section 2.1.2 on the Anti-Money Laundering package in the EU.
- Section 2.5.2 on the Danish Gambling Authority's supervision is updated.
- Section 6.7.5.1 is elaborated in relation to enhanced requirements for monitoring of PEPs, family members and close associates of PEPs.
- Section 8.3.5 on suspension of transactions. A paragraph on the new section 26(4) of the Anti-Money Laundering Act has been added.
- New section 9.1.4, on how long information must be stored. The former sections 9.1.4 and 9.1.5 have thereby become sections 9.1.5 and 9.1.6.
- New section 11.3.3 on disclosure of information to an operative collaboration forum.
- Footnotes have been added to relevant sections including information on the requirement for an address, which will be removed from the Executive Order on online casino and the Executive Order on online betting as of 1 July 2022.
- A few other sections are elaborated to ensure a better understanding.

The Danish Gambling Authority emphasise that in case of any discrepancies between the original Danish text and the English translations of the Guidance on preventive measures against money laundering and financing of terrorism, the Danish text shall prevail.

# Introduction

1

This guidance is aimed at gambling operators, their employees, and other relevant stakeholders. The guidance is a supplement to the Danish Financial Supervisory Authority's (The Danish FSA) guidance on the Act on Measures to Prevent Money Laundering and Financing of Terrorism (the Anti-Money Laundering Act)<sup>1</sup>, and it is therefore recommended that gambling operators read this guidance for more detailed information on specific issues.

The rules on measures to prevent money laundering and financing of terrorism in the field of gambling will contribute to combating crime by

- limiting the possibilities of abusing the gambling industry for the purposes of money laundering and financing of terrorism,
- easing police investigation of crime, and
- preventing the return of the proceeds of criminal activity to the legitimate economy.

This guidance provides guidelines for and interpretations of how the rules should be met by gambling operators, their managers, and employees. In the areas where it is left to the gambling operator to carry out a risk assessment, the guidance includes instructions on how to be compliant.

The rules on measures to prevent money laundering and financing of terrorism are risk-based. That is, the gambling operators must arrange in-house procedures based on their respective business models and on the risks of the company being used for purposes of money laundering or financing of terrorism.

A risk-based approach requires that licence holders have a good understanding of the risks involved, and that they are capable of exercising sound judgement. This requires building up expertise, for example through training, instruction, professional advice, and "learning by doing".

The gambling operator is obliged to inform the Money Laundering Secretariat, which is a special unit at the Special Crime Unit (NSK), about for example customers who have financial means, where it cannot be explained from where the funds originate, even if the transaction will not necessarily cause the money to be laundered.

The guidance is divided into topics and follows the system from the Act. It should be noted that as there is some convergence between the requirements of online operators, land-based casino operators, and land-based betting operators, for each chapter there are either aggregate or split sections.

**Section 3 of the Anti-Money Laundering Act contains a definition of what is meant by money laundering:**

1. To unlawfully receive or obtain for oneself or others a share in profits or means obtained through criminal offence.
2. To unlawfully conceal, store, transport, assist in the disposal of or otherwise subsequently serve to ensure the economic profits or means obtained through criminal offence.
3. Attempt at or participation in such actions.

There is no triviality limit for when a condition is covered by the definition of money laundering.

The Anti-Money Laundering Act's definition of money laundering, section 290 of the Criminal Code on receiving stolen goods, and section 290 a on money laundering must all be viewed as a whole.

<sup>1</sup> [The Danish FSA – Rules on money laundering – no. 2](#)



#### Section 290

Any person who unduly accepts or obtains for himself or for others a share in proceeds obtained by a criminal offence and any person who unduly, by hiding, storing, transporting, assisting in disposal a criminal offence and or in a similar manner later acts to secure for another proceeds of a criminal offence is guilty of handling stolen goods and is liable to a fine or imprisonment for up to one year and six months.

(2) The punishment may increase to imprisonment for six years where the handling of stolen goods is particularly aggravating, particularly due to the commercial nature of the offence or as a result of the gain obtained or intended, or where a large number of offences have been committed.

(3) Punishment pursuant to this provision cannot be imposed on a person, who accepts profits as ordinary subsistence from family members or cohabitants, or any person, who accepts profits as a normal payment for ordinary consumer goods, articles for everyday use, or services.

#### Section 290 a

Any person who converts or transfers money that is directly or indirectly the proceeds of a criminal offence with the purpose of hiding or obscuring the illicit source is guilty of money laundering and is liable to a fine or imprisonment for up to one year and six months.

(2) The penalty may increase to 8 years' imprisonment when the money laundering activity is very serious, especially because of the crime's commercial or professional character or as a consequence of the achieved or intended benefit or when a greater number of crimes have been committed.

Financing of terrorism is also defined in the Anti-Money Laundering Act.

The definition corresponds to the definition of terrorism in section 114b of the Criminal Code with regard to offences covered by section 114 of the Criminal Code.

#### Section 114b

Any person who

- 1) directly or indirectly provides financial support to;
- 2) directly or indirectly procures or collects means to; or
- 3) directly or indirectly places money or other assets or financial or other similar means at the disposal of, a person, a group, or an association, which commits or intends to commit acts of terrorism as included under section 114 or section 114a of this Act, is liable to imprisonment for up to twelve years.

# Regulation

# 2

## 2.1 EU rules

### 2.1.1 Anti-Money Laundering Directives

The rules on measures to prevent money laundering and financing of terrorism are subject to ongoing expansions and revisions since the first Anti-Money Laundering Directive was tabled in 1991.

#### Anti-Money Laundering Directives so far

1st Anti-Money Laundering Directive of 10 June 1991

2nd Anti-Money Laundering Directive of 4 December 2001

3rd Anti-Money Laundering Directive of 26 October 2005

4th Anti-Money Laundering Directive of 20 May 2015

5th Anti-Money Laundering Directive of 30 May 2018

The European Parliament's and the Council's Directive 2015/849/EU of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (hereinafter referred to as the 4th Anti-Money Laundering Directive) implemented a number of regulatory measures for combating money laundering and financing of terrorism.

To keep up with the developments in the use of modern technology services, three years later, a need to take further measures to improve the framework for combating money laundering and financing of terrorism was identified.

Thus, the 5th Anti-Money Laundering Directive came into force in June 2018. The purpose of the Directive was to set the legal framework for addressing the technological developments to create transparency in the use of virtual currencies. In this connection, it should be noted that unregulated virtual currencies, i.e., currency, which is not issued or guaranteed by a central bank is not covered by the Danish Payment Services Act. The best-known example of such an unregulated virtual currency is bitcoin. In practice, this means that these types of virtual currencies cannot be accepted as means of payment by gambling operators in the Danish market.

Member states had to bring into force the necessary legal and administrative provisions to comply with the Directive by 10 January 2020 at the latest. On 2 May 2019, the Danish Parliament adopted L204 Proposal for a law amending the Anti-Money Laundering Act and the Act on Financial Undertakings implementing parts of the 5th Anti-Money Laundering Directive. This Act entered into force on 10 January 2020, although some provisions entered into force at an earlier date. Since then, there have been several updates of the Anti-Money Laundering Act and to the extent they have been significant to the gambling operators' obligations, they are included in this guidance.

### 2.1.2 New Anti-Money Laundering package

On 20 July 2021, the EU Commission made a proposal for a new Anti-Money Laundering package, which include proposals for four new acts, including a proposal for a new regulation on a common EU Anti-Money Laundering Authority (AMLA), a proposal for a new Anti-Money Laundering Regulation, a proposal for a new Anti-Money Laundering Directive and a proposal for an amendment of the Transfer of Funds Regulation. At the moment, the package is negotiated in the EU which is why it is still unclear when the proposals will be

adopted. When they are adopted, the Directive must be incorporated into Danish law, which will involve an amendment of the Anti-Money Laundering Act. However, the Regulation will be automatically binding on the date it takes effect.

## 2.2 Legal framework

### 2.2.1 The Anti-Money Laundering Act

This guidance is based on Consolidation Act no. 316 of 11 March 2022 on Measures to Prevent Money Laundering and Financing of Terrorism (The Anti-Money Laundering Act) with subsequent amendments.

The Act is an implementation of the 4th and 5th Anti-Money Laundering Directives. The Act also implements parts of the international standards from the Financial Action Task Force (FATF) from 2012 as amended.

### 2.2.2 Executive orders

In accordance with the Anti-Money Laundering Act, the following have been issued among other things:

1. Executive Order no. 727 of 9 June 2017 on partial exemption of certain games from the Anti-Money Laundering Act. See section 2.4 on Games covered by the Anti-Money Laundering Act for more information.
2. Executive Order no. 1403 of 1 December 2017 on submission of notifications etc. to the State Prosecutor for Serious Economic and International Crime. For more information, see section 8.3 on submissions.
3. Executive Order no. 1704 of 20 December 2017 on reporting and publication of information on domestic politically exposed persons. For more information, see section 6.7 on politically exposed persons (PEPs).
4. Executive Order no. 2644 of 28 September 2021 on transactions covered by section 26(4) of the Act on Preventive Measures against Money Laundering and Financing of Terrorism (the fast-track scheme for reports on money laundering).

## 2.3 National and international risk assessments

Both nationally and internationally, risk assessments, guides etc. are published. The gambling operator must include these in the risk assessment that must be carried out based on the specific business model used by the gambling operator.

### 2.3.1 National risk assessments

The Money Laundering Secretariat, which is a special unit at the Special Crime Unit (NSK), publishes a national risk assessment in relation to money laundering. The assessment deals with and identifies particularly risky areas in all obligated sectors. The latest national risk assessment is from 2018 and is available as a link on the Danish Gambling Authority's website under the menu "Prevention of money laundering". A new national risk assessment is in the pipeline. The Money Laundering Secretariat currently collects relevant data and expects to publish a new risk assessment in December 2022.

Similarly, the Danish Security and Intelligence Service prepares a national risk assessment in relation to financing of terrorism. The most recent version of this risk assessment is from

January 2020. A new risk assessment is in preparation and is expected to be published in December 2022.

For more information, see chapter 3 on risk assessment.

### 2.3.2 Supranational risk assessments

The EU Commission publishes a supranational risk assessment cf. article 6 of the Anti-Money Laundering Directive. The risk assessment identifies, analyses, and evaluates money laundering and financing of terrorism risks that affect the Single European Market and relates to cross-border activities at a pan-Union level. The risk assessment contains the key risks to the Single European Market in a wide range of sectors and the horizontal vulnerabilities that may affect such sectors. Against this background, the document provides an indication of the mitigating measures to be followed at EU and national level to address these risks and to make a number of recommendations to the various obliged entities and authorities. The latest supranational risk assessment was published on 24 July 2019 and is available as a link from the Danish Gambling Authority's website under the section on "Prevention of money laundering". A new risk assessment is expected in 2022, but the expected date of release is yet unknown.

For more information, see chapter 3 on risk assessment.

## 2.4 Games covered by the Anti-Money Laundering Act

Section 1(1) no. 19 of the Anti-Money Laundering Act states that gambling operators are covered by the law when the provision of gambling is commercial. This means that all games provided pursuant to the Act on Gambling are covered.

It is also required that the operator is established in Denmark to be covered by the law. Gambling operators with a Danish licence are considered established in Denmark and are thus covered by the law<sup>2</sup>.

The prerequisite that the game must be offered commercially means that e.g., poker offered in accordance with the Act on Poker is not covered by the Anti-Money Laundering Act.

The following licence types according to the Danish Act on Gambling (games offered in Denmark) are covered:

- Betting, both land-based and online, cf. section 11.
- Land-based casinos, cf. section 14.
- Online casinos, cf. section 18.

Likewise, persons and companies established in this country are covered, if they provide games corresponding to the games covered by the Danish Act on Gambling sections 11, 14 18 and 42(4), but where the offer is not aimed at Denmark.

### 2.4.1 Partial exemption of certain games

Section 1(7) of the Anti-Money Laundering Act contains an option for the Minister for Taxation to exempt games either wholly or in part if the game is deemed to pose a low risk of

<sup>2</sup> This appears from the FT 2016-17 L41 Report on the proposal for the Act on preventive measures against money laundering and financing of terrorism (The Anti-Money Laundering Act) issued by the Business, Growth and Export Committee on 30 May 2017, pages 9-10.

being misused for money laundering of criminal proceeds. However, the option cannot be used to exempt casino from the Anti-Money Laundering Act.

The warrant is used to partially exempt the following games in the Danish Act on Gambling:

- Lotteries provided pursuant to section 6.
- Class lotteries provided pursuant to section 8.
- Charity lotteries provided pursuant to section 10.
- Local pool betting provided pursuant to section 13.
- Gaming machines provided pursuant to section 19.
- Manager games provided pursuant to sections 11 and 42(4) and (5).
- Games provided pursuant to sections 9-15 in the Executive Order on public amusements.
- Contests where participation takes place by sending an SMS or similar.
- Online bingo provided via television.

Please note that the above games are partially exempted from the Anti-Money Laundering Act. This means that providers of these games are still subject to the disclosure obligation pursuant to section 26(1), (3) subsections 1 and 3, (4), (5), (6), section 36(2), (3), and (4), and sections 37 and 38(1) and (2). Although most of the requirements in the Anti-Money Laundering Act for customer due diligence measures and the obligations to investigate and register do not apply to these operators, they are still obligated to notify the Money Laundering Secretariat if they, in connection with their provision of gambling, acquire information of or suspect money laundering or financing of terrorism is taking place. It also means that the Danish Gambling Authority supervises the operators' anti-money laundering obligations to the extent that they are subject to them.

## 2.5 The Danish Gambling Authority as supervisory authority

### **Section 65 of the Anti-Money Laundering Act**

The supervision of the various obligated entities covered by the Anti-Money Laundering Act is distributed among a number of authorities and a single member organisation (the Danish Bar and Law Society).

The Danish Gambling Authority is the supervisory authority in relation to gambling operators and must therefore supervise that gambling operators comply with:

- The provisions of the law.
- Regulations stipulated by law.
- Regulations containing rules on financial sanctions against countries, persons, group, legal entities and bodies.

The Danish Gambling Authority does not supervise gambling operators' compliance with the Anti-Money Laundering Act section 36. The provision states that gambling operators cannot subject an employee or a former employee to adverse treatment or adverse consequences as a result of an employee's or a former employee's report of the business's breach or potential breach of the Anti-Money Laundering Act to a supervisory authority or to a scheme within the business.

### **2.5.1 Acts and Regulations containing rules on financial sanctions against countries, persons, groups, legal entities and bodies**

The Danish Gambling Authority supervises persons' and companies' provision of gambling when this takes place as a result of a Danish licence, or if the person or company resides in or is established in Denmark and only provides gambling elsewhere.

Gambling operators covered by the law must comply with acts and regulations containing rules on financial sanctions against countries, persons, groups, legal persons or bodies and thereby, among other things, ensure against that the offer enables a player's direct or indirect disposal of financial means if the player is listed in the annexes to the specific regulation. The situation is relevant where gambling is provided in countries or to persons covered by the regulation, and if e.g., players in Denmark can interact with these persons through P2P platforms such as poker platforms.

Updates of e.g., regulations on sanction lists may occur regularly and it is therefore important that the gambling operator makes sure that the company always uses the updated lists.

### **2.5.2 Risk-based supervision**

The Danish Gambling Authority's supervision must be risk-based. It both applies to the types of gambling operators that are supervised and the types of games and obligations that are prioritised. It also means that the Danish Gambling Authority takes into account the discretion that gambling operators can exercise in order to prioritise their resources to best possibly combat the risk of being misused to launder money. It is, however, a prerequisite that the basis for the prioritisation is stated in e.g., the risk assessment. This does not mean that the gambling operator can omit considering the individual risk with reference to the fact that it is not prioritised. The in-house procedures must take into account all relevant risks that arise from the company's business model.

In principle, the Danish Gambling Authority conducts three different types of inspections: full scope inspections, thematic inspections and ad hoc inspections. When conducting a full scope inspection, the gambling operator's materials are requested and reviewed in relation to compliance of all obligations in the Anti-Money Laundering Act. When conducting a thematic inspection, the Danish Gambling Authority chooses a topic and subsequently reviews several gambling operators' materials within the chosen topic. When conducting an ad hoc inspection, the gambling operators' materials are requested and reviewed in relation to compliance of specific parts of the Anti-Money Laundering Act.

The gambling operator is obligated to hand over all information necessary to perform the supervision. The scope of the information is determined solely by the Danish Gambling Authority and is not limited, except that the delivery of information must be justified based on the supervisory topic. Thus, the Danish Gambling Authority can work within a wide scope, but the required information must always be able to be used to elucidate the specific problem or issues that the supervisory authority must handle.

The gambling operator's obligation to hand over information for the use of the Danish Gambling Authority's supervision also includes access to a gambling operator's premises to obtain information. The access does not require a court order but will require appropriate identification. Additionally, the Danish Gambling Authority can have access to the gambling operator's gambling system by remote access if the system is not geographically located in Denmark. In this connection, it is common practice under the Gambling Act that the operator must provide access within five working days and is done by employees of the gambling operator, who appear in person at the Danish Gambling Authority and make sure to provide the necessary access to the gambling operator's system.

### 2.5.3 Cooperation in Europe

The Anti-Money Laundering Act requires the Danish Gambling Authority to cooperate with supervisory authorities in other EU and EEA countries, when a gambling operator

- is established in Denmark (without a licence) and provides gambling in the member state of the supervisory authority with whom the Danish Gambling Authority cooperates, and
- is established in a member state and, at the same time, holds a Danish licence.

The Danish Gambling Authority always informs the home country of the gambling operator about sanctions such as reprimands and orders.

A supervisory authority from an EU or an EEA member state may also carry out inspections of a gambling operator's land-based provision, for example in a kiosk if the gambling operator is established in that member state and is licenced to provide gambling in Denmark. It is a condition that the foreign supervisory authority has entered into a concrete agreement on the inspection with the Danish Gambling Authority and that the Danish Gambling Authority can participate in this.

For more information see chapter 12 on possible reactions of lack of compliance with the anti-money laundering legislation.

### 2.5.4 Supervision of the establishment of subsidiaries, branch offices or representative offices

The Danish Gambling Authority can deny the establishment of or set rules on special conditions for subsidiaries, branch offices or representative offices in Denmark by gambling operators with a registered office in a country listed on the European Commission's list of countries that are assessed to pose a high risk of money laundering or financing of terrorism. This follows from section 31 a of the Anti-Money Laundering Act.

In addition, the Danish Gambling Authority can prohibit gambling operators from establishing branch offices or representative offices in countries that are listed on the European Commission's list of high-risk countries, just as the Danish Gambling Authority also can set rules stating that the gambling operator must take into consideration that a branch office or a representative office is not to be established in a country with inadequate measures to prevent money laundering and financing of terrorism. This follows from section 31 b (1) and (2) of the Anti-Money Laundering Act.

### 2.5.5 Feedback to the Money Laundering Secretariat

It follows from article 32(6) of the 4th Anti-Money Laundering Directive that the member states oblige the competent authorities to give the national financial intelligence unit (the FIU) feedback on the use of the information delivered in accordance with this article and on the result of the investigations or inspections performed on this basis. The Money Laundering Secretariat is the Danish intelligence unit.

Thus, the Danish Gambling Authority is obligated to every six months (30 June and 31 December) to give general feedback to the Money Laundering Secretariat at the Special Crime Unit on how any reports received by the Danish Gambling Authority has been utilised.



# **Risk assessment of gambling business**

# 3

## Section 7(1) of the Anti-Money Laundering Act

### 3.1 Introduction

Gambling operators that are covered by the Anti-Money Laundering Act must carry out a risk assessment of the gambling business' inherent risk of money laundering and financing of terrorism.

The purpose of the risk assessment is for gambling operators which are covered by the Anti-Money Laundering Act to have a useful tool that gives the gambling operator an overview of and understanding of where and to what extent the gambling operator is exposed to being abused for purposes of money laundering or financing of terrorism, and which measures are necessary to reduce their risks.

This chapter will solely deal with section 7(1) on the actual risk assessment.

Chapter 4 deals with section 8 on policies, procedures, and controls. It is important to note that the gambling operator's risk assessment is a condition for the gambling operator's procedures to be considered sufficient.

The Danish FSA's anti-money laundering guidance states a model that clearly illustrates the process from the finding of the inherent risk to the finding of the residual risk when the company has decided on policies, procedures etc<sup>3</sup>. Below is a corresponding model to illustrate the process in this guidance as well.



As illustrated by the model above, the gambling operator must first and foremost know its business model to assess which inherent risk the company is exposed to in terms of being abused for the purposes of money laundering and financing of terrorism. The risk may change if the gambling operator changes its business model and as a result there may thus be an increased or decreased risk as a result. The gambling operator's policies, procedures, and controls are the company's mitigating actions, i.e., the gambling operator's actions to efficiently prevent, reduce and control the risks of money laundering and financing of

<sup>3</sup> The Danish FSA's guidance, page 25.

terrorism. For example, a gambling operator can mitigate a high risk by actively monitoring and limiting the option of gambling on all outcomes. The residual risk is the risk that may be left, and this the risk run by the gambling operator of being abused for purposes of money laundering and financing of terrorism.

### 3.1.1 Minimum requirements for the risk assessment

The risk assessment must be based in the gambling operator's entire business model. This means that, based on a holistic approach, the gambling operator must identify the risk factors that are or may be associated with the particular company in relation to money laundering or financing of terrorism. Among other things, the risk assessment must be based on an analysis of:

- The company's customer types (see chapter 6 for more information about customer due diligence).
- The company's products.
- Delivery channels, i.e., the way in which the company makes its products available to customers (physical attendance, internet, apps, etc.).
- Volume of business and transactions.
- Geographical risks.

The listed risk factors are mentioned in section 7(1), 2nd paragraph, and are not exhaustive so the gambling operator should identify, as appropriate, other risk factors relevant to the gambling operator.

The scope of the risk assessment will depend on the gambling operator's business model and thus must be proportional to the gambling operator's risk factors, size, and business volume. It must reflect all parts of the business model and uncover the risks described, just as it must be substantiated with relevant data. These data can be derived from the inclusion of the national and the supranational risk assessment, the gambling operator's own experience, cooperation with authorities and similar. The gambling operator must, for example, in its assessment of how a product involves a risk of money laundering and financing of terrorism, use the national and supranational risk assessment of the specific game types and on that basis assess and document the game's influence on the operator's risk profile. Read more about the national and supranational risk assessment in section 2.3. Gambling operators may also use other assessments with advantage.

The risk assessment must be documented and be updated regularly.

In addition, it may be appropriate for the gambling operator to use the FATF's relevant typology reports listed below:

- FATF's Risk-Based Approach Guidance for Casinos – Report on how online casinos and land-based casinos can use a risk-based approach to assess players etc. to prevent money laundering and financing of terrorism.
- FATF's Vulnerabilities of Casinos and Gaming Sector – Report on the casino sector specifying risk elements in the casino sector. The report relates to land-based casinos, but several risks are also pre-sent in the online casino industry.
- Risk-Based Approach Guidance for prepaid cards, mobile payments and internet-based payment services

Links to the above reports are available on the Danish Gambling Authority's website under the section "Prevention of money laundering".

### 3.1.2 Risk-based approach

Based on the risk assessment, the gambling operator must prioritise the areas most vulnerable to be abused for the purposes of money laundering and financing of terrorism. This must be done so that the gambling operator can concentrate its efforts where the risk of money laundering is greatest, and thus, the gambling operator must organise its policies, procedures and controls in the most resource efficient manner.

The discretion that gambling operators can make in prioritising their resources to best combat the risk of being used to launder financial resources must be considered. However, it is a condition that the basis for the prioritisation appears e.g., the risk assessment. This does not mean that the gambling operator can omit considering the individual risk with reference to the fact that it is not prioritised. The in-house business procedures must take into account all relevant risks that arise from the company's business model.

As mentioned above, the risk-based approach comprises a prioritisation of the areas at risk of money laundering and financing of terrorism. This requires that the gambling operators:

- Identify relevant risks of money laundering and financing of terrorism.
- Develop and implement policies, procedures, and controls that are operationally applicable to combating money laundering and financing of terrorism.
- Monitor and update these policies, procedures, and controls.
- Register what has been done and why.

A risk-based approach requires the full commitment and support of the executive board and the cooperation of the employees. The policies, procedures, and controls must be clearly communicated to all relevant employees, and it must be ensured that the employees understand the importance of following business practices. If the gambling operator is part of a group, the risk management must be adequately supervised by the management.

Based on the overall risk assessment, the gambling operator must establish a risk management policy. Risk management is used, among other things, to assess when a transaction is suspected of or has been linked to money laundering or financing of terrorism, after which the licence holder must investigate the transaction in more detail.

The gambling operator must, based on the risk management, adopt various policies tailored to reduce the risk of money laundering and financing of terrorism. The business practices developed to handle money laundering and financing of terrorism by the gambling operator should be designed to identify or prevent illegal activity. This can be done through a combination of preventive measures, such as:

- Evaluation of customer and transaction risks.
- Appropriate identification measures for players.
- Retention of records that may be useful in criminal investigations.

When carrying out a risk assessment of products delivery systems and business and transaction scope, the gambling operator must identify and assess the risks of the individual services they offer to the players. The risk assessment includes the risks to which the gambling operator is exposed, including:

- The business model's impact on risks and risk levels.
- What activities the risks involved are associated with.
- The scope of the individual risks.
- How the risks affect each other.

The risk assessment must cover the risk in relation to both money laundering and financing of terrorism.

### 3.1.3 Review of the risk assessment

To ensure that the risk assessment reflects the gambling operator's current risk profile at all times, the risk assessment must be revised at least once a year or in connection with significant changes to risk conditions or on connection with the publication of new national and supranational assessments.

#### A change may be:

- Introduction of a new game or payment service that is, with regard to risk, different from other games or payment services offered.
- Provision of gambling in more and new countries.
- Use of new technologies.

## 3.2 Risk factors

There are various factors that may affect gambling operators' risk levels. Thus, it is essential that the gambling operator can identify and manage these risks.

In cases where the gambling operator uses third-party assistance or outsourcing, the gambling operator must be aware that this may be a risk factor, for example if the provider misuses its position, if the provider does not perform the tasks agreed upon, or if the provider contributes to an illegal activity. Therefore, the gambling operator must assess the risk of using third party assistance or outsourcing. For more information, see chapter 7 on third party assistance and outsourcing.

The relevant risk factors for online gambling, land-based casino, and land-based betting are discussed below. It should be noted that since there may be differences in the risk factors for the individual sectors, the sections are subdivided.

### 3.2.1 Online gambling

#### 3.2.1.1 Identification and assessment of risk factors

Some of the risk factors present at online gambling are specified below.

- The company's customer types
  - Temporary accounts
  - High rollers
  - Politically exposed persons (PEPs), their family members and close associates, both domestic and foreign
  - Players who are reluctant to provide information
  - Players who change their usual gambling pattern
- Products
  - Types of games provided, e.g., card games and roulette
  - Games at low odds
  - Gambling on all outcomes of an event
- Delivery channels (e.g., apps and web-based platforms etc.)
  - Type and efficiency of the existing monitoring mechanisms
  - Provision of multiplayer games where players oppose other players
- Volume of business and transactions
  - Types of payment methods accepted from players, including acceptance of prepaid cards, e-wallets, and cash vouchers
  - Frequent changes in means of payments and withdrawals and payment and withdrawal services

- Whether the gambling operator's business model attracts a large number of players who gamble for relatively small amounts and/or attracts a small number of players who gamble for relatively large amounts
- Geographical risks

Below is an elaboration of some of the above risk factors:

#### **Temporary accounts**

Until the customer's identity is verified, this is a high-risk customer, as the gambling operator does not have the necessary information about the customer. The access to using stolen payment cards when creating a temporary account is present as the customer's identity has not yet been verified as mentioned above. In addition, it must be added that the maximum deposit on a temporary account of DKK 10,000 can be transferred to another player through network games, whereby it is not possible to unambiguously conclude where the money comes from. If the customer has created a temporary account several times, this is another risk element. The use of temporary accounts is thus a risk factor that must be included in the risk assessment.

#### **High roller customers**

High roller customers pose a risk as it may be difficult for online gambling operators to assess from where and in which way the players fund their gambling.

The definition of a high roller customer may vary depending on the operator. In general, players can be considered high roller customers based on their total gambling consumption in a given period of time. Similarly, every-day players who gamble relatively large amounts at a limited number of occasions can also be considered high roller customers. High roller customers may also be players who spend a large amount of money on a single occasion.

An online gambling operator must have an understanding of the sources of their high roller customers' income or capital. The gambling operator must provide procedures for how the gambling operator acquires knowledge of the players' financial resources. These procedures must be based on a risk-based assessment made by the gambling operator. Information on income and wealth can provide some insight into the likely level of available assets at the players' disposal. For more information, see section 6.4.1.3 on the source of funds.

#### **Politically exposed persons, their family members and close associates, both domestic and foreign**

A politically exposed person (PEP) is a high-risk customer which is why the gambling operator's risk assessment must take this into account. For more information and a definition of a PEP, close family members and close associates, see section 6.7.

#### **Players who change their usual gambling pattern**

This category includes regular players who may pose a risk if their consumption changes, e.g., if their spending drastically increase, or if their gambling pattern do not match their gambling profile. The gambling operator must thus relate to the changed behaviour and the extent of the business relationship.

#### **Type of games offered**

Gambling operators must carry out a risk assessment of whether any of the games provided through their home platform are more exposed to money laundering than others.

#### **Games at low odds**

If low odds are played, the risk of losing money is relatively limited, by which it is possible to launder money. Likewise, a player can play at every conceivable outcome of a bet, thereby eliminating the risk and thus being sure of a win.

### **Monitoring mechanisms**

Online gambling operators rely on IT systems. These IT systems should be adapted to ensure accurate monitoring of accounts and players and ensure that the necessary information is recorded and stored. However, a risk-based approach cannot be solely dependent on IT systems, which is why there must also be human supervision and personnel that correspond to the risk level of the gambling operator's business.

If the monitoring is done by outsourcing, this is a risk factor if this provider does not fulfil its contractual obligations by, for example, not providing customer due diligence documentation.

### **Provision of multiplayer games**

In games where players play against each other, there is an increased risk of transferring funds between players, which may cause the source of funds to be blurred. These games can therefore pose a higher risk.

Online poker often takes place on a few large networks that several gambling operators purchase access to. There is a risk that a player can play against him or herself or others and thereby cause chip-dumping. The gambling operator and platform must have clear rules regarding their respective roles, notifications, queries, and subsequent money laundering and terrorist financing actions.

#### **Chip dumping**

When two people who play against each other agree that the one wins chips from the other, thus transferring funds so that the funds appear as winnings from games. The possibility to play against oneself may also occur in e.g., online poker.

### **Means of payment**

#### *Prepaid cards*

Upon acceptance of prepaid cards, the same risk as for cash acceptance is present as the gambling operator is not able to make the same checks when using prepaid cards, as they have in cases of regular bank accounts. If pre-paid cards are accepted, it must therefore be included in the risk assessment. Customers who often use prepaid cards should therefore be categorised as high-risk customers.

#### *E-wallets and cash vouchers*

Payment with e-wallets and cash vouchers may pose a risk as it is difficult to trace the source of funds. The gambling operator must therefore have taken this parameter into account in its risk assessment if the gambling operator accepts payment with e-wallets or cash vouchers.

### **More payment services**

If the player regularly switches between multiple payment services on his/her account, this is a risk indicator that the gambling operator should be aware of and relate to.

## **3.2.2 Land-based casino**

### **3.2.2.1 Identification and assessment of risk factors**

Some of the risk factors present at the provision of land-based casino are specified below.

- The company's customer types

- High rollers
- Holders of monthly and annual passes (business relations)
- Occasional gamblers
- Politically exposed persons (PEPs), their family members and close associates, both domestic and foreign
- Players who change their usual gambling pattern
- Players who are reluctant to provide information
- Straw man activity
- Products
  - Types of games offered, e.g., card games and roulette
- Delivery channels (e.g., physical attendance)
  - Type and efficiency of the existing monitoring mechanisms
  - Provision of multiplayer games where players oppose other players
- Volume of business and transactions
  - Means of payment accepted from players, including cash
  - Exchange of money without significant gambling activity
  - Chip-dumping in poker
  - The players total number of transactions and/or transaction sizes that are large compared to the casino's resources, which complicates monitoring
  - Size of premises
  - Whether the business model of the casino relates to one or both of the following options:
    - Attracts a large number of players who gamble relatively small amounts
    - Attracts a few players who gamble relatively large amounts
  - Employees' level of experience
  - Cooperation with other parties
- Geographical risks
  - The location of the casino
  - Registration of customers residing abroad

Below is an elaboration of some of the above risk factors:

### **High roller customers**

High roller customers pose a risk as it can be difficult for the casino to assess from where the funds originate.

The definition of a high roller customer may vary depending on the casino. In general, players can be considered high roller customers based on their total gambling consumption in a given period of time. Similarly, everyday players who gamble relatively large amounts at a limited number of occasions can also be considered high roller customers. High roller customers may also be players who spend a large amount of money on a single occasion.

A land-based casino must have an understanding of the sources of their high roller customers' income or capital. The casino must provide procedures for how the casino acquires knowledge of the players' financial resources. These procedures must be based on a risk-based assessment made by the casino. Information on income and wealth can provide some insight into the likely level of available assets at the players' disposal. For more information, see section 6.5.1.3 on the source of funds.

### **Occasional gamblers**

Occasional gamblers, including tourists, may pose an increased risk of money laundering and financing of terrorism as it can be difficult to assess, whether their transactions deviate from their usual behaviour.

### **Politically exposed persons, their family members and close associates, both domestic and foreign**



A politically exposed person (PEP) is a high-risk customer, which is why the gambling operator's risk assessment must take this into account. For more information and definitions of PEP, their family members and close associates see section 6.7.

#### **Players who change their usual gambling pattern**

This category includes regular players who may pose a risk if their consumption changes, e.g., if their spending drastically increase, or if their gambling pattern do not match their gambling profile.

#### **Types of games offered**

Gambling operators must carry out a risk assessment of whether any of the games provided through the casino are more exposed to money laundering than others.

#### **Chip-dumping in poker**

If two players play poker against each other rather than against the casino, they may have agreed in advance that one of the players must lose to the other player on purpose in order to make criminal proceeds appear as legal winnings from a game. The gambling operator must have clear rules regarding notifications, queries, and subsequent money laundering and terrorist financing actions.

#### **Monitoring mechanisms**

Land-based casinos must have IT systems that should be adapted to ensure accurate monitoring of players and ensure that the necessary information is recorded and stored. However, a risk-based approach cannot be solely dependent on IT systems, which is why there must also be human supervision and personnel that correspond to the risk level of the gambling operator's business.

It should be noted that there is also a requirement on information storage in the Executive Order on land-based casinos.

#### **Means of payment**

##### *Cash*

Upon acceptance of cash, the casino does not have the opportunity to make the same checks as is possible with regular bank accounts. Customers who often arrive with cash that is exchanged, or who arrive with a large amount of cash should therefore be categorised as high-risk customers. At land-based casinos, players can exchange large amounts of illegal proceeds for large banknotes that are easier to hide or transport. Certain cash deposits from a customer, particularly cash deposits that are considered relatively large compared to 1) the average deposit of a particular casino, or 2) what is known about a customer's financial situation may also be a risk factor.

#### **Exchange of money without significant gambling activity**

If a player arrives at the casino with money and exchange this for chips, and the player then leaves the casino without having gambled much, it may mean that a re-exchange of the chips into cash will make the cash appear as winnings although it may be illegal funds. A land-based casino must assess the risk and act on the basis of the risk in cases where this may occur.

#### **Straw man activity**

Straw man activity may occur in the cases where a person exchanges money for chips, passes the chips on to another person at the casino, who subsequently exchanges the chips for money. In this case, the money has not been gambled, but merely exchanged a number of times and the proceeds thus appear as legal winnings.

#### **Cooperation with others**

If the casino has e.g., commercial events, the casino must ensure that the business partners and the business partner's employees are honest and trustworthy.

### **Registration of customers residing abroad**

Land-based casino operators should have procedures for registration of customers residing abroad, especially players from countries that are not covered by the EU/EEA or countries covered by the FATF list, EU sanctions lists, or other lists.

## **3.2.3 Land-based betting**

### **3.2.3.1 Legal entity responsible**

It should be noted that the risk of money laundering via land-based betting is assessed high in the National risk assessment for money laundering 2018. The risk assessment conducted by the operator of land-based betting must take this into account and have adequate measures to prevent money laundering.

A major reason for the risk to be deemed high is that the legal entity responsible is the obligated entity, i.e., the gambling operator, as it is the gambling operator, which is covered by the law. Thus, a retailer of land-based betting is not the person to be charged in case of a violation of the anti-money laundering legislation. The gambling operator can live up to its responsibility to ensure that for example connected transaction can be identified by giving written procedures to its retailer network. The procedures must enable the retailer to ascertain how to check and assess whether the transactions can be considered related. It is a prerequisite that the gambling operator checks that both the retailer and its employees receive training in the rules and that they use and comply with the rules in practice. The risk assessment prepared by the gambling operator must take this into account. The retailers and their employees must be trained in the procedures and the procedures must be operationally applicable.

Another major reason is that the player, to a large extent, can opt to be anonymous and use cash, which is further specified below.

### **3.2.3.2 Identification and assessment of risk factors**

Some of the risk factors present at the provision of land-based betting are specified below.

- The company's customer types
  - Anonymity
  - Politically exposed persons (PEPs), their family members and close associates, both domestic and foreign
  - Players who are reluctant to provide information
  - Loyalty cards
- Products
  - Games at low odds
  - Gambling on all outcomes of an event
- Delivery channels (e.g., physical attendance, internet, etc.)
  - Self-service terminals
- Volume of business and transactions
  - Vouchers and cards to which winnings can be transferred
  - Introduction of cash – deposit to account
  - Linked transactions
  - Prize receipts
  - Retailers
- Geographical risks
  - Players residing abroad

Below is an elaboration of some of the above risk factors:

### **Anonymity**

Upon conclusion of a land-based bet, the player may be anonymous unless the dealer deems the player's behaviour to be suspicious, and this cannot be disproved, or if a stake is received, winnings are withdrawn or both of at least 2,000 euros, after which there is an obligation to apply customer due diligence measures. As the player to a large extent may be anonymous, this also increases the risk of money laundering as the player without difficulty can make the proceeds of a crime to appear as legal means by placing a bet and subsequently receiving a prize receipt.

### **Loyalty cards**

Customers with a loyalty card pose a risk in the cases where it is possible to gamble cash, after which any prize is deposited on the player's bank account, because the player has a loyalty card. In this way, cash is transferred directly into the financial system without any preliminary checks.

### **Games at low odds**

If low odds are played, the risk of losing money is relatively limited, by which it is possible to launder money. Likewise, a player can play at every conceivable outcome of a bet, thereby eliminating the risk and thus being sure of a win.

### **Self-service terminals**

Gambling operators that provide betting via self-service terminals must make a thorough risk assessment of how the provision of betting via self-service terminals affect the considerations and obligations that follow from the anti-money laundering legislation. The fact that the retailer has no direct contact with a player in connection with the placement of a bet increases the risk of money laundering being attempted. In case of a win, it is possible for the player to get a winnings receipt without having contact with the betting shop staff, which again increases the risk of money laundering. The gambling operator must therefore have taken appropriate measures to counter this risk.

#### **Betting terminals**

The Danish Gambling Authority defines any betting terminals as self-served if it is possible to conclude a bet without being in contact with the shop staff.

### **Vouchers and cards to which winnings can be transferred**

Vouchers and cards with the option of direct transfer of winnings, are considered alternative means of payment compared to cash or payment cards. Vouchers and cards to which winnings can be transferred can, similar to cash, be handed over to other persons who are able to convert the voucher/card in the terminal without being in contact with the staff. The same applies to prize coupons.

Gambling operators must be aware that when cash and other alternatives to this are introduced directly into the financial system, it poses a special risk. Thus, the gambling operator must have appropriate preventive measures to counter this and should track and store such transactions.

### **Introduction of cash – deposit to account**

Transfer of winnings to other persons than the player or to another bank account than the player's NemKonto (bank account) poses a special risk of money laundering. This requires that customer due diligence measures have been applied, since the retailer/the employee cannot possibly know the identity of the player, if such measures have not been applied. As a consequence, the gambling operator put into practice preventive measures to counter this, just as the transaction should be registered and stored.

### **Linked transactions**

The gambling operator must have procedures in place for how the individual kiosk, shop etc. must assess whether the customer's transactions are linked, since customer due diligence measures must be applied to these cases. For more information, see section 6. It may be difficult to identify linked transactions considering that the staff most likely take shifts during the opening hours of a betting shop, which is why the gambling operator is obligated to assess how the retailer in this case must assess whether transactions are linked.

In this connection, it should be noted that a player with a loyalty card or a similar "player card" is a business relation, which is why there are other rules for application of customer due diligence measures for these types of customers.

### **Prize receipts**

When placing a land-based bet, the player can receive a prize receipt if the player wins a prize. These prize receipts may be traded with the purpose of making the proceeds of a crime appear a legal prize from legal gambling activities. The gambling operator must therefore have appropriate procedures that prevent this from occurring.

### **Retailers**

The fact that the retailer is not the person to be charged pursuant to the Anti-Money Laundering Act means that it falls on the gambling operator to have adequate measures to prevent money laundering and financing of terrorism. The gambling operator must instruct and train retailers and their employees in the rules of the Anti-Money Laundering Act to ensure that they are familiar with and understand the rules. Thus, it is the gambling operator's responsibility that retailers and their employees can identify any suspicious behaviour and know in which respects customer due diligence measures apply.

### **Players residing abroad**

Land-based betting operators should be aware of the risk connected with sales to customers from countries out-side the EU/EEA or countries listed on the FATF list, EU sanctions lists, or other lists. The retailers of land-based betting must thus receive instruction on how to treat this type of customers.

# **Policies, procedures, and supervision**

# 4

## Section 8(1) of the Anti-Money Laundering Act

The gambling operator must produce written policies, procedures, and supervision.

In this context, policies should be understood as the gambling operator's overall decisions on how the gambling operator's business should be arranged and how tasks related to prevention of money laundering should be solved on the basis of the risk profile that the gambling operator has achieved in the risk assessment of the business.

Procedures should be understood as concrete and operational implementation policies. The assessments become e.g., procedures and job descriptions.

Supervision is the gambling operator's control of their compliance with policies and procedures. The individual supervisory actions should be described in the gambling operator's policies and procedures. Moreover, there should be an independent audit function with the responsibility to examine and evaluate the adequacy and effectiveness of the checks.

See the model in section 3.1 that illustrates the process from the finding of the inherent risk to the finding of the residual risk when the company has decided on policies, procedures etc.

The gambling operator's policies and procedures must be prepared on the basis of the risk assessment. There are no formal requirements except written communication. Moreover, they must be available and efficient for the gambling operator. They must cover the subjects

- risk management,
- customer due diligence measures,
- obligation to investigate, register, and record-keeping,
- obligation to report,
- screening of employees and
- Internal control.

### **Risk management**

Risk management is the gambling operator's attention to risks and the operator's management of and reaction to new risks found.

In connection with the above, the gambling operator must take into account that the company's own business model may call for other subjects that should be included in the policies and procedures.

### 4.1 Policies

A policy must include identification, assessment, and scope of the gambling operator's risk factors and the overall strategic goals to prevent money laundering and financing of terrorism based on the risk assessment.

A policy for risk management establishes, among other things, objectives, risk areas, division of responsibility, risk appetite, and the organisational anchoring of risk management.

## 4.2 Procedures

Procedures are a description of the activities that the gambling operator must perform to ensure compliance with the law and other regulations and that the gambling operator's policies and guidelines are complied with.

It should be noted that the procedures must be based on the gambling operator's business model and describe in a clear manner how the gambling operator must comply with the rules.

It is required that the procedures are easily accessible and manageable for the employees. The procedures must state who is responsible for the individual tasks and how the tasks must be performed. For example, it must be described how the obligation to register is complied with, an example of this could be employees registering observations and information in the player's customer profile, and at what interval this should be done, if possible, on the basis of the player's gambling activity.

Procedures must be operationally applicable, and after consulting these, the employees must know how to perform their tasks.

## 4.3 Supervision

The gambling operator must supervise the company's compliance with the requirements of the law. The supervisory measures must be described, and it must be documented that the controls have been carried out. The supervision must be conducted at appropriate intervals in the areas of risk management, customer due diligence, and obligation to investigate, register, report, and record-keeping. Similarly, a check must be made as to whether the supervisory actions are actually carried out.

# Responsibility, training, and groups

# 5



## 5.1 Responsibility for legal compliance

The overall responsibility for the gambling operator to comply with the money laundering legislation rests with the company's top management. The management should ensure that its involvement in issues of money laundering and financing of terrorism is visible to the board and to all employees and business partners. Management has a personal responsibility to ensure that there are adequate control measures and procedures in place at the company.

It is not required that gambling operators appoint an employee who has the authority to make decisions on behalf of the company cf. section 7(2) of the Anti-Money Laundering Act.

The Danish Gambling Authority, however, requests the name of an anti-money laundering officer from the gambling operator in connection with an application for a licence to provide betting and online casino. This person must submit an Annex A, in which they state personal information, and in which it is required that a CV, criminal record and a certificate of indebtedness are attached. The CV must contribute to documenting their experience within the field of combatting money laundering. If a new person is appointed, the Danish Gambling Authority must be notified and the newly appointed must submit an Annex A.

The gambling operator is responsible for notifying and send in various information to the Danish Gambling Authority if the operator wishes to establish a branch office or a representative office in a country listed on the European Commission's list of high-risk countries. This follows from section 31 b (1) of the Anti-Money Laundering Act.

### 5.1.1 Responsible board member

If it is deemed relevant, companies must appoint a board member to be responsible for the company's implementation of the legal requirements of the Anti-Money Laundering Act.

It is not required that companies without a board must appoint a person with this function.

The obligation of the responsible board member is, especially, to ensure that the gambling operator complies with the rules of the Anti-Money Laundering Act. Thus, for example, meetings can be held with the employees who are tasked with supervising the players' gambling activity and similar in order to obtain a status on legal compliance.

## 5.2 Training

### Section 8(6) of the Anti-Money Laundering Act

Gambling operators must ensure that their employees and management receive appropriate training in the requirement of the Anti-Money Laundering Act and relevant data protection provisions. It is not adequate to merely hand out the gambling operator's written policies and procedures to the employees for them to read. Nor is it sufficient for the training only to be based on the legal requirements. Thus, the training must also deal with the gambling operator's company and the specific factors associated with this in relation to combatting money laundering and financing of terrorism.

Further training of the employees and management must take place at appropriate intervals, including, for example, when updating the gambling operator's risk assessment.

## 5.3 Consolidated companies

### **Section 9 of the Anti-Money Laundering Act**

It is required that consolidated companies, in addition to the requirements in section 8, also have written policies and procedures for data protection and exchange of information exchanged for the purpose of combating money laundering and financing of terrorism within the group.

It is important to emphasise that the requirements only apply to those companies within the group that are covered by the Anti-Money laundering Act. For example, a subsidiary which is not covered by the Anti-Money Laundering Act is not subject to these requirements either.

The procedures for the exchange of information within the group must comply with the data protection legislation rules.

There is also a requirement that risk assessment, policies and procedures in a parent company cover the entire group, of course only the parts that are covered by the Anti-Money Laundering Act. In practice, this means that the procedures can be prepared centrally in, for example, the parent company, but it is however, required that the individual procedures are adapted to the specific circumstances of the legal entity.

**Customer due diligence  
measures**

6

## Part 3, section 10-18 of the Anti-Money Laundering Act

### 6.1 The purpose of customer due diligence measures

It is a fundamental requirement in the Anti-Money Laundering Act that gambling operators must know their customers. The purpose of the customer due diligence measures is that gambling providers know who their customers are and the customer's purpose of the business relationship. For a gambling operator, it is therefore important to ensure that the customer's purpose is not to launder money. The gambling operator must relate to changes of a scope that should attract attention, for example if a player that normally only bets suddenly solely plays on gaming machines. For gambling operators to ensure this, it requires that they know their customers and they have procedures in place for what to observe and implement if there are signs of money laundering attempts.

### 6.2 Obtaining and checking identity information

#### 6.2.1 Differences in legislation

Part 3 of the Anti-Money Laundering Act includes the requirements, which a gambling operator must meet to identify its customers and maintain this knowledge.

A number of executive orders which regulate specific gambling offers under different licences also contain a number of identification requirements. It concerns:

- Executive Order on online casino.
- Executive Order on online betting.
- Executive Order on land-based casinos.

Gambling operators must be aware that although there in some cases are agreement between the identity information that must be obtained about the player, compliance with the requirements of the gambling legislation is not necessarily the same as complying with the Anti-Money Laundering Act. For example, the requirement for the quality of documentation sources is greater according to the Anti-Money Laundering Act than it is according to the gambling legislation. The Anti-Money Laundering Act also gives access to act on behalf of others while it is specifically stated in the Executive Order on online casino and Executive Order on online betting that the player can solely act on his/her own behalf and that the gambling operator must condition the registration as a customer on this.

While the gambling legislation requires the player's address to be obtained, this is not a requirement according to the Anti-Money Laundering Act<sup>4</sup>. However, it is a requirement in both the gambling legislation and the Anti-Money Laundering Act that the player's identity information not be filled in automatically after entering e.g., a social security number, or if information is obtained without the player's involvement.

In addition, the Anti-Money Laundering Act enhances the requirements for customer due diligence depending on the risk assessment.

<sup>4</sup> Please note that the requirement for an address is removed from the Executive Order on online casino and the Executive Order on online betting as of 1 July 2022.

The reason for the differences is a result of the fact that the requirements today are set for various reasons. The gambling legislation's requirements primarily concern responsible gambling and hence, among other things, protection of minors and the possibility of using the Danish Gambling Authority's register of self-excluded players (ROFUS).

In this connection, it should be noted that a gambling operator is obligated to comply with the anti-money laundering legislation and the gambling legislation at all times.

### 6.2.2 Checking identity information

The identity information obtained from the customer must be verified by information derived from a reliable and independent source. By this is meant e.g., electronic means of identification, relevant trust services or any other secure form of remote identification process or electronic identification process, which is regulated, acknowledged or accepted by the competent national authorities.

The gambling operator must ensure that it is a current source, which is particularly relevant when it comes to ID documents and their validity. If the gambling operator assesses that the customer poses an increased risk, further action must be taken regardless of whether the player's identity information is verified or not. Moreover, it is a concrete assessment, how much documentation is needed for it to be deemed a sufficient control of the player's information.

The gambling operator may, for example, perform a search in a database such as the Danish Civil Registration System, just as the gambling operator may request to have a copy of a driving licence or passport sent. The fact that online gambling concerns remote customers because the customer and the gambling operator do not physically meet increases the need for the gambling operator to have mitigated measures to ensure that the customer is in fact the person, whom they claim to be.

As for NemID and the use of this as a reliable and independent source, it is noted that NemID can only be used as the sole control source in the cases where, following a risk assessment the gambling operator is able to apply simplified customer due diligence measures to the player in question. In all other cases, control by use of NemID cannot stand alone and must thus be supplemented by another control source or other mitigated measures.

## 6.3 When must a gambling operator apply customer due diligence measures?

A gambling operator must apply customer due diligence measures in the following situations:

1. When establishing a business relationship.
2. When a customer's relevant circumstances change.
3. At appropriate times.
4. When offering gambling activities where stakes or payouts (or both) amounts to at least 2,000 euros.
5. In case of suspicion of money laundering or financing of terrorism.
6. If in doubt about previously obtained information about the customer.

This follows from section 10 of the Anti-Money Laundering Act.

Below is a closer review of the necessary steps to prevent money laundering that the gambling operator must take, and which are entailed in customer due diligence measures within the different sectors of online gambling, land-based casino, and land-based betting.

Common to all sectors is that customer due diligence measures must be applied at appropriate times, when a customer's relevant circumstances change, when offering gambling activities where stakes or payouts exceed a certain amount, or in case of suspicion of money laundering and in doubt about previously obtained information regardless of other requirements.

### **6.3.1 When a customer's relevant circumstances change**

The gambling operator must reapply customer due diligence measures if a customer's relevant circumstances change, for example, if a customer receives the status of a politically exposed person (PEP). Based on a risk assessment, the gambling operator must decide whether to obtain identity information or similar again due to the changed circumstances.

### **6.3.2 Appropriate times**

The gambling operator is also obligated to apply customer due diligence measures at appropriate intervals in the customer relationship. It must thus be possible to document that the gambling operator at all times holds accurate and sufficient information about the players.

On a risk-based basis, the gambling operator must determine what appropriate intervals are. Meaning that the players may be divided into groups depending on, for example, gambling activity, gambling consumption etc.

### **6.3.3 Provision of gambling where the stakes or payout (or both) amounts to at least 2,000 euros**

The gambling operator is obligated to apply customer due diligence measures if this is not already applied in connection with the establishment of the business relationship, in the case where the player either via his/her online account, at a land-based casino, or at a retailer of land-based betting pay a stake of, withdraw a prize of or both of at least 2,000 euros, whether the transaction is executed in a single operation or in several operations which appear to be linked.

It is optional for the gambling operator when in the process the customer due diligence measures are applied.

As a rule, multiple transaction in connection with a gambling operator's sale of betting within 24 hours at the same retailer are considered linked. For example, if a customer enters and exits the same shop several times with-in 24 hours and makes several transactions in this connection, the transactions are considered linked. The same applies if the customer splits the transaction at the same occasion.

It should be noted that the definition of a linked transaction in the provision of land-based betting cannot be applied to online gambling as the available amount of data and general possibility to trace the player is far greater here.

For more information on land-based betting, see section 6.6.

#### **6.3.4 Suspicion of money laundering and financing of terrorism**

It is a requirement that the gambling operator applies customer due diligence measures in the cases where the gambling operator has knowledge of or suspects money laundering or financing of terrorism.

In case the player refuses to submit the necessary information in order to apply customer due diligence measures, the gambling operator must inform the Money Laundering Secretariat with the information available to the gambling operator.

#### **6.3.5 If in doubt about previously obtained information about the customer**

If the gambling operator has reason to doubt whether previously obtained information about the player is correct or sufficient, the operator is obligated to reapply customer due diligence measures.

A concrete assessment must be made of what information is necessary to obtain and based on a risk assessment, it must be assessed whether all or only parts of the customer due diligence measures must be reapplied.

### **6.4 Online gambling**

#### **6.4.1 Business relation**

To be registered as a customer at an online gambling operator, it is required that the customer opens an account. Thus, a gambling operator establishes a business relation with a player, when the player chooses to make use of the gambling operator's offer for the first time.

##### **6.4.1.1 Obtaining documentation**

According to the Anti-Money Laundering Act, the customer must provide information on name and social security number. The customer must provide the information him/herself and therefore, automatic completion when e.g., entering the social security number is not allowed.

If the customer does not have a social security number, other equivalent identity information must be obtained. It may be a national insurance number or ID number, which is used by public authorities in the person's country of residence.

It is important to note that if a customer simply does not wish to provide his/her social security number, this means that the customer cannot be registered as a player. Here is a parallel to the gambling legislation, since the gambling operator also risks violating the rules in force in relation to the Danish Gambling Authority's register of self-excluded players (ROFUS) if a player is allowed to open an account without providing his/her social security number and thus, is allowed to play despite the player's registration in ROFUS. This means that the gambling operator is obligated to control the player's circumstances before any gambling activity can be permitted.

In addition, it is required in the gambling legislation that the customer's address must be provided<sup>5</sup>. The address must be the player's permanent address (fixed place of abode). The

<sup>5</sup> Please note that the requirement for an address is removed from the Executive Order on online casino and the Executive Order on online betting as of 1 July 2022.

address of a PO box is not sufficient. In case the player is homeless, the customer's registration may be accepted although address information is not available. The player may instead obtain documentation from the local authority to confirm that the player is homeless. If the information about the address is not obtained, the gambling operator must be able to justify to the Danish Gambling Authority that this is not necessary. Equivalent solutions must be found in other cases of impossibility.

As mentioned above, the registration of the customer must be conditioned on the fact that the customer exclusively acts on behalf of him/herself, and in this way, only natural persons can be registered as customers. Players who play on behalf of e.g., a club representing more players are thus not able to open an online account at a gambling operator.

After the registration, a temporary account is opened for the customer unless the account can be verified immediately.

#### 6.4.1.2 Verification of the customer's identity

The information provided by the customer must be checked. The customer's name, address<sup>6</sup>, and social security number must therefore be verified by a reliable and independent source, e.g., the Danish Civil Registration System. For customers without a social security number, documentation that verifies the customer's identity must be obtained.

Additional documentation of the customer's identity is required since this is a contractual relationship that is concluded online i.e., where the seller and the buyer do not meet physically.

Additional documentation may be:

- Use of verification information from a digital signature.
- Submission of picture ID.
- The requirement that the first deposit takes place via a bank transfer from the customer's account in a bank where the customer has identified him/herself.
- The customer is contacted by telephone as the telephone number is checked by a reliable look-up.
- A contract or equivalent is sent to the customer requesting a signature and that it is returned.

Picture ID must be current and originate from a reliable and independent source. It is typically issued by a public authority, but this is not a requirement.

If the customer has provided incorrect information, an assessment must be made as to whether it was intended or not. The account cannot be opened if the customer intentionally has provided incorrect information. To provide incorrect information may in itself be a suspicious activity, which is why the gambling operator must notify the Money Laundering Secretariat if the suspicion cannot be disproved.

When the customer's identity is adequately verified, the customer's account is changed from a temporary to a final account.

Please, always be aware of the stricter identification requirements and the fact that the level of documentation is dictated by the risk assessment made by the gambling operator.

<sup>6</sup> Please note that the requirement for an address is removed from the Executive Order on online casino and the Executive Order on online betting as of 1 July 2022.



#### 6.4.1.3 Ongoing monitoring

It is required by the Anti-Money Laundering Act that the gambling operator continuously monitor an established business relation. The requirement both applies to transactions made by the player and the player's general behaviour.

The monitoring thus includes checking whether a transaction is made in accordance with the gambling operator's knowledge of the customer, and if this is not the case, the gambling operator must, for example, investigate the source of funds.

The gambling operator must also monitor the player's behaviour to ensure that it is consistent with the player's business profile, which includes information on purpose of the business relation, scope of transactions, size of transactions, frequency, and duration.

#### **The source of funds**

The source of funds covers information on 1) the source of the customer's wealth, 2) the source of funds that are part of a transaction, or 3) where the funds, which are part of a business relation, come from. Thus, it is relevant to investigate which items of value or assets the player possesses and how the player earns his or her money. In connection with a transaction, it may be necessary to investigate all three factors to examine whether a transaction is common or uncommon for the player in question and thereby also the possibility for a gambling operator to confirm or disprove a suspicion of money laundering.

Moreover, the gambling operator must be aware of players who gamble large amounts when this is not consistent with the player's gambling profile. The gambling operator should also be aware of the player's sources of assets and/or income or the player's occupation. If and when this information is obtained, the information may contribute to the assessment of whether a customer's level of gambling is reasonable in relation to his/her assets or income level. For example, it can be reasonable to investigate a high roller with relatively modest assets or income.

The investigation of the source of funds is made via external sources, such as Facebook, LinkedIn, Google, VAT, the government gazette of Denmark, and valuations.

#### 6.4.1.4 Enhanced customer due diligence measures

There is an enhanced requirement for customer due diligence measures in a number of cases, among other things where it is assessed that an increased risk of money laundering or financing of terrorism is present, and where the gambling operator has a business relation with a politically exposed person (PEP), family members to a PEP or close associates to a PEP.

What the enhanced customer due diligence measures will consist of, will be up to the gambling operator to define on the basis of the risk assessment that has otherwise been made by the gambling operator for situations in which there are enhanced requirements.

For example, it may be as a consequence of the ongoing monitoring of the customer relationship that the gambling operator becomes aware of a player's change of transaction pattern. This will pose a risk that must lead the gambling operator to apply enhanced customer due diligence measures to the player in question. The gambling operator may for example obtain information about the source of funds as mentioned above.

More on PEP follows below in section 6.7 where the rules concerning PEP are described in general for all gambling sectors.

## 6.5 Land-based casino

### 6.5.1 Business relationships and occasional customers

At a land-based casino, all guests are registered upon arrival. However, it is different whether the guest is considered a business associate or an occasional customer.

The following registration process will proceed in the same way, regardless of whether the customer is a business relationship with, for example, an annual pass to the casino or a tourist who presumably only visits the casino on one evening.

#### 6.5.1.1 Obtaining documentation

A casino must register the following information about all arriving guests:

- Name
- Address
- Social security number
- Time of arrival

The casino must also make a video registration of the guest.

The address must be the player's permanent address (fixed place of abode). The address of a PO box is not sufficient. In case the player is homeless, the customer's registration may be accepted although address information is not available. The player may instead obtain documentation from the local authority to confirm that the player is homeless. If the information about the address is not obtained, the licence holder must be able to justify to the Danish Gambling Authority that this is not necessary. Equivalent solutions must be found in other cases of impossibility.

If the customer does not have a social security number, other equivalent identity information must be obtained. It may be a national insurance number or ID number, which is used by public authorities in the person's country of residence, or if such a number is not used, information on date of birth combined with place of birth may be used.

#### 6.5.1.2 Verification of the customer's identity

Upon registration, the guest must show ID that confirms the registered information.

By information is meant documentation that confirms that the identity information is correct. It may be a passport or a driving licence.

That a customer identifies him/herself means that the customer provides the required identity information and shows ID.

The casino must be convinced that the guest is the one whom they claim to be. Thus, there cannot be circumstances that causes any doubt about the player's identity, which appears from the identification documents. The casino should deny the guest access in case of false ID or insufficient ID.

The casino must for each customer relationship be able to document to the Danish Gambling Authority that the specific scope of investigation (identification procedure) has been adequate in relation to the risk of money laundering and financing of terrorism.

Based on a risk assessment, the casino must place further demands on identification of the guest in situations that inherently involve an increased risk of money laundering or financing of terrorism.

#### 6.5.1.3 Ongoing monitoring

It is required in the Anti-Money Laundering Act that the gambling operator continuously monitors an established business relationship. The requirement both applies to transactions performed by the player and in relation to the player's behaviour in general.

The casino must therefore regularly assess whether a fixed business relationship (holder of monthly or annual passes) is legitimised at the right level.

The supervision includes checking whether a transaction made is in accordance with the gambling operator's knowledge of the customer, and if not, the gambling operator must, for example, investigate the source of funds.

Similarly, the gambling operator must monitor the player's behaviour to ensure that it is consistent with the player's business profile, which among other things include information on the purpose of the business relationship, volume of transactions, size of transactions, frequency, and duration.

The casino must always demand that a player identifies him/herself if there is a suspicion that a transaction is related to money laundering or financing of terrorism.

The casino must also always demand new ID if there is any doubt as to whether previously obtained information on the player's identity is correct or sufficient.

Moreover, it is to be expected that the casino applies customer due diligence measures to payouts in the cash registers.

For an occasional gambler, it will be difficult for the casino to assess when the player in question displays suspicious behaviour as the casino has no prior knowledge of the guest. This puts demands on the casino's in-house procedures in this area. For a fixed business relationship, the casino will be better equipped to assess whether the guest displays a suspicious behaviour based on the knowledge the casino has of the player.

#### **The source of funds**

The source of funds covers information on 1) the source of the customer's wealth, 2) the source of funds that are part of a transaction, or 3) where the funds, which are part of a business relation, come from. Thus, it is relevant to investigate which items of value or assets the player possesses and how the player earns his or her money. In connection with a transaction, it may be necessary to investigate all three factors to examine whether a transaction is common or uncommon for the player in question and thereby also the possibility for a gambling operator to confirm or disprove a suspicion of money laundering.

Moreover, the gambling operator must be aware of players who gamble large amounts when this is not consistent with the player's gambling profile. The gambling operator should also be aware of the player's sources of assets and/or income or the player's occupation. If and when this information is obtained, the information may contribute to the assessment of whether a customer's level of gambling is reasonable in relation to his/her assets or income level. For example, it can be reasonable to investigate a high roller with relatively modest assets or in-come.

The investigation of the source of funds is made via external sources, such as Facebook, LinkedIn, Google, VAT, the government gazette of Denmark, and valuations.

#### 6.5.1.4 Enhanced customer due diligence measures

There is an enhanced requirement for customer due diligence measures in a number of cases, among other things where it is assessed that an increased risk of money laundering or financing of terrorism is present, and where a politically exposed person (PEP), or family members to a PEP or close associates to a PEP are guests at a land-based casino.

What the enhanced customer due diligence measures will consist of, will be up to the gambling operator to define on the basis of the risk assessment that has otherwise been made by the gambling operator for situations in which there are enhanced requirements.

For example, it may be as a consequence of the ongoing monitoring of the customer relationship that the gambling operator becomes aware of a player's change of transaction pattern. This will pose a risk that must lead the gambling operator to apply enhanced customer due diligence measures to the player in question. The gambling operator may for example obtain information about the source of funds as mentioned above.

In addition, enhanced customer due diligence measures are required if the customer resides in a country listed on the European Commission's list of high-risk countries. The enhanced customer due diligence measures must include various measures and procedures specified in section 17(2) and (3) of the Anti-Money Laundering Act.

More on PEP follows below in section 6.7 where the rules concerning PEP are described in general for all gambling sectors.

## 6.6 Land-based betting

The situations when customer due diligence measures must be applied that are mentioned in sections 6.3.4 and 6.3.5 are also relevant to gambling operators' who provide land-based betting products. This means that there is an obligation to apply customer due diligence measures in the situations when the gambling operator knows of or suspects money laundering or financing of terrorism.

If a player refuses to state the necessary information to complete the customer due diligence measures, the gambling operator must report it to the Money Laundering Secretariat including the information that the gambling operator holds.

If the gambling operator has a reason to doubt whether information on the player requested at an earlier time is correct or sufficient, the gambling operator is obligated to complete the customer due diligence measures again.

A specific assessment must be made of the information necessary to request and based on a risk assessment, the gambling operator must assess whether the entire or only parts of the customer due diligence measures must be completed again.

### 6.6.1 Occasional customers

#### 6.6.1.1 When is there an obligation to apply customer due diligence measures?

When you purchase a bet in the land-based sector, a customer is considered an occasional customer according to the preparatory works to the Anti-Money Laundering Act. This means that the licence holder, as a rule, is not obliged to apply customer due diligence measures until the customer, in connection with the provision of gambling, deposits a stake, withdraw winnings, or both that amounts to at least 2,000 euros regardless of whether the transaction is made as one or as several transactions which are or appear to be linked.

As a rule, multiple transactions in connection with a gambling operator's sale of bets within 24 hours at the same retailer are considered linked. For example, if a customer enters and exists the same shop several times within 24 hours and makes several transactions in this connection, the transactions will be considered linked. The same applies if the customer splits the transactions at the same occasion.

#### 6.6.1.2 Who is responsible?

The gambling operator is responsible for ensuring that the rules in the Anti-Money laundering Act are complied with. Thus, the gambling operator must have written business procedures for its retailer network which enables the retailer to know how to control and assess whether a customer's transactions are or appear to be linked, when the retailer in connection with the provision of gambling receives stakes, payout winnings or both of at least 2,000 euros. Moreover, the business procedures must cover how the retailer must handle the documentation for the application of customer due diligence measures, how the retailer must communicate to the gambling operator that customer due diligence measures have been applied etc.

#### 6.6.1.3 Ongoing monitoring

Continuous monitoring of whether it is a matter of linked transactions, does not involve an independent requirement for the retailer to register all deposits or payouts of winnings or other equivalent ongoing documentation hereof. However, the gambling operator is obligated to follow up on the retailers' compliance with the written business procedures. In this connection, the gambling operator must ensure that there are business procedures for ongoing monitoring of the customer relationship in the cases where the player holds a loyalty card and there-by is considered a business relationship according to the Anti-Money Laundering Act.

#### 6.6.1.4 Special considerations

The sector of land-based betting poses a risk of money laundering as customer due diligence measure are not automatically applied when a bet is purchased which is the case for online gambling, where a business relationship is established the first time a player opens an account. Therefore, great demands are put on the gambling operators that provide land-based betting, because they must ensure that they have business procedures in place that can be complied with and are complied with by the retailer network. If the retailer, for example, becomes or is aware that a customer resides in a country listed on the European Commission's list of high-risk countries, the retailer must apply enhanced customer due diligence measures that must include various measures specified in section 17(2) and (3) of the Anti-Money Laundering Act.

### 6.6.2 Business relationship

It may occur that a customer is considered a business relationship in connection with the purchase of bets in the land-based sector. This will happen if the customer holds a loyalty card from the operator that provides betting in the specific betting shop, where the customer purchases his/her bet. Similarly, it is considered a business relationship if it is possible for the customer to transfer the winnings to his/her bank account. A loyalty card or another arrangement, which enables transfers to a bank account, is only established if the relation is expected to be of a certain duration. In these cases, it is required that the retailer applies customer due diligence measures. If it is possible for the customer to transfer the winnings to his/her bank account, based on the customer's loyalty card, this is a risk, which the gambling operator must consider in its risk assessment.

For more information about the requirements for customer due diligence measures, see section 6.4 on online gambling.

## 6.7 Politically exposed persons

### 6.7.1 What is meant by a politically exposed person?

Politically exposed persons (PEPs) are persons who hold a special public position of trust and as a consequence hereof may be susceptible to bribery and other corruption.

It is noted that the fact that a person is a PEP does not mean the person per definition is considered a person who is susceptible to corruption or bribery. Hence, the rules are preventive and must be viewed in the light of the fact that bribery and corruption is a major problem globally.

Below is the Anti-Money Laundering Act's definition of a PEP, in cases where the person is a decision-making authority, including what the definition of a domestic PEP involves:

- Head of State, Head of Government, Minister, Deputy Minister, or Assistant Minister.
- This includes all ministers and permanent secretaries of state.
- Member of Parliament or member of a similar legislative body.
- This includes both members of the Danish Parliament and members of the European Parliament.
- Member of a political party's governing body.
- This includes persons who are members of the central board or a similar managing body of the Danish Parliament's parties if the role of the body is defined in the rules of the parties.
- Justice of the Supreme Court, member of the Constitutional Court and other senior court instances, whose decisions are only subject to appeal in exceptional circumstances.
- In addition to the Danish Justices of the Supreme Court, it also covers Danish justices at international courts.
- Member of the Court of Auditors and the supreme governing body of a central bank.
- This includes the management of the Danish National Bank, Danish government auditors, and the Danish member of the European Court of Auditors.
- Ambassador, chargé d'affaires or high-ranking officers in the armed forces.
- This includes the commanding officers in the armed forces, more specifically the Chief of Defense, the Deputy Chief of Defense, and ambassadors of Danish embassies.
- Member of a state-owned company's administrative, managerial, or supervisory body.
- Director General, Vice President, and member of the board or a person with similar functions in an international organisation.

The definition also includes the director of authorities and members of the board in authorities where the group of people have a decision-making authority.

This includes persons who are recommended, appointed, or employed by the government, a ministry, or a minister in an international organisation, which is established by signing of a formal international political agreement.

Both domestic and foreign PEPs, family members and close associates are covered by the Anti-Money Laundering Act.

### 6.7.2 The Danish FSA's list of domestic politically exposed persons

The Danish FSA administers, maintains, and publishes a list of domestic politically exposed persons. A link to the list is available on the Danish Gambling Authority's website under the section "Prevention of money laundering".

The list includes information on name, date of birth, and job title. The list does not include information on family members to PEPs or close associates to domestic PEPs.

The list is based on information that is provided to the Danish FSA. The regulation obliges the companies, authorities, and organisations which have an employer relation to a PEP to submit information on names and to submit when changes occur.

Please note that the list is a tool, but that the gambling operator may need to obtain information elsewhere, for example in cases of domestic PEPs, family members, and close associates of PEPs.

### **6.7.3 Family members to a politically exposed person**

A family member to a politically exposed person is defined as the PEP's

- spouse, civil partner, or cohabitant,
- parents and their spouses, civil partners, or cohabitants,
- children and their spouses, civil partners, or cohabitants,

Thus, the term does not include for example siblings or stepchildren or stepparents.

Family members must be identified as they can benefit from the close relation to the politically exposed person or be abused as a consequence of this relation.

Gambling operators must treat family members according to the same rules as PEPs. It should be noted that a family member must be treated according to the same rules that apply to other customers if the PEP's status as PEP ceases. In this case, family members will only be subjected to enhanced customer due diligence measures if the gambling operator has reason to believe that the family member of a former PEP belongs to the high-risk category.

### **6.7.4 Close associate to a politically exposed person**

A close associate to a politically exposed person is defined as a physical person who

- is the beneficial owner of an undertaking or another legal entity along with one or more PEPs,
- in other ways has a close business relationship with one or more PEPs for example as a trading partner over a longer period of time,
- is the sole beneficial owner of an undertaking or another legal entity, which is exclusively created for the benefit of a PEP.

Gambling operators must treat close associates according to the same rules as PEPs. It should be noted that a close associate must be treated according to the same rules that apply to other customers if the PEP's status as PEP ceases. In this case, close associates will only be subjected to enhanced customer due diligence measures if the gambling operator has reason to believe that the close associates of a former PEP belongs to the high-risk category.

### **6.7.5 Enhanced customer due diligence measures**

Gambling operators must have procedures to determine whether a player is a PEP. This especially applies when establishing a business relationship or if the extent of the relationship changes, but also when carrying out a one-time transaction if the gambling operator becomes aware of the PEP's identity in this connection. For example, this is the case if the PEP collects a prize equivalent to 2,000 euros or more on a bet placed in the land-based sector and as a result of this, customer due diligence measures must be applied according to section 10 no. 3 of the Anti-Money Laundering Act.

By the establishment of a business relationship is meant the opening of an account, monthly, or annual pass for a land-based casino as well as loyalty cards with or without the option of having winnings transferred to a bank account since in the cases mentioned, the customer relationship must be established to be of a certain duration. Land-based casinos must always screen for PEP status regardless of whether the customer is a business relation or an occasional customer.

#### 6.7.5.1 Risk assessment

When a player is identified as a PEP, the gambling operator must obtain information about the player based on a risk assessment. Although the level of the customer due diligence and e.g., monitoring of the customer relationship must be considered an aggravating factor compared to "regular" players, the gambling operator is allowed a flexibility.

The PEP themselves will usually be the primary source of information, but it is possible and sometimes necessary to obtain information from other sources.

The gambling operator must have procedures in place which ensure that the assessment of whether a player is a PEP is made when the customer relationship is established or extended. In this connection, the gambling operator must observe the following:

1. Find out whether a player is a PEP, for example by consulting the Danish FSA's list of domestic PEPs. For foreign PEPs, this can be done by searching the internet or subscribing to services that provide this service.
2. The gambling operator must take reasonable measures to identify players who may be family members or close associates to a PEP, for example by consulting the PEP.
3. The gambling operator must take reasonable measures to determine whether a player is a foreign PEP.

#### Reasonable measures

By "reasonable measures" is meant for instance the following measures, since it is up to the gambling operator in the specific case to assess what is sufficient to meet the requirements of the Anti-Money Laundering Act:

- The gambling operator obtains information from the PEP in question.
- The gambling operator uses the information about the player, which is already available in the gambling operator's systems.
- The gambling operator uses the external sources available, for example internet and news media.
- The operator subscribes to one or more of the services that offer information about PEPs, family members to PEPs or close associates to PEPs.
- The gambling operator actively verifies information of which it may be unsure, for example by asking the relevant customers.
- As for foreign PEPs, the gambling operator considers working with locals, for example lawyers, bank connections, etc. in the country in question to clarify whether the player is a PEP.

With regard to the PEP, the gambling operator must also investigate the source of funds and establish a risk assessment based on the customer relationship attempted established by the PEP. In case the gambling operator has a thorough knowledge of the PEP's financial situation, for example due to a long-term customer relationship, the gambling operator will, based on a risk assessment, be able to decide that the knowledge possessed by the gambling operator is sufficient to determine the source of funds and financial assets that are covered by the business relationship.

Enhanced monitoring of a PEP, their family members and close associates is required. This appears from the Anti-Money Laundering Act section 18(4). The gambling operator is



responsible for having business procedures to determine whether a customer is a PEP, a family member or a close associate of a PEP.

Categorisation of a PEP must be done in the same way that other customers are categorised, which is why it must be assessed whether the individual PEP, their family members or close associates pose an increased risk in relation to money laundering. In principle, persons with PEP status will be categorised as a high-risk, but knowledge of the customer may mean that the customer in spite of their PEP status will be placed in another risk category. Persons with PEP status can be placed in the same risk category as other high-risk customers, though they may not necessarily have a PEP status.

Based on this, gambling operators must ensure that a risk assessment taking this aspect into account is prepared. The enhanced monitoring must continue until it is assessed that the player no longer poses an increased risk of money laundering and corruption and thereby no longer must be placed in the high-risk category. This applies to national as well as foreign PEPs.

# **Assistance from third parties and outsourcing**

# 7

## 7.1 Assistance from third parties

### Section 22 of the Anti-Money Laundering Act

Gambling operators may choose to entrust a third party with fulfilling Anti-Money Laundering Act's requirements for the application of customer due diligence measures by obtaining information about the players who are registered as customers at the gambling operator.

It is the one who establishes the customer relationship – that is the gambling operator – who is responsible for ensuring that the rules and obligations of the Anti-Money Laundering Act are complied with. The information that can be left to a third party to obtain is limited to information pursuant to section 11(1) nos. 1-4 of the Anti-Money Laundering Act. The gambling operator must therefore obtain information itself to supplement those provided by the third party and in addition to this apply other relevant stricter measures. A third party can assist with the information about whether a player is a politically exposed person. See sections 17-18 of the Anti-Money Laundering Act.

The identity information that as a minimum must be obtained is the customer's

1. name and
2. social security number (or equivalent if the customer does not have a social security number).

In case a customer does not have a social security number or an equivalent, information about the customer's date of birth must be obtained.

As a rule, the customer must provide the information him/herself. When providing gambling, it is not sufficient that the customer exclusively provides his/her social security number, and the gambling operator must subsequently obtain a name in the Danish Civil Registration System.

#### 7.1.1 The conditions for using assistance for obtaining information

The option of using assistance from a third party to obtain information requires one of the following conditions below be met:

1. The third party can assist with information if the third party is covered by the Anti-Money Laundering Act section 1(1). This means that a gambling operator may choose to obtain information about the player from another undertaking or person covered by the Act if said undertaking has already applied customer due diligence measures to the customer. It is not required that the undertaking must be of the same type, i.e., the gambling operator can base its knowledge about a customer's identity on information obtained from e.g. a bank.
2. Moreover, a gambling operator can make use of assistance from a third party to comply with the customer due diligence requirements if the third party is established in an EU/EEA state or another state, which is subject to requirements for combating money laundering and financing of terrorism equivalent to the requirements following from the 4th Anti-Money Laundering Directive. It is a condition that the third party, which provides the information is subject to requirements on customer due diligence and record-keeping of information equivalent to the requirements of the 4th Anti-Money Laundering Directive and is subject to supervision of compliance with the rules. A gambling operator cannot make use of assistance from a third party established in a country, which is listed on the European Commission's list of countries where a high risk of money laundering is assessed to be present. If a gambling operator chooses to rely on information obtained by a third party established in a country outside the EU, the gambling

operator is responsible for assessing whether the third party is subject to customer due diligence requirements etc. equivalent to the requirements of the Act.

3. Finally, a gambling operator can leave it to a third party to comply with the customer due diligence requirements if information is made available by a member organisation or the consolidation is subject to rules on preventive measures against money laundering and financing of terrorism before the information obtained is considered valid.

#### 7.1.2 Other requirements when making use of assistance

If a gambling operator makes use of a third party to obtain information, the third party is obliged, upon request, to immediately provide a copy of the identity and verification information about the customer and other relevant documentation to the gambling operator. It may be necessary that other information, including information about the scope of gambling activity and specified types of games automatically be sent to the gambling operator in order for the information to be included in the gambling operator's risk assessment or monitoring of the player.

If a gambling operator makes use of assistance from a third party, the gambling operator must obtain adequate information about the third party to assume that the third party complies with the requirements for customer due diligence measures and record-keeping of information. The gambling operator can comply with this requirement by asking the third party to account for the procedures implemented and met by the third party to comply with the requirements of the law.

#### 7.1.3 Groups

## Section 23 of the Anti-Money Laundering Act

Gambling operators that are part of a group may leave it to another unit of the group to comply with the requirements of the customer due diligence measures. Thus, consolidated gambling companies have the option to get assistance from each other in relation to obtaining identity information and the control hereof. However, it is required that the group applies customer due diligence measures, rules on record-keeping of information, and programs for combating money laundering and financing of terrorism in accordance with the requirements of the 4th Anti-Money Laundering Directive. In addition to this, it is required that the requirements are supervised at a group level by an authority.

#### Processing personal data

Processing of personal data in connection with the use of third parties must be carried out in accordance with the rules of the general data protection legislation

## 7.2 Outsourcing

## Section 24 of the Anti-Money Laundering Act

A gambling operator may choose to outsource tasks to another undertaking (hereinafter referred to as the supplier) for the purpose of complying with the requirements of the Anti-Money Laundering Act. It may be tasks such as:

- Obtaining identity and control information to be used for the gambling operator's customer due diligence measures
- Record-keeping of information
- Notifications

When an outsourcing agreement has been entered into, the supplier is considered a part of the gambling operator's undertaking. Therefore, the gambling operator is also responsible for ensuring that the supplier complies with the procedures for combating money laundering and financing of terrorism.

### **7.2.1 Which tasks may be outsourced?**

As a rule, all obligations following from the Anti-Money Laundering Act can be outsourced – however, not the responsibility. The responsibility always lies with the gambling operator and means that the operator always assumes full responsibility for the obligations of the gambling operator following from the Anti-Money Laundering Act and other EU law or data protection law. In relation to the data protection requirements, it is noted that a data processing agreement between the gambling operator and the supplier must be entered into. Please see the Danish Data Protection Agency's guidances, which are available on [www.datatilsynet.dk](http://www.datatilsynet.dk).

### **7.2.2 Conditions for outsourcing**

There are certain requirements that must be met before a contract on outsourcing can be made.

Thus, the gambling operator must be sure that

- the supplier has the necessary ability and capacity to manage the task in a satisfactory way, and
- the supplier holds the necessary authorisation(s).

Therefore, the supplier must have relevant and professional knowledge of the task and the necessary resources to solve the task. Moreover, if the supplier is not established in Denmark, it must hold the required authorisations for companies of this type, just as the gambling operator must be ascertained that the supplier has the necessary knowledge of the Danish anti-money laundering legislation.

### **7.2.3 Control**

The gambling operator must carry out an ongoing control of the supplier to ensure that it meets the obligations that follow from the agreement between the parties and that the agreement on outsourcing remains justifiable.

### **7.2.4 Retailer of land-based betting**

When a gambling operator provides land-based betting via a retailer, the retailer is considered a supplier, and, on this basis, a contract on outsourcing and a data processing

agreement must be entered into with the retailer in question to ensure that the retailer is familiar with the requirements of the Anti-Money Laundering Act and the data protection legislation.

Thus, it is the retailer who meets the customer at the gambling premises and who must apply customer due diligence measures in cases of, for example, any suspicion of money laundering or where a player pays a stake or wins a prize that amounts to at least 2,000 euros or both. The gambling operator must instruct the retailer and its employees in how to solve the outsourced tasks.

# Obligation to investigate, register, and report

8

## 8.1 Obligation to investigate

### Section 25(1) of the Anti-Money Laundering Act

Gambling operators covered by the Anti-Money Laundering Act must investigate the background to and purpose of all transactions that

- 1) are complex
  - a) does the transaction involve more parties or jurisdictions or
  - b) does the transaction enable the player to receive payments from an unknown third party.
- 2) are unusually large
  - a) based on the knowledge of the specific customer and the customer's transaction patterns and product portfolio.
- 3) occur in an unusual pattern or
  - a) based on the player's or the type of player's usual gambling pattern.
- 4) do not have an obvious economic or legal purpose.

If simply one of the above conditions are met, the gambling operator must initiate an investigation to examine the background and purpose of the transaction. Gambling operators must, in relevant cases, expand the supervision of the customer to determine whether the transactions or activities appear suspicious cf. section 25(2) of the Anti-Money Laundering Act. For more information, see section 8.1.2.

The gambling operator must have procedures that enables them to identify the above transactions. In practice, this also means that it is the gambling operator, which must define what is meant by all complex and unusually large transactions as well as all unusual transaction patterns and activities that do not have an obvious economic or legal purpose in their context. Thus, it is not sufficient to simply state that investigations of unusual transactions are made. The gambling operator's knowledge of a player's behaviour can also help to reinforce a suspicion if any unusual activities take place in relation to the player's account. For example, it may be that a player goes from just playing on gaming machines to only betting. This is a case of a change of the player's behaviour, and it should be investigated by the gambling operator what has caused this change. An unusual activity may also occur if the player calls the gambling operator's customer service and asks to have future winnings deposited in another bank account than previously used.

If the gambling operator, solely on the basis of the player's behaviour, cannot disprove a suspicion, a notification can occur even though the gambling operator does not perform an investigation.

#### 8.1.1 Of what does the investigation consist?

The basis of an investigation of a player will be to compare the information the gambling operator holds on the customer (information on the purpose of the business relationship and the scope hereof) with the suspicious factor. The gambling operator must not prove that money laundering or financing of terrorism has taken place but is solely obligated to investigate a suspicious factor and then respond by notifying the Money Laundering Secretariat if the suspicion cannot be disproved.

The gambling operator may search various search engines and reference works to see if the suspicion can be disproved. It may, for example, be social media, housing sites, Stats-tidende, virk.dk or similar.



Moreover, the gambling operator can contact the player to obtain information on the purpose of the transaction/activity. The player's explanation will in many cases not be sufficient to disprove a suspicion. It may therefore be relevant to ask the customer to provide documentation to substantiate the explanation. This can be done by asking the player to document the information by for example showing/submitting a copy of payslips from an employment. In some cases, the gambling operator will, based on its knowledge of the customer, be able to disprove a suspicion itself if, for example, an employee at a land-based casino establishes that an unusually large transaction is made by a known poker player, but the employee knows that the poker player has just won a major poker tournament so that the large transaction can be explained because of the poker tournament prize.

If the suspicion is dismissed, the operator is not obliged to make a notification. But it is not adequate if the suspicion is only weakened.

If the gambling operator assesses that a request would alert the player of the gambling operator's suspicion and indicate that an investigation is made, or if the gambling operator does not want to contact the player about the case, the operator must notify the Money Laundering Secretariat if a suspicion cannot be disproved in any other way.

If the suspicion cannot be disproved by an investigation, the gambling operator's management and employees, who are concerned with actual gambling activity, are obligated to notify the Money Laundering Secretariat immediately.

### **8.1.2 Enhanced monitoring**

Gambling operators must, in relevant cases, enhance the monitoring of the customer with the purpose of determining whether the transactions or the activities appear suspicious, cf. section 25(2) of the Anti-Money Laundering Act.

Thus, the gambling operator is responsible for assessing, based on the risk, whether an enhanced supervision of the player should be implemented, for instance if the Money Laundering Secretariat has been notified.

Enhanced monitoring may, among other things, include that the operator sets a lower threshold value for when the monitoring of the customer should set the warning bells ringing. It would also be relevant to note a change of behaviour on the player's profile and that this has caused the application of enhanced customer due diligence measures so that the employees are aware of the customer. In addition to this, the gambling operator may choose to check the player's transaction often to see if changes of behaviour, transactions, or activities have occurred.

## **8.2 Obligation to register**

### **Section 25(3) of the Anti-Money Laundering Act**

The obligation to register information includes factual information about the customer and the transaction or activity and a conclusion of what the investigation ended with. The registration must be adequate to refresh one's memory and give others an understanding of the case and its scope. The starting point will often be the customer's own explanation of the purpose of the transaction or the activity, documentation for the customer's explanation, possibly compared with explanations obtained from other employees, who are in contact with or engaged in tasks relating to the customer.

The obligation to register both include

1. investigations that lead to a report to the Money Laundering Secretariat, and
2. investigations that result in a disproof of the suspicion by which a report is not submitted to the Money Laundering Secretariat.

The obligation to register does not include the cases where a mechanical monitoring system generates so called false positives by which is meant »hits«, where it is reasonable to take the view that these do not give indications on specifically suspicious single issues.

### 8.2.1 Limitation of the right of access

The registered person has no right of access to personal data, which is or will be processed in connection with investigation regarding a suspicion of money laundering or financing of terrorism. This means that the player cannot obtain information about ongoing or already finished investigations. This follows from section 25(4) of the Anti-Money Laundering Act.

## 8.3 Obligation to report

# Section 26 of the Anti-Money Laundering Act

### 8.3.1 Obligation to report

The gambling operator is obligated to report to the Money Laundering Secretariat if the operator suspects or there are reasonable grounds to believe that a transaction, funds, or an activity is or has been linked to money laundering or financing of terrorism. The report must be made immediately, and this also requires that the gambling operator must notify the Money Laundering Secretariat as soon as the internal processes are finished. If the suspicion cannot be disproved, a report must thus be made. In addition, it is a condition that the gambling operator prioritises the processing of the suspicious transaction or activity so that the investigation is not delayed.

The obligation to report also applies to the cases where a possible customer is refused upon the opening of an account due to a suspicion of money laundering or financing of terrorism, just as an attempt of a transaction, which is not completed also calls for an obligation to report if the gambling operator assesses that it gives rise to a suspicion.

It should be noted that a report is not the same as a report to the police.

As a supervisory authority, the Danish Gambling Authority is also obligated to report about factors that may be linked to money laundering or financing of terrorism. This follows from section 28 of the Anti-Money Laundering Act.

### 8.3.2 Types of reports

Among other things, the three types of reports below can be made to the Money Laundering Secretariat.

- **STR** (suspicious transaction report): Report on possible money laundering of transaction between under-takings or persons, cash withdrawals or cash deposits.

- **SAR** (suspicious activity report): Report on suspicious activity or behaviour.
- **TFR** (terror financing report): Report on possible financing of terrorism.

### 8.3.3 How to submit a report

An executive order on formal requirements for the submission of reports etc. to the Money Laundering Secretariat has been issued.

Executive Order no. 1403 of 1 December 2017 on the submission of reports etc. to the State Prosecutor for Serious Economic and International Crime.

Among other things, it appears from the Executive Order that reports must be submitted digitally via [www.hvidvask.dk](http://www.hvidvask.dk). The report must include various information and must be in an XML format.

The gambling operator must check whether the report is accepted or rejected prior to the expiry of the following banking day.

For more information on reports and the requirements for the XML format, please see the Money Laundering Secretariat's user guides on [www.hvidvask.dk](http://www.hvidvask.dk).

### 8.3.4 Limitation of the right of access

A registered person has no right of access to the personal data relating to him/her, and which is or will be processed in connection with a report. Moreover, a registered person has no right of access to the consideration on whether a report should be made. This follows from section 26(7) of the Anti-Money Laundering Act.

### 8.3.5 Suspension of transactions

It is important to distinguish between whether a gambling operator submits a report based on knowledge of, suspicion of, or a reasonable belief that a transaction is linked to money laundering or financing of terrorism.

#### **Money laundering**

Regarding reports on money laundering, the gambling operator must refrain from completing a transaction before a report is submitted to the Money Laundering Secretariat. Subsequently, the transaction can be completed.

In some situations, it may be necessary to complete a transaction before reporting to the Money Laundering Secretariat. For example, if failure to complete a transaction would harm the investigation, or if a delay of a transaction or activity could pose a risk of causing the person who attempts to launder money to be suspicious. Subsequently, a report must be submitted to the Money Laundering Secretariat.

In some cases, for example in case of instant payments, the transaction is completed before gambling operators become aware of or suspect that a transaction may be linked to money laundering. In this way, the gambling operator must enhance the monitoring of the player if subsequent investigations of a transaction are made.

An amendment of the Anti-Money Laundering Act of 28 December 2021 introduced a new subsection 4 of section 26. Subsection 4 states that businesses and persons must refrain

from completing transactions until a report under subsection 1 has been made, and they have obtained an approval from the Money Laundering Secretariat if they know of, suspect or have reason to believe that the transaction concerns money laundering and is serious or particularly suspicious. In the Executive Order no. 2644 of 28 December 2021, it appears that serious or suspicious transactions shall be construed as transactions of amounts of DKK 1 million or more.

The Money Laundering Secretariat makes a decision on whether the money must be confiscated. The Secretariat makes the decision as soon as possible and no later than the end of the following banking day after receiving the report.

#### **Financing of terrorism**

Regarding reports of financing of terrorism, the gambling operator must refrain from completing a transaction before a report is submitted to the Money Laundering Secretariat. Subsequently, the transaction can be completed.

The Money Laundering Secretariat will, as soon as possible or within expiry of the following banking day at the latest, decide whether the transaction may be completed or if the transaction must be confiscated.

# Record-keeping

9

## Section 30 of the Anti-Money Laundering Act

### 9.1 Requirements for record-keeping

#### 9.1.1 Information obtained in connection with customer due diligence measures

The gambling operator must record information obtained in connection with customer due diligence measures.

The identity information that gambling operators obtain are for example name and social security number. In addition to this, the gambling legislation states a separate requirement for obtaining of the address<sup>7</sup>.

Verification information means the information obtained by the gambling operator for the purpose of verifying that the identity information is correct. If digital signatures with OCES standards or electronic databases have been used in this connection, the gambling operator must record an audit trail to document that the control in question has occurred.

In addition, it is required that a copy of the identification documents that are presented are recorded, for example copies of a passport or a driving licence. Moreover, it often occurs that a copy of a credit card is submitted upon the opening of an account at an online gambling operator. Such an identification document is also covered by the rules on record-keeping.

Information on gambling profile, average deposits in accounts, level of activity, the source of funds, approval of business relationships with politically exposed persons (PEPs) and information obtained to risk-assess the player is also information that must be recorded.

#### 9.1.2 Documentation and registration of transactions

The gambling operator must record documentation and registration of transactions that are conducted as part of a business relationship or as a single transaction. This exclusively applies to information relevant for a specific transaction, which is subject to the record-keeping obligation. For example, in the case of online gambling, documentation of transactions carried out as part of the player's stakes on betting must be kept.

#### 9.1.3 Documents and registrations regarding investigations undertaken in accordance with section 25(1) and (3)

Information, documents, and registration that are obtained as part of the compliance with the obligation to investigate must be registered and recorded. The obligation to register includes that the result of the investigation and the basis for it must appear from the note.

<sup>7</sup> Please note that the requirement for an address is removed from the Executive Order on online casino and the Executive Order on online betting as of 1 July 2022.

#### **9.1.4 For how long must the information be stored?**

The information, documents and registrations must be stored for at least five years after the termination of the business relationship or the completion of the individual transaction.

As for business relationships, it is noted that in case an account is closed, but the same customer creates a new account within five years, the former customer relationship resumes, which is why the information should not be deleted after five years from the termination of the first customer relationship. If documentation of a passport is requested in connection with the first customer relationship, this information can be part of the new customer relationship. However, if the passport has expired, the information should be deleted and be requested again.

It should be noted that personal data must be deleted five years after the termination of the business relationship or the completion of the individual transaction unless otherwise stated in other legislation.

#### **9.1.5 Disclosure upon request from the Money Laundering Secretariat or other competent national authorities**

Information, documents, and registrations must be disclosed when the Money Laundering Secretariat or other competent national authorities addresses gambling operators to know whether they have or in the five years prior to the enquiry have had business relationships to more specified persons and in what these connections consist or have consisted. The disclosure must occur via a secure channel that ensures complete confidentiality of the investigations. It should be noted that the rules in the Administration of Justice Act apply in parallel to the above.

#### **9.1.6 Other sets of rules**

It is noted that the executive orders on online casino, online betting and land-based casino also require record-keeping of certain information. These rules must be complied with in the same way as the Anti-Money Laundering Act's rules on record-keeping. There may be an overlap in the record-keeping obligation, but it is important to stress that the reason behind the requirements for record-keeping is different depending on the set of rules applied. In the Executive Order on land-based casino there is, apart from the rules of the Anti-Money Laundering Act, a requirement on video registration and video recording.

In the executive orders on online casino, online betting, and land-based casino it is also required that upon expiry of the gambling operator's undertaking, the latest acting management must see to it that identity and verification information as well as documents and registrations regarding the players' transactions continues to be recorded.

**Whistleblower pro-  
gramme, employees,  
and obligation to report**

**10**



## 10.1 Whistleblower programme

### Section 35 of the Anti-Money Laundering Act

Gambling operators must establish a whistleblower programme that allows their employees to report violation or potential violations of the money laundering legislation committed by the undertaking, including employees or members of the board, via a separate, independent, and autonomous channel. All reports must be able to be submitted anonymously.

The requirement on a whistleblower programme applies to all undertakings that employ more than five employees. The programme must be established no later than three months after the employment of the sixth employee. All employees with an employment contract from the gambling operator must be counted in the number of employees at the operator.

If the gambling operator already has a whistleblower programme as a result of other legislation, this programme may also cover reports according to the Anti-Money Laundering Act. However, it must be possible for the employee to report anonymously regardless of whether it is required by the legislation as a result of which the existing programme is established.

Similarly, the whistleblower programme may be outsourced to an external supplier or be established via a collective agreement, for example by establishing a programme in a trade union to which all employees of gambling operators can report.

As a supervisory authority, the Danish Gambling Authority also has a whistleblower programme, to which employees of gambling operators can report violations or potential violations of the Anti-Money laundering Act. It is available on the Danish Gambling Authority's website under the menu "Contact". The programme offers an option of two-way communication, communication by telephone or scheduling a meeting in person. Please note that the Danish Gambling Authority's whistleblower programme cannot replace the gambling operator's obligation to establish a whistleblower programme. Thereby, it only functions as a supplement. For more information on the Danish Gambling Authority's duty of confidentiality in relation to receiving reports, please see section 11 on duty of confidentiality.

#### 10.1.1 Independent and autonomous

The fact that the programme must be independent and autonomous means that it must be independent of the day-to-day management and that the reports must be able to be made outside the usual procedures.

#### 10.1.2 Anonymity

It may be difficult for an employee to decide to report a violation to the gambling operator if this cannot be made anonymously. Therefore, it is a requirement that complete confidentiality can be guaranteed. This may for example take place through an online contact form from where reports can be submitted without stating contact information and without the option of tracing the computer's IP-address or similar. Not everyone should have access to the reports, only the unit that processes the reports should have access.

### 10.1.3 Exemption

If the gambling operator has less than five employees there is no requirement for a whistleblower programme. For employees of gambling operators with fewer than five employees, it is thus possible to report to the Danish Gambling Authority's whistleblower programme, which is available on the Danish Gambling Authority's website under the menu "Contact".

Moreover, the Danish Gambling Authority can grant an exemption from the requirement if it is assessed that it would be pointless to establish a whistleblower programme. This may be the case if the undertaking only for a limited period of time employs more than five employees, or if the undertaking is in liquidation.

### 10.1.4 Documentation

Gambling operators must follow up on reports to the programme and be able to document in writing how the reports are followed up on.

As a supervisory authority, the Danish Gambling Authority will be able to request to see the written documentation, which is recorded. As a minimum, the information must include what the report is about, documentation on how the report has been processed, and which decisions that have been made as a result of the processing.

Moreover, gambling operators should record relevant email correspondences, internal investigation reports, and other relevant material that document that the gambling provider adequately has followed up on the reports received. The documentation must as a minimum be recorded for five years.

### 10.1.5 The land-based provision

A gambling operator that provides land-based betting should make the operator's whistleblower programme available to retailers and their employees so that they can report violations or potential violations via the gambling operator in question's whistleblower programme. In addition, it will as a supplement be possible for retailers and their employees to report to the Danish Gambling Authority's whistleblower programme, which is available on the Danish Gambling Authority's website under the menu "Contact".

## 10.2 Employees

### Section 36 of the Anti-Money Laundering Act

An employee or a former employee who has reported to the gambling operator's or the Danish Gambling Authority's whistleblower programme must not be subject to adverse treatment or adverse consequences as a result of the report. The same is the case if an employee or former employee states an internal report on the basis of a suspicion or submit a report to the Money Laundering Secretariat on a suspicion of money laundering or financing of terrorism. The same applies to the determination, allocation, and payment of variable salary to employees or former employees.

It should be noted that compliance with section 36 is not subject to the Danish Gambling Authority's general supervision.

### 10.2.1 Compensation

If the employee or former employee experiences being subjected to adverse treatment or adverse consequences after having submitted a report, the employee or former employee may claim a compensation from the gambling provider at the ordinary courts.

## 10.3 Obligation to report

# Section 36a of the Anti-Money Laundering Act

The day-to-day management of the gambling operator must without undue delay report to the senior management body of the undertaking on warnings about money laundering or financing of terrorism received from employees or others, for example foreign authorities or whistleblowers. The same applies to key figures who without undue delay must report to the day-to-day management or the senior management body of the undertaking.

The reporting requirement means that the undertaking's senior management body must be made familiar with all relevant information on the warning, including the content, the sender, (if this information is provided), and under which circumstances the warning was received.

If the report received is obviously unfounded, for example because it regards matters that are not adequately specific or if the report comes from a sender who is not assumed to have insight into the threat of money laundering or financing of terrorism, then reporting to the undertaking's senior management body should not occur, as the report in this way falls outside the warning concept. A decision not to report must be documented.

The undertaking's senior management body must relate to the warning report and on this basis and prompt the necessary and appropriate measures. It may be by stopping a suspicious transaction, notifying the Money Laundering Secretariat, or conduct an internal investigation of suspicious circumstances and as a result hereof change the business procedures of the undertaking.

# Duty of confidentiality

11

The duty of confidentiality applies to various types of information in the Anti-Money Laundering Act, as it is considered information, which may harm an investigation, if it is not subjected to confidentiality.

### 11.1 What information is subjected to confidentiality?

## Section 38(1) of the Anti-Money Laundering Act

Gambling operators are obligated to keep confidential that:

- A report to the Money Laundering Secretariat has been submitted.
- It is considered whether a report must be submitted.
- An investigation is conducted.
- An investigation will be conducted.

Only the above information is covered by the duty of confidentiality. Therefore, it may occur that information about a suspicion is disclosed to other legal units of a group that are not covered by the duty of confidentiality. It may also occur that information is disclosed to other legal units that are not part of the same group, for example if a subcontractor detects a suspicious behavior of a player and subsequently informs the gambling operator of this. Thus, a gambling operator may also inform another gambling operator of the former's suspicion that an employee at the latter has violated the Anti-Money Laundering Act. In all cases, there are data protection rules that must be complied with.

The duty of confidentiality is indefinite, which means that the gambling operator must not disclose to a player that it has submitted a report on the player before, but that the report did not lead to anything.

### 11.2 Exemptions from the duty of confidentiality

## Sections 37 and 38(2) of the Anti-Money Laundering Act

Disclosure of the information below to the Danish Gambling Authority may take place upon request:

- That a report has been submitted to the Money Laundering Secretariat.
- That it is considered whether a report must be submitted.
- That an investigation is conducted.
- That an investigation will be conducted.

Thereby, the exemptions do not entail a general duty of the gambling operator to inform the Danish Gambling Authority of reports, but that the Danish Gambling Authority may request information for the use of the supervisory activities.

In addition, disclosure can be made for law enforcement purposes, which includes prevention, investigation, detection, and prosecution of criminal offences and, moreover, the protection and prevention of threats to the public security.

Furthermore, it is not considered a violation of the duty of confidentiality if a gambling operator in good faith provides reports or information pursuant to the obligation to report of section 26 of the Anti-Money Laundering Act, and thus, it does not impose any form of liability on the gambling operator, its management, or employees.

### 11.3 The Danish Gambling Authority's duty of confidentiality

## Sections 69-69a of the Anti-Money Laundering Act and section 110b (3) of the Administration of Justice Act

#### 11.3.1 Duty of confidentiality on confidential information

The Danish Gambling Authority's employees are obliged to keep secret the confidential information acquired through their supervisory activities. This follows from section 69(1).

The consent of whomever the duty of confidentiality aims to protect does not entitle the employees to disclose confidential information.

##### 11.3.1.1 What is confidential information?

Confidential information is information about the commercial and personal affairs of undertakings and other information that, in view of its nature, is confidential. By this is meant information that directly relates to the circumstances of individual customers or undertakings.

Information, which in view of its nature, is public, for example financial statements, and company announcements is not covered by the duty of confidentiality. The same applies to confidential information that have been published and has become common knowledge.

##### 11.3.1.2 The enhanced duty of confidentiality

The enhanced duty of confidentiality of section 69(1) of the Anti-Money Laundering Act means that it is a criminal offence for employees of the Danish Gambling Authority to disclose confidential information about supervisory activities. Thus, it is not possible to have access to documents that are covered by the enhanced duty of confidentiality. This follows from section 35 of the Access to Public Administration Files Act, since the right of access to documents is limited due to special provisions on the duty of confidentiality in the special legislation.

##### 11.3.1.3 Exemption

However, confidential information may be disclosed to:

1. Supervisory authorities pursuant to the Anti-Money Laundering Act (the Danish FSA, the Danish Business Authority and the Danish Bar and Law Society).
2. Members of a collaborative forum (HvidvaskForum).
3. Other public authorities, including the prosecution service and police in connection with the investigation and prosecution of potential criminal offences covered by the Criminal Code, the Anti-Money Laundering Act, or other supervisory legislation.
4. The relevant minister as part of his/her general supervision.
5. Administrative authorities and courts processing decisions made by the Danish Gambling Authority.
6. The Parliamentary Ombudsman.
7. A parliamentary commission set up by the Danish Parliament.

8. Commissions of inquiry established by law or under the act on commissions of inquiry.
9. The government auditors and the National Audit Office.
10. The bankruptcy court, other authorities involved in the gambling operator's liquidation, bankruptcy, or similar proceedings, curator or persons responsible for the statutory audit of a gambling operator's accounts, provided that the recipients of the information need said information to carry out their tasks.
11. Committees and groups etc. established by the Minister for Industry, Business and Financial Affairs and the Minister for Taxation.
12. Supervisory authorities in other countries within the EU or EEA responsible for supervising the compliance of gambling operators with legislation on preventive measures against money laundering or financing of terrorism, provided that the supervisory authority need said information to fulfil their duties.
13. Supervisory authorities in countries outside the EU or EEA responsible for supervising the compliance of gambling operators with legislation on preventive measures against money laundering or financing of terrorism, provided that the supervisory authority need said information to fulfil their duties.

It should be noted that disclosure of information to foreign authorities covered by item 13 may only take place on the basis of an international collaborative agreement and only if the recipients are subject to a statutory duty of confidentiality equivalent to the duty of confidentiality that applies to the Danish Gambling Authority's employees.

It applies to all recipients of information in items 1-12 that these are subject to a duty of confidentiality equal to the duty of confidentiality that applies to the Danish Gambling Authority's employees.

Any disclosure must take place in accordance with the rules of the general data protection regulation.

### **11.3.2 Duty of confidentiality on information about a person who has submitted a report to the Danish Gambling Authority**

According to section 69a of the Anti-Money Laundering Act, the employees of the Danish Gambling Authority must not disclose information about a person who has reported a gambling operator to the Danish Gambling Authority due to a violation or potential violation of anti-money laundering legislation, for example through the Danish Gambling Authority's whistleblower programme. However, personal data may be disclosed to the above mentioned in section 11.3.1.3 items 1-13, provided that these are subject to a duty of confidentiality equal to the duty of confidentiality that applies to the Danish Gambling Authority's employees.

#### **11.3.2.1 No access to documents for parties**

Section 69a of the Anti-Money Laundering Act is a special rule that enhances the duty of confidentiality in such a way that not even parties defined in section 75 of the Anti-Money Laundering Act will have access to documents about a person when said person has submitted a report of the party's (the gambling operator) violation or potential violation of the money laundering legislation to the Danish Gambling Authority.

Thus, if a party does not have the right of access to documents according to the Public Administration Act, notification according to the Act on Legal Protection with regard to the Administration's Use of Coercive Measures and Duties of Disclosure or right to access according to the general data protection regulation. The Danish Gambling Authority will thus, upon a request of access to documents be obligated to anonymise all information that makes it possible to identify the person who has submitted the report.

#### 11.3.2.2 What is personal data?

Personal data must be understood in accordance with the definition hereof in article 4 no. 1 of the general data protection regulation. Therefore, this covers any type of information about an identified or identifiable natural person that have submitted a report to the Danish Gambling Authority. Thus, section 69a covers, among other things, information about the person's identity or any information that indirectly makes it possible to identify the person. When assessing whether a person is identifiable, all the means that can reasonably be applied to identify the person either by the data controller or by any other person must be considered.

Information that is anonymised in such a way that the person's identity cannot be derived from it, is not covered by the concept of personal data.

#### **11.3.3 Disclosure of information to an operative cooperation forum**

As a supervisory authority, the Danish Gambling Authority can under the Anti-Money Laundering Act regardless of duty of confidentiality stipulated in other legislation (for example section 17 of the Danish Tax Administration Act) disclose information to authorities, businesses, and persons participating in an operative cooperation, cf. section 110b (1) if the information can be significant to the task of preventing or combatting money laundering and terrorist financing or other crimes stipulated under section 110b (8).



**Response options to the  
lack of compliance with  
the Anti-Money Laun-  
dering Act**

**12**

As a supervisory authority, the Danish Gambling Authority can, pursuant to the Anti-Money Laundering Act,

- issue orders,
- give reprimands,
- impose penalty payments and
- refer cases to the police for investigation.

Moreover, the Danish Gambling Authority is obligated to publish certain reactions.

## 12.1 Orders

### Section 66 of the Anti-Money Laundering Act

The Danish Gambling Authority may issue orders to gambling operators for violating the Anti-Money Laundering Act, rules issues pursuant to this, or the European Parliament's and the Council's regulations containing rules on financial sanctions against countries, persons, groups, legal entities or bodies.

The order will include a deadline after which the gambling operator must have met all obligations according to the Act etc. within this deadline.

The Danish Gambling Authority makes use of orders in the cases where the Danish Gambling Authority, hence-forth orders a certain behaviour or action. This may both be in situations where the gambling operators act contrary to the Act or neglect to act, although an action is required by the Act.

An order must be made in situations of serious, repeated, systematic violations or a combination hereof.

Orders are mainly intended for violations of the rules of the Anti-Money Laundering Act on

- risk assessment and risk management,
- customer due diligence measures and
- obligations to investigate, register, report, and record-keeping.

To a limited extent, this may be used in other situations as well.

If a gambling operator fails to comply with an order, it may be punishable by fine. This follows from section 79 of the Anti-Money Laundering Act. Thus, the Danish Gambling Authority will report the gambling operator to the police, which may result in a fine.

#### 12.1.1 Immediate improvements

For uncomplicated and non-significant violations of formal requirements and in cases where the gambling operator acknowledges their mistake in connection with an investigation made by the Danish Gambling Authority, the Danish Gambling Authority may, as an alternative to an order, enter into an oral agreement with the gambling operator on immediate improvements. By this is meant that the gambling operator agrees to correct the mistake in accordance with the Danish Gambling Authority's order. Immediate improvements are thus applied to cases where an order is considered unnecessarily formalistic.

## 12.2 Reprimand

If it is established that a prior violation has been corrected, the Danish Gambling Authority cannot use an order as a supervisory reaction as there are no matters to put right prospectively. Instead, the Danish Gambling Authority can give reprimands, which is a type of order. However, in cases of gross or repeated violations of the law, the matter must be reported to the police.

## 12.3 Police report

### Section 78 of the Anti-Money Laundering Act

Intentional or grossly negligent violation of a number of provisions of the Anti-Money Laundering Act may result in a police report from the Danish Gambling Authority and finally result in a fine unless more severe punishment is prescribed by the provisions of the Criminal Code. The statute of limitations for violations of the money laundering legislation is five years. When deciding upon a fine, the revenue of the undertaking at the time of the violation must be taken into consideration.

## 12.4 Publication

### Section 68 of the Anti-Money Laundering Act

The Danish Gambling Authority is obligated to publish responses pursuant to sections 65(1) and 66 on the Danish Gambling Authority's website as well as decisions to refer cases to the police for investigation.

#### Responses

Responses are defined in the explanatory memoranda to the Anti-Money Laundering Act as all responses decided by the Danish Gambling Authority that are aimed at a party, including all decisions, orders, actions and decisions to report a gambling operator to the police.

#### 12.4.1 What must the publication announcement include?

As a minimum, one must be able to identify the natural person or legal entity and the nature of the violation from the announcement. The decision to refer a case to the police for investigation must only be published as a summary. It must also appear from the announcement if the reaction is referred to the Danish National Tax Tribunal or the court as well as the result hereof. Should a criminal judgement be made or a fine be decided upon, the ruling, fine, or a summary hereof must be published on the Danish Gambling Authority's website. Thus, the Danish Gambling Authority is obligated to update the publication announcement.

#### 12.4.2 Modification and exemption to publication requirements

##### 12.4.2.1 Modification

The publication of a natural person's name may only take place in case of the person's gross, repeated, or systematic violation of a number of the provisions of the Anti-Money

Laundering Act. By this is meant e.g., failure to apply customer due diligence measures, which is a fundamental requirement in order to comply with all other obligations that follow from the Anti-Money Laundering Act, or lack of record-keeping of information about customers or transactions, which is a condition for enabling an investigation of a criminal offence.

#### 12.4.2.2 Exemption

A publication cannot take place if it will cause disproportionate damage to the gambling operator, or, for the purposes of investigation, a publication is spoken against. However, in these cases, a publication must take place when the considerations that gave grounds for the exemption are no longer valid.

#### 12.4.3 When must the publication take place?

The Danish Gambling Authority publishes responses two working days after the decision or the decision on announcing the response has been made. This provides the gambling operator with the opportunity to prepare for the publication.

#### 12.4.4 When must the announcement be removed?

Published responses must be removed from the Danish Gambling Authority's website after five years. However, personal data must only remain on the website for the time necessary in accordance with the general data protection rules in force.

Similarly, the Danish Gambling Authority is responsible for removing all information about the decision to refer the case to the police for investigation in case of dismissal of actions or charges, or acquittal.

If a report has been filed to the police and a decision to do this has been published, the Danish Gambling Authority must publish information about dismissal of actions or charges, or acquittal upon request from the gambling operator.

### 12.5 Penalty payments

## Section 80(4) of the Anti-Money Laundering Act

If a gambling operator omits to provide the Danish Gambling Authority with the information necessary for the authority's supervision, the Danish Gambling Authority may, as a coercive measure, impose penalty payments on the gambling operator. Penalty payments are imposed by administrative decision, but following the police decision, an alternative sentence may be ordered in case of failure to pay the penalty fine.

The Danish Gambling Authority cannot impose penalty fines if there is a concrete suspicion that the gambling operator has committed a criminal offence. This follows from section 10 of the Act on Legal Protection with regard to the Administration's Use of Coercive Measures and Duties of Disclosure.

### 12.6 Right of appeal

## Section 77 of the Anti-Money Laundering Act

Complaints against the Danish Gambling Authority's decisions may be appealed to the Danish National Tax Tribunal. The part with the right to appeal is the part, which the decision is directed against, in practice this means the gambling operator, who has received a decision from the Danish Gambling Authority.

Complaints against decisions must be filed no later than three months after the claimant has received the decision about which is complained. If the claimant, contrary to expectation, has not received the decision, the complaint must be filed no later than four months after the decision, about which is complained, is sent from the Danish Gambling Authority, which has made the decision.

The decisions which may be appealed are decisions on

- issuing orders and
- reprimands.

The Danish Gambling Authority's decision on referring a case to the police for investigation is a procedural decision that cannot be appealed.

Additionally, the Danish Gambling Authority's publication of a response on the Danish Gambling Authority's website cannot be appealed.

Furthermore, part 11 of the Act on Gambling on judicial review applies, which means that the Danish Gambling Authority's decisions in relation to the money laundering legislation must be brought before the court no later than three months after the decision is made. In cases where the gambling operator has appealed to the Danish National Tax Tribunal and after this wants to bring a case before the court, the deadline is three months after the Danish National Tax Tribunal's decision is made.

