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IMGL learning continues apace

Notwithstanding the unusual summer weather in the United States, the IMGL Spring Conference in Turnberry Isle, Miami, Florida held on May 10-12, was another outstanding IMGL conference. I would like to thank the co-chairs of the conference, Marc Dunbar and Dan Wallach for their efforts in not only putting together a first class program but also in selecting an outstanding venue – the Turnberry Isle Resort. After the conference, Marc Dunbar also arranged a side trip to the Gulfstream Racetrack for a day at the races. I would also like to thank our keynote speakers Jim Allen, chairman, president and CEO of Seminole Hard Rock Entertainment, Inc. and James Maida, president of CEO Gaming Laboratories International, LLC for their engaging and thought provoking remarks.

In early June, IMGL provided Masterclass panels at the summer meeting of the National Council of Legislators from Gaming States (“NCLGS”) held in Denver, Colorado. IMGL will once again be working with the Spectrum Gaming Group to develop panels for the NCLGS Winter Conference which will be held in Miami January 5-7, 2018.

One of the highlights of each year is the IMGL reception at G2E in Las Vegas and the presentation of “2017 IMGL Regulator of the Year Awards” for both North America and Indian County. This year’s Regulator of the Year – North America award is Ronnie Jones, chairman of the Louisiana Gaming Control Board. Congratulations, Ronnie.

This year’s Regulator of the Year – Indian County award will actually have two (2) recipients: David Vialpando, chairman of the Santa Ysabel Tribal Gaming Commission in California and Terry Hale, Chief Gaming Regulator of the Seminole Nation Gaming Authority in Oklahoma. The awards are based not only upon a recipient’s work as a regulator but also on his/her contribution to the gaming industry and a demonstration of service to the community. Congratulations David and Terry.

The IMGL Masterclasses continue to be popular and IMGL speakers are sought after in connection with gaming conferences throughout the world. The following is a list of Masterclasses scheduled for the rest of the year:

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<td>KPMG – eGaming Summit, Isle of Man</td>
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<td>September 13-15</td>
<td>Betting on Sports – London</td>
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<td>Malta iGaming Seminar (MIGS) Conference – Malta</td>
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<td>October 31-</td>
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<td>November 1</td>
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<td>November 21-22</td>
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The IMGL Fall Conference is being held in Copenhagen, Denmark, on September 10-12 at the Copenhagen Marriott Hotel. The conference will include, but not be limited to, presentations on (1) the latest Anti-Money Laundering Directive and how it is impacting the gambling sector throughout Europe; (2) the impact of the United States Supreme Court’s upcoming hearing on New Jersey’s challenge of the restrictions placed upon sports betting imposed by the Professional and Amateur Sports Protection Act; (3) an update on the latest trends and developments in Europe; and (4) a CEO panel which will discuss the future of the gaming industry in light of the expansion of land-based casinos, growth of Internet gaming, the rise of eSports and the growth of lotteries and skill games.

Another highlight of the Copenhagen conference will be the presentation of the 2017 IMGL Regulator of the Year – Europe. This year’s Regulator of the Year – Europe will be Birgitte Sand, CEO of the Danish Gambling Authority. Birgitte has been in her current position since 2008 and is a member of the board of trustees of the International Association of Gaming Regulators. Birgitte has also been instrumental in the planning of the IMGL Copenhagen conference. Congratulations, Birgitte.

I look forward to seeing you in Denmark. Details regarding the Copenhagen conference and registration can be accessed on the IMGL website at imgl.org.
Dear Readers

Welcome to the Autumn 2017 issue of Asian Gaming Lawyer, a publication of the International Masters of Gaming Law, which, as usual, covers a broad range of legal topics and jurisdictions. We are seeing rapid change in gaming law in Asia. In this issue we have articles concerning India’s skill gaming legislation, Kinmen’s casino referendum in Taiwan, an update on the Japan integrated resort process, Asian bookmakers and regulation and my own contribution regarding the future of gaming concessions in Macau.

Asian Gaming Lawyer welcomes contributions relating to all legal, regulatory and compliance aspects of the gaming industry in Asian jurisdictions. This includes of course the core areas of games of chance, lotteries and betting, both land-based and online. It likewise comprises new regulatory processes and also ‘border problems’, such as the frontier with games of skill, which is discussed in a piece by Jay Sayta on India. Another aspect of interest is the regulatory linkages between Asian gaming jurisdictions and jurisdictions in other parts of the world, which are addressed in this issue by Fred Gushin on money laundering problems (linking with US law).

Asian Gaming Lawyer is also open to discussions on fundamental legal concepts and the history and recent evolution of gaming law in Asia. There is no need to concentrate on the latest legal regional developments as long as the texts meet the publication’s standards of originality and quality.

IMGL wishes to thank the autumn conference co-chairs, committee members, the moderators, and the panelists for the contribution of their time and efforts in putting together the excellent educational opportunities IMGL is proud to provide at the Autumn 2017 conference.
What will Integrated Resorts bring to Japan?

IR is coming to town. “You better watch out. You better not cry. Better not pout. I’m telling you why. IR is coming to town.”

It is no secret that things take time in Japan, particularly in government. The introduction of integrated resorts (IRs) in Japan is no exception. This might not be widely known, but Japan began the discussion of legalizing casino gaming in some form back in 1999, six years earlier than Lee Hsien Loong, the Prime Minister of Singapore, and his cabinet, decided in 2005 to develop two IRs in Marina South and Sentosa Island. The original idea promoted by then-Tokyo Governor Shintaro Ishihara was to develop a traditional casino, not an IR, on an empty plot of reclaimed land off Tokyo Bay in an area called “Odaiba”. The Tokyo Metropolitan Government was facing a serious budget deficit at that time (and still is now) and Mr. Ishihara with his “Odaiba Casino Vision” was viewed as a potential savior in overcoming the financial difficulty. The Odaiba casino vision, however,
could not manage enough political support, not only from the central government, but also from the general public. Mr. Ishihara officially abandoned the idea in 2003.

The very next year, a city-state roughly 5,000 kilometers southwest of Japan, issued a request-for-concept (RFC), inviting major IR operators to submit their proposals to the Singapore government. After a fierce competition for the limited number of IR licenses, Marina South was awarded to Las Vegas Sands and Sentosa Island was awarded to Genting International, each in 2006. Marina Bay Sands held the official grand opening in June 2010, and Resort World Sentosa did so in December 2012.

Ishihara’s Odaiba Casino Vision, however, did not die. It instead lay in wait for the right conditions. When Shinzo Abe and his Liberal Democratic Party (LDP) took power again in the general election in December 2012, IRs, not casinos generally, became one of his major policies together with the Trans-Pacific Partnership and the 2020 Tokyo Olympic Games. Abe and the LDP also received somewhat unexpected local support from Osaka. Former Osaka Governor and former Osaka Mayor Toru Hashimoto supported Abe’s IR vision and was actively promoting IRs to occupy, again, empty reclaimed land, this time off Osaka Bay in a location called Yumeshima. The LDP and the Japan Restoration Party, headed by Mr. Hashimoto, jointly submitted the IR Promotion Bill to the Diet in December 2013. After several recesses and resumptions at the Diet, the IR Promotion Bill was finally enacted in December 2016. The Japanese government is now drafting the IR Implementation Bill, which is expected to be submitted to the Diet in late 2017 or early 2018. Since Ishihara announced his Odaiba casino vision in 1999, an additional 17 years passed before Japan decided to seek out Santa Claus with his big white bag full of money. The Christmas present is, however, still somewhere in the night sky with only a faint outline of its contents, yet glimmering with high expectations.

A big present

Then, what is Santa Claus’s present for Japan after 17 years in waiting? What is it worth? Is it big?

Yes, it is likely valuable and a big - very big present. For example, Osaka Prefecture estimated that the economic impact of an IR in Yumeshima would be approximately JPY 1.33 trillion ($115.5 billion) by 2030, and JPY 630 billion ($56 billion) annually going forward (The Nihon Keizai Shinbun, January 19, 2017, print edition). In Yokohama, another candidate city for a Japanese IR, the expected economic impact would be somewhere between JPY560 billion ($5 billion) and JPY671 billion ($6 billion), according to The Yokohama Chamber of Commerce & Industry (The Nihon Keizai Shinbun, November 25, 2016, print edition). Tokyo is silent at this stage on whether or not it will bid for an IR, likely as a result of the Tokyo Metropolitan Government being fully occupied with preparations for the 2020 Tokyo Olympic Games and issues surrounding the Tsukiji Fish Market. However, if Tokyo throws its Giants hat into the ring, another JPY1 trillion ($8.9 billion) will be added to the Japanese economy. There are some other mid- and small-sized candidate cities like Hokkaido and Kyushu, and if you combine all of them, the nationwide economic impact of Japan IRs could reach JPY4-5 trillion ($36-$44 billion).

This amount is almost equal to the aggregate construction cost of the three largest infrastructure projects in the last two decades - Kansai International Airport (JPY1.5 trillion/ $13 billion for the 1st phase), Tokyo Bay Aqua Line (JPY1.4 trillion / $12 billion) and the Honshu-Shikoku Bridges (JPY1.8 trillion / $15 billion), totaling JPY4.7 trillion ($40 billion). Kansai International Airport, Tokyo Bay Aqua Line and the Honshu-Shikoku Bridges were built and financed by the public sector. Japanese IRs will be by far the largest private sector investment projects in Japanese history. If this all comes to fruition, it will be a very good present for Japan and worth the long wait.

Power shift

An investment of this size will definitely change many things in Japan at both the central government and local levels, not just economically, but also socially and politically. Firstly, as was the case with many IRs and casinos in other parts of the world, Japanese IRs will be a strong stimulus, particularly for the local economies where the IRs are located. Japan surpasses other developed countries in terms of the size of its aging population, as
well as the rapid rate in which its population is shrinking, the negative impacts of which are particularly severe and obvious in remote regions of Japan. Even some major cities like Osaka cannot escape from the resulting economic downturn and thus need stimulus. There are currently no other projects in Japan like IRs that can bring multi-billion dollar investments, create reasonably paying jobs and help battered local economies.

Secondly, local municipalities are expected to take the lead and play proactive roles in developing IRs. Under the current structure provided in the IR Promotion Act, local municipalities must first run as an IR candidate city, and invite and select IR operators with which the local municipality would develop an IR business plan. The central government may neither force local municipalities to run as an IR candidate city, nor block a candidate city from tendering a bid. It is fair to say that this accessible mechanism is rare in Japan where the central government traditionally monopolizes political capital, financial capital and human capital, and only reallocates such capital to local areas when and where absolutely necessary (e.g. Fukushima as a result of the March 2011 Fukushima earthquake).

Together with multi-billion dollar investments and local initiatives, Japanese IRs will empower local municipalities and will be a catalyst to change the traditional power balance between the central and local governments.

Thirdly, Japanese IRs will be planned, built and financed by the private sector. Projects of this size have not been done by the private sector in Japanese history. At both the central government and local levels, Japan does not have relevant experience and know-how to build and operate successful IRs. Japan has no choice but to rely heavily on experienced IR and casino operators that are already managing successful casinos and IRs in foreign jurisdictions such as Las Vegas and Singapore. IR operators will of course be subject to gaming license requirements and other regulations enforced by Japanese gaming authorities.

The success of an IR, however, is mostly up to the operators who know how to design, finance and operate attractive and competitive IRs. Without ideas and know-how from experienced private sector players, it is possible that Japanese IRs will repeat the miserable failure of many public sector-led so-called “theme parks” and resort hotels built during the 1980’s bubble economy and which burst immediately after that. In this sense, Japanese IRs will shift the power balance in Japan from the public sector to the private sector.

**Two-step selection process**

The concept of IRs is new and foreign to Japan, not just socially and politically, but also legally. As such, many legal issues are likely to be confronted in drafting the IR Implementation Bill. One potential source of such legal issues is the so-called “two-step selection process” currently proposed by the Office of the Cabinet Secretariat. Namely, this process might be too complicated and create unnecessary legal risks for both local municipalities as well as IR operators.

Under the two-step selection process, a local municipality first selects an IR operator, and then they, as a quasi-joint venture, together bid for an IR. Specifically, the local municipality applies for an IR area designation, while the IR operator applies for an IR license.

It is not very clear, however, what will happen if an IR operator selected by a local municipality for some reason...
cannot obtain an IR license from the central government (e.g., due to compliance issues in other jurisdictions). In such cases, will the local municipality be required to re-start the entire selection process again from the beginning? If so, the IR concept, business plan and local development plan would have to also be re-considered with a new IR operator. This would likely delay the entire project for at least several months or possibly even a year or more.

Moreover, although less likely, the local municipality could also face barriers to approval. What will happen if the IR operator can obtain the IR license, while the local municipality cannot obtain a designation as an IR area from the central government? The IR operator selected by the local municipality will be left with an IR license alone, but no IR area. These legal risks must be properly addressed in the coming IR Implementation Bill and its subordinate regulations.

IR as a game changer

Contrary to current appearances, Japan was originally a country with a tradition of strong local leadership and ambitious entrepreneurs in the private sector. For example, Toyota, Panasonic, Hitachi, Honda and Nintendo are now world-class brands, but they originally began in rural areas, not in Tokyo. The Meiji Restoration of 1868, which ended the Edo Shogunate that ruled Japan for more than 250 years and paved the way for a modern developed Japan, was initiated and realized by relatively low-level young samurais from rural areas.

The concept of IRs is clearly new and foreign to Japan, but what it will bring to Japan might not be necessarily new or foreign. Rather, it could remind Japan and its citizenry of who they are and what local areas and the private sector have been achieving until very recently. The introduction of IRs will be a game changer for Japan to shift, or restore, the power balance between central and local, and public and private. The IR Implementation Bill, which is expected to be submitted to the Diet later this year, would be apt to keep this in mind and be designed in a way to remind and unleash the hidden power of local municipalities and the private sector.

*About the author*

Koji Ishikawa is Tokyo office managing partner for Greenberg Traurig. His academic qualifications include Waseda University (LL.B., 1993), New York University School of Law (LL.M., 2004), University of Nevada, Las Vegas, William S. Boyd School of Law (Visiting Scholar, from September 2017). Koji Ishikawa represents both domestic and international gaming clients in Japan.
It’s Kinmen’s turn, and a last chance for Taiwan?

On October 28, 2017, Kinmen Island will hold a referendum in which the residents will be asked if they would support the establishment of casino-based tourism resorts on the island. Kinmen (also known as Quemoy) is a Taiwan-controlled island located off the coast of China, just outside Xiamen harbor.

In 1949, Kinmen was the site of a major battle between the forces of the Communist armies of the People’s Republic of China and the Nationalist army of the Republic of China (Taiwan). In the 1950’s and 1960’s Kinmen was shelled repeatedly by China, but since the establishment of the Mini Three Links in 2001, tourists from the mainland have been visiting Kinmen on a regular basis, primarily arriving on the ferry service from Xiamen.

Kinmen will be the third of Taiwan’s offshore islands to hold a casino referendum. The ability of offshore islands like Kinmen to hold county-wide referendums on casino gaming arises under the 2009 amendments to the Offshore Islands Development Act (OIDA). In 2009, shortly after the OIDA was amended, and again in 2016, Penghu Island – which sits in the Taiwan Strait between Taiwan and mainland China – held referendums on casino gaming, both of which failed to garner a majority of favorable votes. In 2012, Matsu Island held a casino referendum which approved the establishment of casinos in Matsu. To this day, no casinos have been established in Taiwan.

Kinmen differs in important respects from the other two offshore islands. It is larger, (around five times the size of Macau), than either Penghu or Matsu and while its transportation links to the main island of Taiwan are not as advanced as Penghu’s, it has better transportation links (mainly, a ferry service) to mainland China than either Penghu or Matsu. Perhaps even more significant for purposes of the upcoming referendum, Kinmen is also the most prosperous of the three islands.

Many of Kinmen’s residents are military retirees, and the island boasts Taiwan’s most famous Kaoliang distillery and bottling plant, a business which, by itself, brings in around NT$7 billion ($230.6 million) in tax revenue every year. Kinmen has also invested in tourism infrastructure in recent years, including new hotels, duty-free shops, a movie theater, and a growing number of former military installations that have been turned into tourist destinations. Indeed, the most important deficiency of Kinmen as a tourist destination is its airport, which lacks modern Inertial Landing Systems and the operations of which are
therefore more likely to be impacted by adverse weather conditions than airports on Taiwan.

Kinmen’s relative prosperity may, however, actually prove a negative in the context of trying to stir up enthusiasm within the local populace for establishing casino-based resorts. Kinmen lacks neither jobs for its working-age population, nor revenue sources. Moreover, as the Taiwan Affairs Offices of both Fujian Province and the central PRC government have made clear in the past, a successful casino referendum and the subsequent establishment of casinos on Kinmen would almost certainly result in a substantial reduction of mainland Chinese tourists to Kinmen. This would, ironically, make Kinmen a less attractive casino gaming jurisdiction, given the fact that mainland China would be the primary target customer market for casinos located in Kinmen.

The bottom line, of course, is that a successful referendum in Kinmen is not a foregone conclusion. And even if it was a foregone conclusion, it would not necessarily follow that Taiwan will become Asia’s newest gaming jurisdiction; the political climate in Taiwan has changed substantially since Matsu approved its casino referendum in 2012.

In fact, the Kinmen referendum could well be the final phase of efforts to legalize casino gaming in Taiwan that date back as far as 1989. With the exception of the period from 2000 to 2008, these efforts showed steady progress over the years, most recently resulting in the drafting, and introduction into the Taiwan legislature, of the draft Tourism Casino Administration Act in 2013. The Act, however, has languished in the legislature since, and has yet to be passed into law.

In 2016, the Democratic Progressive Party, a party which has traditionally opposed casino gaming, won both the Presidency and an absolute majority in Taiwan’s legislature. In October of 2016, in the run-up to the second Penghu referendum, President Tsai Ing-wen, in her dual capacities as both President of Taiwan and Chairwoman of the DPP, stated publicly and clearly that she and the party opposed the Penghu referendum and the establishment of casinos in Penghu. Subsequent to the failed Penghu referendum in 2016, one DPP legislator has actually proposed the repeal of the 2009 OIDA amendments, which would preclude any future referendums.

All of this suggests that, even if Kinmen does hold a successful referendum, it is not clear that the Taiwan legislature would pass the legislation required to allow the creation of casino-based tourism resorts on Kinmen and Matsu. In the event that the legislature fails to do so, it would be a clear signal to the industry that Taiwan does not plan to create a casino gaming industry any time soon.

*About the author*

Bill Bryson is a Taipei-based lawyer with Global Market Advisors. He has more than 25 years of experience in the gaming and hospitality industries, with the majority of that time spent in Asia.
The future of concessions of games of chance in Macau

The legal setting of casino gaming in Macau, the world’s largest market by revenue, will again have to be redefined in the coming years. The expiry of the current concessions, scheduled for 2020 and 2022, is fast approaching.

We never told you it was forever

The temporary nature of gaming permissions means that the Government must take new decisions regularly, thereby opening new ‘gaming eras’. This occurred in 1961/62, giving rise to the STDM monopoly that ended up lasting four decades, and in 2001/02, giving rise to the present situation where there are six sub-concessions.

Persons with a short memory span, and especially financial markets, may approach these moments with great anxiety. But this is how the system has been working for almost 170 years. These cycles are perfectly normal. The history of gaming in Macau has been made of periods of stability or continuity, sometimes lasting decades, alternating with moments of major change, minor change or mostly continuity when the deadline is reached. A new period of stability then follows.

For the Government, this allows a regular fresh rethink of the direction of the industry and the city. One of such moments is looming. In considering what may happen next, we do not have a crystal ball — the issue is complex and has many moving parts. In any case, it is possible to identify and consider various legal aspects that may play a role in shaping the fundamental decisions that will have to be taken in the next few years.

How we got here

The temporary nature of gaming permissions is a perennial feature, firmly in place since 1849. The current system of concessions was started in 1961, with the concessionaire having the obligation to make certain investments within set deadlines and to perform other obligations, especially the payment of taxes, premiums, contributions, subsidies, one-off payments, and sometimes obligations in kind.

When a concession ends, new decisions must be made by the Government by means of an administrative process. This has happened in both 1961/2 and 2001/2 with essentially similar premises: to develop the economy, enhance tourism and generate added revenue. The main difference was of course that a monopoly was granted in 1961 while an oligopoly was awarded in 2001/2, but the nature of the process is essentially the same.

STDM performed its key obligation to build a casino-hotel by opening the (old) Lisboa to the public in 1970. The 2016 interim review of the current concessions determined that all obligations under the contracts were performed as agreed.

The twists and turns of the STDM concession, which lasted four decades (and is today continued by the SJM concession), are a very good reminder of how large is the deck of cards available to the Government.
The STDM concession was formalized in a succession of contracts and renegotiations which extended its deadline a few times and vastly changed the terms and conditions applicable. The initial contract was signed on March 30, 1962, for eight years. Less than three years later the law was amended and, on December 5, 1964, a second concession contract replaced the previous one and extended the monopoly concession to 25 years (ending in 1986); this second contract had minor amendments in 1969 and 1972. A third concession contract signed on April 23, 1976, greatly increased the taxation applicable, among other changes, but kept the same deadline. In 1982 the law was changed and a fourth contract was signed on December 30, 1982, which again increased the taxes and extended the monopoly concession for five more years, to a total of 30 years, that is, until December 31, 1991. It was amended in 1985.

A fifth (and last) concession contract was signed on September 29, 1986, which extended the concession until December 31, 1996. It was amended three months later, on December 31, 1986, so as to extend the concession for an additional five years, that is, until December 31, 2001. This amendment made a total of forty years and placed the deadline after the transfer of sovereignty of Macau. This contract had various other amendments. The last of these was made during the 2001 tender process, and added three more months.

The evolution of the STDM concession shows that the Macau Government may amend its laws, expand the deadlines of existing concessions, and demand more taxes, premiums, payments, subsidies and other obligations from the concessionaires.

Scenarios, scenarios...

In theory, there are various possible broad scenarios for the next decade, from total continuity to massive change.

Total continuity seems unlikely. In such case the current sub/concessions would continue, as new concessions or under an extension of say 10 or 20 more years and everything else would remain basically the same. Minor changes would be made in the law to allow this and essentially not much else. This minimalist option most likely will not happen, and some degree of reform should be introduced in the upcoming window of opportunity.

The most likely scenario is that there will be new concessions and some reform of the applicable framework. Certain aspects will remain mostly the same but there may be an increase in taxes and the obligations imposed upon concessionaires. There may be changes in the way the system of concessions is structured. One step that seems totally logical is to have more concessions and end the subconcessions: the current subconcessionaires should be allowed to continue as full concessionaires. This is desirable, as nothing warrants the continuation of the subconcessions. In this case there would be at least six concessions.

The current sub/concessionaires have nothing to fear from a new tender for new concessions, unless the number of concessions on offer was less than six, which is not likely. The STDM concession started on January 1, 1962, and expired on March 31, 2002. On the following day, April 1, 2002, at midnight, the concession of SJM started, which took over the 11 casinos that were being operated at the time by STDM. Something very similar may now happen to all current six sub/concessionaires.
Should there be more concessions, that is, more than six? We think so. They already exist as a matter of fact and it is certainly necessary to revoke the legal provision stating that there shall be no more than three concessions. There should not be a maximum limit to the number of concessionaires. For example, some of the large ‘partners’ and/or gaming promoters should have an avenue to become fully separate concessionaires. It is desirable that at least those operators who already have a full casino should formally become concessionaires. This would be a step to disentangle the web of linkages that was created in the past decades whereby ‘partnerships’ amounted to an indirect form of granting a gaming license. All operators should be selected by and be in a direct relation with the Government. In addition, the tax base would grow by excluding the payments due between private parties and directing such financial flows to the public coffers.

To build or not to build?

In the next decade a political decision may be taken to stop building large casinos or integrated resorts in Macau, as there will be in the region of 40 casinos or more by then. Cotai is mostly completed, except for a couple of pieces of land. Coloane is excluded from having casinos, especially its south face, as well as all residential areas of Macau. The only possibility for large developments within Macau would be to build in newly reclaimed land in either south Macau or north Taipa. In fact, there are plans for development of both areas, but it has been officially announced that there will be no gaming in those areas. Some are earmarked for institutional buildings such as courts. Macau alone cannot be gaming in the island. No Chinese authorities have mentioned that and there is no legal framework applicable other than Macau gaming law. The regulatory detailed planning of Hengqin island calls for three large resorts in the south of the island. Of these tourism projects, Chimelong Hengqin Bay Hotel, a family-oriented vacation resort, is open. There would have to be an agreement between Macau and Zhuhai, Guangdong and Beijing. In any case, there should be no gaming in Hengqin and the investments asked from the concessionaires would be on non-gaming facilities. Investment obligations are only conceivable if Hengqin is associated with Macau in some shape or form. The precedent of the land used by the new University of Macau campus might help.

Regardless of whether an arrangement of this kind is possible, the new concessions may also have added financial obligations or other more detailed demands or guidelines, such as about the often-stated goal of investment in non-gaming, diversification of the Macau economy or the support of small and medium enterprises. Other goals and issues that were mentioned in the 2016 interim review may also be explicitly stated in the future, such as the promotion of Macau residents to top positions. In the view of this writer, more should be demanded from the concessionaires in the fields of culture, higher education and training.

*About the author*

Jorge Godinho is a researcher of gaming law and a visiting professor of gaming law and anti-money laundering law at the University of Macau, where he was the coordinator the Master and postgraduate program in International Business Law from 2006 to 2013. He holds a PhD from the EUI in Florence, Italy, and a Master degree in Law at the University of Macau. He is a law graduate of the Faculty of Law of the University of Lisbon.
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Litigation on skill games continues in India as courts send mixed signals

Most state gambling legislations in India distinguish between games of skill and games of chance. While the latter are prohibited in most forms, laws generally exempt games of skill from the ambit of gambling.

The Indian Supreme Court in 1967 in the State of Andhra Pradesh v. K. Satyanarayana ruled that the game of rummy played in clubs required memorizing fallen cards and thus involved a degree of skill, while exempting it from the ambit of gambling.

The apex court however, while allowing rummy to be played, stated that clubs could charge nominal administrative fees for providing playing cards and other amenities to its patrons playing rummy, but left it open for police to take action if the operators made a significant profit or gain out of the activity in other ways.

In 1996, a three-judge bench of the Supreme Court in Dr. KR Lakshmanan v. State of Tamil Nadu & Another, ratified this decision and noted that horse-racing was a game of skill and so was betting and wagering on it.

Based on these two judgments and some other rulings of High Courts, operators offering online ‘skill games’ like poker, rummy and fantasy sports, have been flourishing in India. The state of Nagaland in the North-East passed a special law in 2015, expressly recognizing several games like rummy, fantasy sports, poker, quizzes, bridge etc. and imposing a licensing and regulatory regime for the conduct of such games.

The trouble for online skill games however started in June 2017, when the state of Telangana in South India (which is one of the largest markets for online rummy operators) passed an ordinance, which among other amendments to the 1974 Gaming Act, prohibited gaming in cyber spaces, stated that only games involving pure skill would be exempted from the definition of gaming and expressly classified rummy as a game of chance.

Major online rummy operators including Ace2Three, Rummycircle, Junglee Rummy and Classic Rummy immediately approached the Andhra Pradesh and Telangana High Court stating that the ordinance issued by the Telangana government violated their right to free trade and commerce and also that the ordinance through an explanation overruled express decisions of the Supreme Court.

While the matter was pending in the court, the Telangana government in an unprecedented move passed another ordinance in July 2017, which amended portions of the
The new ordinance, deleted the exemption to games of skill altogether and stated that risking of money on any game, including games of skill falls within the penal provision of gaming.

The rummy companies are still challenging the validity of the two ordinances in the High Court, with the state government stating that it had power to restrict games which caused disturbance to public order. The government also noted that rummy and other games caused social problems as citizens, including youth, were getting addicted to gaming and losing vast amounts of money, causing distress to their families, and even compelling some to commit suicide.

The state government also used portions of the 1967 Supreme Court judgment to argue that the police and authorities could dub rummy and other skill games operations as illegal gaming, if operators make profit or gain through commercial gaming websites.

The challenge to the ordinances and the state's power to ban skill games is still pending in the Andhra Pradesh and Telangana High Court. The state government is expected to file its reply and the online rummy companies will also file their rejoinders. The arguments in the matter are expected to continue for the next couple of months.

While the online rummy companies are battling the legality of the Telangana government's actions, poker clubs in another major state, Gujarat, are challenging an order from the commissioner of police of Ahmedabad city classifying poker as a game of chance and citing police harassment. They have filed a petition in the Gujarat High Court asking to hold poker as a game of skill, that should be allowed to be played for stakes.

A single judge of the Gujarat High Court is currently hearing the matter and is expected to come out with a judgment in the next couple of months.

Interestingly however, before the controversy over skill games arose in Telangana, the Punjab and Haryana High Court in April 2017 in Varun Gumber v. Union Territory of Chandigarh & Others noted that fantasy sports could be classified as games of skill that requires considerable skill, judgment and discretion.

The court analyzed the business model of fantasy sports website Dream11 and stated that operating online fantasy sports for entry fees was not illegal. The court placed reliance on the 1996 judgment of the Supreme Court that held horse-racing and betting thereof to be a game of skill.

The ongoing cases in Gujarat and Telangana have resulted in a situation of uncertainty prevailing over the future of online skill gaming websites. It is widely believed that the two cases will eventually be appealed to the Supreme Court in the near future. An eventual verdict of the Supreme Court on the legality of online rummy, poker and fantasy sports is the only way to bring clarity and stability to the online skill gaming businesses.

*About the author*

Jay Sayta is a B.A. LL.B. (Hons.) graduate from W.B. National University of Juridical Sciences (NUJS) Kolkata. He runs http://glaws.in/ India’s first and only website monitoring gambling, betting and lottery laws. Jay has researched and written extensively on gambling and betting laws for online and offline publications and academic journals, and has advised many Indian and International gaming, betting and lottery companies on various legal, regulatory, taxation and commercial aspects. Jay is also a consultant and legal advisor to Delta Corp Ltd., one of India’s largest and only publicly listed gaming and hospitality company.
International Masters of Gaming Law
Regulators of the year 2017

Each autumn, International Masters of Gaming Law (IMGL) recognizes outstanding regulators based on stringent standards, including preeminence in the regulatory field and their noteworthy contributions to the overall body of regulatory work.

The regulators are selected from various international jurisdictions based on a rigorous nomination and review process. The categories are Europe, North America, South and Central America, Australasia, Indian Country, and Evolving Jurisdictions. A regulator is not necessarily chosen from each category in each year. They are selected only if they receive the required nomination and meet the demands of the review procedure.

The specific criteria for the selection include exceptional service, contributions to the gaming industry, and demonstrating noteworthy achievements in the gaming regulation. The nominee must also provide a stable regulatory environment in the jurisdiction, be identified as a person of high integrity, and demonstrate service to the community.

Through this annual selection process, IMGL continues its mission of “advancing gaming law through education” by selecting regulators who reflect a similar mission in their management style while serving as role models in the regulatory environment. This year’s recipients of the award for IMGL Regulator of the Year certainly reflect these characteristics in their professional approach to the task of regulating a challenging and diverse gaming market. IMGL is proud to announce the Regulator of the Year, North America: Ronnie Jones, chairman of the Louisiana Gaming Control Board; Birgitte Sand, director of the Danish Gambling Authority, Regulator of the Year, Europe; and David Vialpando, chairman of the Iipay Nation of the Santa Ysabel Gaming Commission and Terry Hale, past interim chief gaming regulator of the Seminole Nation of Oklahoma as co-recipients for Regulator of the Year, Indian Country.

IMGL has presented the awards since 2002. For a complete list of all past recipients, please visit our website at imgl.org.

Regulator of the Year
North America

Ronnie Jones

Chairman, Louisiana Gaming Control Board

Chairman of the Louisiana Gaming Control Board, Ronnie Jones is the first recipient of the prestigious Regulator of the year award from Louisiana. Chairman Jones assumed the reins following the unexpected death of Dale Hall in 2013. He describes his regulatory style, “I engage the industry in a very personal way by visiting properties and meeting regularly with property general managers. I am of the opinion that I cannot properly regulate an industry sitting behind my desk. Establishing an on-going dialogue and relationship with licensees serves both the state’s interests and those of the industry. I firmly believe that if I create a fair, transparent and objective regulatory environment where licensees know what is expected the industry can prosper and the state is well protected.”

Prior to being appointed as Chairman of the Louisiana board, Ronnie Jones served in the Louisiana State Police for thirty-three years. “As legislative liaison for State Police I found myself navigating a difficult path between those who wanted gaming and those who were opposed to gaming. Thus I found myself at more than one committee meeting acknowledging that our agency had no position on whether or not gambling...”
I am of the opinion that I cannot properly regulate an industry sitting behind my desk. Establishing an on-going dialogue and relationship with licensees serves both the state’s interests and those of the industry. I firmly believe that if I create a fair, transparent and objective regulatory environment where licensees know what is expected the industry can prosper and the state is well protected.

Ronnie led the effort that culminated in the Louisiana Legislature adopting a Concurrent Resolution in 2016 to create a Riverboat Economic Development and Gaming Task Force, which Ronnie now chairs.

J. Kelly Duncan of Jones Walker LLP, and IMGL past president, states, “After a long and distinguished career with the Louisiana State Police and other positions in State government, Ronnie seamlessly transitioned to the position of chairman of the Louisiana Gaming Control Board where he has proven to be very well-prepared, knowledgeable and fair in his treatment of Louisiana gaming licensees. His interest in working with the casino industry for the benefit of both the industry and the State is readily seen in his concurrent leadership of the Riverboat Economic Development and Gaming Task Force which has been charged with making recommendations to the State legislature regarding ways to make Louisiana riverboat casinos more competitive.”

Regulators from neighboring jurisdictions have recognized Ronnie’s many accomplishments. Allen Godfrey, executive director of the Mississippi Gaming Commission states, “I have had the pleasure of knowing and working with Ronnie for the last four or five years and there is no-one more passionate about his job than Ronnie. He is truly deserving of this award, and I have the utmost respect for his knowledge and integrity as a gaming regulator and a person.”

Finally, it is noteworthy that Chairman Jones has participated as a speaker at G2E and the Southern Gaming Summit, among other conferences, where his comments have always been well received. He summarizes his view of the future of gaming in Louisiana commenting, “I think Louisiana, having endured those detestable early years, is a better place. It’s a better place for its citizens and it’s a better place for gaming to do business.” He brings the perfect balance of good business sense and irreproachable ethics to the industry in Louisiana. Based on his many years of public service as a member of the State Police and the many task forces he has been appointed to and personal accomplishments as an adjunct professor, Chairman Ronnie Jones is indeed a worthy recipient of this award.

Regulators of the Year
Indian Country

This year Indian Country was presented with two outstanding candidates that were equally deserving to be selected as Regulator of the Year: David Vialpando, chairman of the Santa Ysabel Gaming Commission in California, and Terry Hale, past interim chief gaming regulator of the Seminole Nation of Oklahoma, are each recognized as Regulator of the Year, Indian Country for 2017. Both Mr. Vialpando and Mr. Hale exemplify the very best of tribal gaming regulation, and each has been active in promoting best practices for tribal regulators as part of their participation and leadership in state and national tribal gaming regulators’ associations.

Kevin Quigley of Foley Quigley states, “The IMGL is proud to recognize the central role that these tribal gaming regulators have in regulating the $31 billion Indian gaming industry to ensure fair play and honest gaming operations for all patrons.”

should be legalized but asserting that if it were ultimately approved, the industry would need appropriate oversight similar to what was in place in other jurisdictions.... Wary legislators were insistent on State Police taking the regulatory lead.”

Following those early years of gambling legalization, he remarks, “It was somewhat ironic that Governor Bobby Jindal appointed me in 2013 to my position as chairman inasmuch as I was an early and frequent critic of gaming in the nascent years.”

“I realize that an oppressive regulatory environment can kill an industry. Gaming remains one of the most heavily regulated business sectors in the country and for good reason. But the threats and vulnerabilities inherent in gaming have changed over time. Few would argue that the mature, mainstream gaming industry of today is far different than it was a quarter century ago.”

He has displayed a rarely seen willingness to revisit and, in some cases, reduce antiquated regulatory burdens placed on some casinos. These antiquated burdens have adversely impacted the casinos’ ability to provide the levels of employment and capital investment that prompted the adoption of gaming legislation in Louisiana in the early 1990s.
Terry Hale

Past interim chief gaming regulator of the Seminole Nation of Oklahoma, Seminole Nation Gaming Agency
Deputy Chief Gaming Regulator/Compliance Manager.

Terry Hale has worked for the Seminole Nation Gaming Agency since November 2007. Terry started in the surveillance department as a Surveillance Operator where he worked for more than three (3) years and he learned the National Indian Gaming Commission’s (NIGC) Minimum Internal Control Standards (MICS), the Tribal Internal Control Standards (TICS), and the Gaming Operations, System of Internal Control Standards (SICS).

In 2011, Mr. Hale shifted to the compliance department. While in compliance, he developed an understanding of gaming machine software testing, gaming machine par sheets, and the difference between Class II and Class III gaming machines. He was a big part of the opening of the Seminole Nation Casino expansion in October 2012.

Terry Hale was appointed the deputy chief gaming regulator in December 2015, and when the chief gaming regulator was excused from his position in April 2016, Terry was named the interim chief regulator during a time period that the Nation faced a Notice of Violation (NOV) issued by the National Indian Gaming Commission, which consisted of more than 27 alleged violations, potential fines and closure. Mr. Hale worked tirelessly to address the areas of concern, rebut areas where the National Indian Gaming Commission had it wrong and bring the Nation’s three casinos into full compliance. Through Terry’s leadership and problem-solving skills, the casinos stayed open and the Nation paid no fines. The NIGC lifted the NOV in December 2016. Terry Hale helped disprove many purported violations with exemplary efforts under very difficult circumstances.

Of this time in his career, Terry Hale states, “After I was the interim chief regulator for only a month, the Seminole Nation was issued a Notice of Violation from the National Indian Gaming Commission. I believe the Settlement Agreement with the NIGC and accomplishing that our gaming facilities stayed open with the help from the Gaming Agency and Gaming Enterprise staff are the greatest achievement I have done.”

In the spring of 2017 the Oklahoma Tribal Gaming Regulators Association awarded Mr. Hale a special commendation recognizing his experience and expertise. Terry continues to strive to learn and share his knowledge with all his peers to help the Seminole Nation Gaming Agency to honor the past, protect the future and lead the nation to a better tomorrow.

When asked what advice he wishes to share with gaming attorneys, industry executives, educators and other regulators, Terry Hale comments, “To always remember to keep your head up when times are rough. If you do not have the answer to a question, reach out to your peers; they may have the answer ready for you.” He further shares a final word to his gaming organization, “Always remember we all work for the same goal, to better our Tribe and the Tribal People. I am a proud member of the Seminole Nation of Oklahoma.”
David Vialpando
Chairman, Santa Ysabel Gaming Commission

David Vialpando, chairman of the Iipay Nation of Santa Ysabel Gaming Commission and director of Gaming Programs for OnCourse Learning, is committed to the highest standards of professionalism and integrity in the gaming regulatory field. In turn, he has been a strong advocate for respecting the professionalism and integrity of other tribal gaming agencies throughout Indian country and their role as the primary regulators of Indian gaming under IGRA. Chairman Vialpando states, “Gaming regulators are the sentries guarding the integrity of gaming on behalf of the casino patron and protecting casino assets on behalf of tribal communities.”

David is well respected within the tribal gaming regulators and industry group and has lead the way in crafting and promoting tribal regulations for new and innovative gaming products for tribal casinos. In particular, David has led the way in adopting “gold standard” regulations for licensing and classifying Class II gaming systems. He is a frequent author and seminar panelist on regulatory issues at many Indian-gaming related conferences held throughout the country.

“My greatest achievement has been the friendships and network of dedicated, passionate professional colleagues I have amassed over the years, which represent the people I can count on for counsel and advice in providing the best service I can possibly provide to the Iipay Nation of Santa Ysabel and the community of tribal gaming regulators,” David said in describing his experience as a regulator. “The most honorable, selfless individuals in this country’s workforce can be found in the tribal gaming industry.”

Chairman Vialpando’s background includes working in law enforcement in California and both state and tribal Indian gaming regulation. This combination gives him a unique perspective on Indian gaming regulation issues and practices. He states, “Coming from law enforcement, including two decades working in drug law enforcement, entering the gaming industry as a regulator and law enforcement officer was an opportunity to work in a legal industry with which I was unfamiliar, but which in terms of crimes impacting the industry (gangs, cheats, thieves, and criminals who prey on our citizens), I felt I could make a difference and have a positive impact on the safety of the gaming community.”

Notwithstanding his vast experience in law enforcement and gaming, Chairman Vialpando candidly acknowledges the challenges in being a regulator. He states, “Two issues represent the greatest challenge I’ve experienced as a tribal gaming regulator: overcoming the lack of confidence and faith by state and federal government agency gaming regulators and attorneys in the ability of tribal gaming regulators to ensure the accountability and legal conduct of gaming on sovereign lands, and forecasting the challenges for regulators in managing evolving trends in gaming, such as social gaming, skill-based gaming, daily fantasy sports, and igaming.” By also serving as director of Gaming Programs for OnCourse Learning, Dave Vialpando is helping OCL bring cutting-edge E-learning gaming courses to the industry. He believes that leveraging technology, such as digital surveillance analytics, digital employee onboarding, and e-learning and compliance education, represents the future of gaming regulation.

In reflecting on the regulation of the gaming industry, Chairman Vialpando summarized the careful balance of the industry. “In its most desirable form, the gaming industry is an amalgam of diverse disciplines, staffed with tremendously talented professionals, coming together to serve their consumer base and share the rewards of their labor through philanthropic endeavors which benefit underserved communities and individuals in our society. In short, gaming is an industry to which we can all be proud to dedicate our professional lives.”
Regulator of the Year
Europe

Birgitte Sand

Director, Danish Gambling Authority
Past IAGR President 2014-2015

In 2008, Birgitte Sand was appointed as director of the Danish Gambling Authority after being a long-standing member of the Executive Board of the National Tax Administration in Copenhagen. She began her career in the Danish Court of Taxation, eventually progressing to cover a wide range of management positions in the Ministry of Taxation.

Birgitte Sand has been responsible for the successful implementation of a liberalisation of the Danish Gambling Market. The results have produced stable, highly compliant and well-functioning markets. Jamie Nettleton of Addisons Sydney, and vice president of IMGL, observed that, “Birgitte deserves recognition for her untiring efforts to promote Denmark as a best practice precedent for other jurisdictions, whether in Europe or globally, considering a licensing regime for gambling.”

The Danish Gambling Authority is responsible for licensing, supervising, and controlling a wide range of gaming providers that stretch from land-based casinos to lotteries, online gaming, public poker tournaments and horse racing. Ms. Sand described her experience in the gaming regulatory universe. “I enjoy tremendously getting outside the regulatory comfort zone and being challenged by the industry presenting new products and new ways of operating that do not necessarily fit into any existing framework. A good working relationship calls for trust, cooperation and willingness to find solutions.”

Over the last year, Birgitte has been challenged with a government dictated relocation of the Gambling Authority and has successfully overseen the relocation and recruitment of new staff for the authority. Of the variety of challenges and opportunities she has faced in her gaming career, she says, “Initially, it felt like entering a dark cave; turn on the torch and realize you stand in a gold mine - of opportunities!”

Birgitte Sand holds a master’s degree in Law from the University of Copenhagen, and she has also completed an INSEAD Executive Programme. She has been very active as a speaker in international industry conferences and by doing so she is helping to bridge the gap between industry (commercial) professionals and government regulators. She candidly remarks, “We, as regulators, have to admit to the fact that we do not always have the resources and skills to understand gaming in the same way the industry does. Once we are clear about industry needs, we can create a cooperative environment with the industry in order to create a platform where compromises and realistic solutions can be agreed, and gambling legislation understood and respected.”

Since 2011 Birgitte Sand has been a member of the International Association of Gaming Regulators (IAGR) Board of Trustees and served as president from October 2014 to October 2015. “I have had the privilege to learn from fellow regulators around the world how important it is to create platforms for cooperation and development between industry, sport organizations, legislators and regulators if ever we wish to fight illegal gambling and crime in gambling.”

Justin Franssen of Kalff Katz and Franssen says, “The Danish regulatory set up as well as the role of the Danish regulator inspires many in the gaming industry. Birgitte continues to be deeply engaged in various industry events across the globe. Not only does she make sure the Danish authority stays on top of regulatory developments she also is super friendly and approachable.”

*About the author*

Sue McNabb has worked with the state legislature and served as Assistant Attorney General for the Louisiana Department of Justice and as an attorney for the Louisiana Legislative Auditor. She has an extensive background in corporate law in the private sector. Sue received the IMGL president’s award for 2013 and currently serves as executive director of the IMGL.
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The CNMI – Interaction between US AML requirements and junket practices

For casino gaming, the Commonwealth of the Northern Marianas Islands (CNMI) represents the intersection between US law and junket practices. The former Tinian Dynasty Hotel Casino provides lessons in how casinos operating in the CNMI will have to comply with US law relating to labor issues, employment, and anti-money-laundering (AML) controls. Of particular importance is AML compliance. There are a number of factors at play that make the use of junkets increasingly risky, not only in the CNMI but in other parts of Asia as well. The use of junkets in Asia to attract high-value players to casinos is the most controversial aspect of gaming in Asia.

A licensed casino operating in the CNMI is subject to the US Bank Secrecy Act in general and the casino AML rules and regulations promulgated by the US Department of the Treasury and Financial Crimes Enforcement Network (FinCEN)\textsuperscript{1}. The former Tinian Dynasty, located on one of three islands that comprise the CNMI, was subject to a 150-count federal indictment for violating casino AML laws and regulations in 2015 initiated by the Office of the US Attorney for Guam and the CNMI. As a result, the Tinian Dynasty entered into a non-prosecution agreement admitting to the violations and an agreement to pay an approximate US$3 million fine to the US Department of Justice. Most significantly, the terms of the non-prosecution agreement stated that if any material violations were found during the four-year term of the agreement, the indictment would be reinstated.

In addition, and separate and apart from the USDOJ fine, the CNMI – Interaction between US law and junket practices. The former Tinian Dynasty Hotel Casino provides lessons in how casinos operating in the CNMI will have to comply with US law relating to labor issues, employment, and anti-money-laundering (AML) controls. Of particular importance is AML compliance. There are a number of factors at play that make the use of junkets increasingly risky, not only in the CNMI but in other parts of Asia as well. The use of junkets in Asia to attract high-value players to casinos is the most controversial aspect of gaming in Asia.

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The casino closed in the fall of 2015.

AML issues are likely to be a major issue in conjunction with the operation of the temporary Best Sunshine casino that opened in the fall of 2015 in Saipan, another island in the CNMI. News reports have indicated that there may be a federal AML investigation of Best Sunshine. Irrespective of whether or not Best Sunshine is under investigation for AML matters, compliance with American AML laws for any casino operating in the CNMI is a major issue of concern. Casinos operating in Macau and throughout parts of Southeast Asia are dependent upon either well known VIP room operators, such as Sun City and Neptune, or junket operators to provide them with high-value players. Casinos planned for Vietnam and operating in the Philippines, Cambodia and Laos and other countries are largely dependent on VIP play. Junket practices whereby the identity of the players and their source of funding remain anonymous seem to be at variance with AML controls in the United States. Moreover, the AML regulations require extensive record-keeping requirements and documentation of patron play and patron financial transactions with casinos. It is well known that junkets issue credit to their players primarily in China, while the actual gambling takes place somewhere else — in this case Saipan. Proxy betting is illegal in Macau and China and seemingly at variance with US AML requirements.

Simultaneously, the crackdown on corruption in China is putting new pressures on VIP room operators, junkets and high-value Chinese players. In late 2012, Chinese President Xi Jinping initiated an anti-corruption campaign, which has been strict and more protracted than was anticipated by most observers. Its impact on the gaming industry, and Macau in particular, has been severe and wide-ranging. The principal aim of the crackdown on corruption was to prevent government corruption, the underreporting of income by wealthy Chinese businesspeople, and other types of illegal activity. Currency outflows in China have been long been tightly controlled and rapid economic growth has meant that increasingly wealthy Chinese citizens seek to move money out of China to invest primarily in property or other business ventures in overseas markets. Both Macau and Hong Kong have both been used as locales through which to transfer funds out of China to invest internationally.

The gaming sector became a key focus of the crackdown because of the proximity of Macau to the mainland, Macau’s economic reliance on gaming, and the frequency and volume of transactions in the gaming sphere, which create conditions for the laundering of money. Moreover, Macau’s historically weak regulatory environment led to it being fertile breeding ground for financial crime. In this context, recent regulatory changes in Macau have focused on controlling the amount of money that PRC

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1. A federal district court decision in conjunction with Tinian Dynasty confirmed this statement.
2. The Tinian Dynasty paid the $3 million fine but the FinCEN fine remains unpaid.
nationals can withdraw from ATMs and monitoring cash withdrawals with facial-recognition technology. Macau has also enacted tougher AML legislation, which focuses heavily on junket promoters.

In 2017, Beijing’s efforts have shown no signs of slowing down. For example, in March 2017 Public Security Minister Guo Shengkun announced that the government intended to “seriously investigate and severely punish those companies and individuals involved in enticing and organizing Chinese tourists to gamble in overseas casinos.” This threat did not ring hollow because it followed the detention in China of 13 South Korean employees of Grand Korea Leisure Co Ltd and Paradise Co Ltd, two Korean gaming companies, and subsequently of 18 Crown Resorts Ltd employees who were arrested on suspicion of marketing to Chinese gamblers and sentenced to 9 to 10 months in prison in June 2017 after they pleaded guilty to gambling-related charges. Moreover, direct marketing to Chinese VIPs, which has been carried out illegally in the past, appears to now be the focus of a more concerted effort of enforcement by the Chinese authorities. The long-term effects of these policies are uncertain.

Given the issues facing casinos like Best Sunshine in the CNMI, it is important to assess the risks of operating a casino in the CNMI employing the junket model used in Macau. The United States and indeed worldwide systems related to AML control for casinos utilize a risk-based system.

Preparing a risk assessment that is tied to the specific risks of the casino is the first step in developing proper AML controls. A risk assessment provides assistance in determining what areas are more prone to risk so mitigating controls can be put in place to prevent or deter money laundering and terrorist financing. Every casino should have its own risk assessment. While there are many factors that go into the risk assessment, the most relevant for a casino operating in the CNMI would be:

- Customer base
- Use of junkets
- Transparency by the junkets
- Know your customer issues
- Settling financial transactions overseas
- Beneficial ownership of the casino
Risk assessments are used by casinos when:

1. Developing a system of internal controls designed to use all information that the casino or its representatives gather to assure compliance;
2. Gathering of information in the course of business to know the customer, not the junket representative;
3. Implementing procedures to determine whether the conduct requires the filing of a Suspicious Transaction Report;
4. Independent and external auditing of the casino’s systems;
5. Training;
6. Integrating and sharing of information within the casino, its marketing efforts and branch offices;
7. Evaluating the risk of certain countries that comprise the patron base of casino customer; and
8. Identifying politically exposed persons.

Applying these criteria to a casino operating under the Asian junket model in the CNMI, there is little doubt that casino operations in the CNMI would be high risk. During the course of any IRS audits or reviews of casino operation, casinos are responsible for justifying and defending reliance on junkets and related financial transactions. Casino ownership in every jurisdiction makes a threshold determination at to whether they will comply with local laws or whether they will try to circumvent such laws. As always, they do so at their own peril should they make the wrong decision.

*About the author*

Fredric Gushin is Managing Director of the Spectrum Gaming Group, an independent research and professional services firm serving public- and private-sector clients worldwide. Fredric has been an Advisor to the Tinian Casino Control Commission, and was Assistant Attorney General and Assistant Director in the New Jersey Division of Gaming Enforcement for more than five years.
Save the date and plan to join IAGA **May 14 - 16 in Macau** for the **2018 International Gaming Summit** where top industry executives will discuss the global opportunities and challenges facing gaming. With a wide range of panels, break-out sessions and keynote speeches addressing the industry’s top issues and hot topics, it will be a gaming conference you won’t want to miss. Watch [theiaga.org](http://theiaga.org) for more details.
Facing relegation

The risks unlicensed Asian bookmakers run when signing Premier League sponsorship deals.

English Premier League football clubs undertook a GBP1 billion spending spree during this year’s summer transfer window, but online bookmakers were equally keen to get their cheque books out. Particularly those from Asia. ManBetX and Letou inked major shirt sponsorship deals with Crystal Palace and Swansea City respectively. They join Watford, West Bromwich Albion and Bournemouth, who will also carry Asian bookmaker sponsorship during the season.

These deals are a boon for Asian betting operators; the Premier League had 2.7 billion global viewers last year, 38 percent of whom were from the region. So while they come with multi-million-pound price tags, analysts believe they are worth every penny.

For Asian bookmakers, the goal is to create brand awareness in their home markets, becoming the go-to betting brand in their respective territories. By joining forces with such large clubs, they are automatically seen to be more trustworthy and legitimate.

With so many games now televised and broadcast around the world, shirt sponsorship is perhaps the most direct way of getting a betting brand in front of potential customers – particularly when above the line advertising for online betting is banned in most Asian countries.

This is strengthened further by all the additional marketing activity football clubs undertake using their shirts, and the extra exposure that brings to betting operators. Think magazine shoots, social media activity and television adverts.

There is cause for concern, however. When signing sponsorship deals with clubs, there is no legal requirement for betting operators to be licenced or regulated.

This throws up the potential for a Premier League football club to effectively endorse an online bookmaker that is highly exposed to fraud, money laundering, and cyber security attacks.

Bookmakers that do hold licences from internationally recognized regulators should stand a much stronger chance of securing deals with high profile teams, as these issues can be all but negated. It adds a layer of protection, a shield, if you like, for all stakeholders.

Developing markets

It must be remembered that Asia is still very much in its infancy when it comes to online betting regulation, and there are plenty of unlicensed bookmakers plying their trade in the region that are not operating to the same high standards as those in established European markets.

This has not gone unnoticed by the Football Association, which is taking a closer look at the relationship between football clubs and bookmakers. It even took the decision to terminate its own sponsorship agreement with Ladbrokes over “conflict of interest” concerns.

The FA has yet to clearly state its stance on football clubs and bookmakers joining forces, with a cloud of uncertainty hanging over the situation. However, it is not beyond the realms of possibility that these deals may be stamped out in the future.

If that does happen, it means Asian bookmakers will have to find another way of building trust and credibility among players in the markets where they operate. Licensing is certainly one way they can create that comfort factor.

Champion regulators

To do that, Asian bookmakers need to seek approval from internationally recognized regulators such as the Alderney Gambling Control Commission (AGCC). When it comes to licensing, they are one of the top for Premier League clubs.

By obtaining a permit from the AGCC, players can be sure that bookmakers are honest and transparent, that their odds and games are fair, and that they have the necessary player protection measures in place.

Operators should be doing this already, of course, and, as mentioned previously, I believe that it should be a requirement for bookmakers entering sponsorship deals with football clubs to be licensed in order for the agreement to be signed off in the first place.

Susan O’Leary
Asian Gaming Lawyer
September 2017
It benefits the bookmaker, too. It is all well and good operators putting themselves under the spotlight via these high-profile partnerships, but if a punter arrives at their site and doesn’t receive the right experience, they will simply wager elsewhere.

That means all the exposure gained via these show-stopper deals will be for nothing. A licence from the AGCC, however, ensures that operators deliver a league-winning experience to the players that engage with their brand.

Payment approved

One of the major advantages of obtaining a permit is that it opens doors to work with other licensed suppliers; companies at the cutting edge of technology and customer service that can elevate an operator’s product offering to the next level.

This is certainly true when it comes to banks and payment processing, an area where Asian online betting operators continue to struggle. Most major financial institutions and payment gateways simply won’t work with an online betting operator if they do not hold a licence.

This not only causes headaches for the operator themselves – where do they bank, how do they move money around, withdraw profits, etc – but also for players, who want to deposit via debit and credit cards but are forced to use obscure payment methods instead.

Licensing also protects against fraud and money laundering. The AGCC’s framework, for example, is endorsed by Moneyval and FATF in terms of full compliance with international AML and CFT standards.

Shout from the terraces

If Asian bookmakers are serious about building brand equity and awareness, then licensing should be a priority. Sponsorship deals with Premier League football clubs certainly raise their profile, but before shouting from the terraces they must ensure they are fully compliant with even the most basic industry standards.

What’s more, if the FA does decide to clamp down on these deals, then operators will have to find a new way of not only reaching out to players, but also proving they are honest, transparent, and that everything is above board.

Those who combine licensing with high profile marketing activity will certainly find themselves as title contenders come the end of the season, but those who forego compliance are at serious risk of being relegated.

*About the author

Susan O’Leary is CEO of Alderney eGambling and a lawyer who has represented some of the world’s leading eGambling operators and gambling service providers. Susan understands the commercial environment and has a keen sense of what companies require from a regulator: a resilient technical infrastructure, a favourable tax system, excellent support services and a fees system that allows businesses to grow.
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