

The Malta iGaming Eco-System

by Roger A. Strickland Jr.

For those readers unfamiliar with Malta, it's a tiny island in the middle of the Mediterranean Sea with a population of approximately 400,000 people. Malta has been a member of the European Union since 2004 and has been actively regulating iGaming since.

Malta—A Global iGaming Player and Proactive Regulator

Over the years, Malta has taken important and substantial steps to establish itself as a global player in the iGaming industry, and this is mostly due to the unique combination of a multi-lingual workforce, a strong legal system, a strong business development mindset, a stable government and

most importantly a proactive regulator. The Malta Gaming Authority (MGA) has over the past years successfully established itself as a leading and serious EU regulator where by the end of 2015, more than 300 companies holding over 400 licenses opted to be regulated by the Malta Gaming Authority.

iGaming operators generate around 10% of Malta's GDP

Today, Malta hosts some of the largest iGaming operators on the market which together generate around 10% of Malta's GDP. The success of Malta's thriving industry over the past few years is primarily due to sound regulation; however, its recent exponential growth also boils down to the services that now surround the industry itself. Since Malta is becoming ever more reliant on financial services, a trained and ever-increasing workforce in the sector is pushing more growth.

This growth is being witnessed across the whole spectrum including the setting up of funds on the island, licensing of electronic money institutions, iGaming licensing, yacht and aircraft registration as well as different residency schemes.

In any business in which one operates, it is people that make the difference, and Malta is no different. People are therefore one key element to the island's eco-system.

Highly-Qualified Tax Scheme for the Gaming Industry

The importance of a well-trained and educated workforce is paramount and both the government and the Malta Gaming Authority have introduced various schemes to both attract foreign highly-qualified people to the island and also to train locals. The Malta Gaming Authority has also recently established the Malta Gaming Academy with the aim of offering local and foreign students the opportunity to develop the necessary skills for a career in the iGaming industry. The plan is to create an independent educational institution as a public private partnership to provide increased opportunities for local and foreign individuals to enter the industry by offering tailor-made courses in line with the gaming industry's needs.

This increase in human resources has also driven growth in the Maltese real estate industry increasing demand for quality rental properties. Big names in the international Real Estate Market, namely, Sotheby's International Realty, Coldwell Banker, Engel & Volkers and Remax have established themselves well in a thriving market fueled by an incredible demand and appetite for quality projects. The real estate operators are therefore also important to the eco-system on the island and do form an important part of it.

Operators setting up in Malta are always quite impressed with the level of technology the island can deliver. The



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island has a solid and sound infrastructure and is extremely well connected to the Internet via a number of resilient submarine cables. These multiple fiber routes enable a 24/7, 365 day operation for some of the largest players in the iGaming industry. The iGaming industry is the major market for data centres on Malta, and the majority of these employ highly-trained, talented people.

A Competitive Tax System and Other Reasons to Opt for Malta

On the corporate side of things, Maltese corporate service providers have also played a crucial role in the growth of the iGaming industry in Malta. Setting up business or setting up a company in Malta provides an effective, EU-based solution. Malta's competitive tax system, extensive network of Double Taxation Agreements (DTAs), and its English-speaking educated workforce make it an increasingly popular business vehicle for companies from all over the world to register a company in Malta. Whether one is in need of a Malta holding company (to be used as part of an effective asset-holding structure), a Malta trading company, a ship-owning company, an investment vehicle or a captive insurance company, Malta provides several solutions to accommodate such requirements. Maltese CSP's also carry out many functions for iGaming operators including MGA iGaming license applications, payroll, accountancy work, VAT and tax returns, directorship services, secretarial services and also

tax advice on the structuring of client business across the globe. Mergers and acquisitions across the industry have also affected many Maltese structures with legal and financial due diligence being carried out by local legal counsel too. Corporate services providers (CSP's) are also very instrumental in the setting-up of licensee's banking requirements and this also is a feather in Malta's cap. Over the years, the growth of the financial services industry has likewise seen the growth in banking options on the island. Although the due diligence process might take some time, Maltese banks are entertaining iGaming business too.

The 'Freedom of Establishment' Principle

An important EU development over recent years was the introduction of EU national licensing regimes. Initially seen as a threat to Malta's lucrative iGaming industry, it has actually turned out to be quite the opposite as many operators are now using Malta as their operational base servicing multiple jurisdictions. The 'freedom of establishment principle' has also helped in allowing Maltese corporate vehicles to apply for other EU licences. It's true that the days where one licence fits all are over; however, the ancillary services that an operator needs in the EU are the same as those it has on Malta. Maltese licencees are hence locating their global headquarters on the island.

Other key players in Malta's eco-system are of course the various groups and councils set-up to represent operators. In order to also offer a voice to operators, the Malta Remote Gaming Council was set-up in 2005 under an initiative of the gaming authority. The Council consists of all stakeholders in the remote gaming industry including licensed operators, data carriers, Internet service providers, lawyers and professional services providers with its main objective being to serve as an ongoing discussion forum. Recently, the Malta Chamber of Commerce also set-up its iGaming council and they also represent some large operators.

Enhancing the Regulatory Framework

Since the iGaming industry is very much technology and product driven, the challenge that

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Roger A. Strickland Jr.

Roger A. Strickland Jr. joined CSB Group in 2005 as an External Consultant to the Group's iGaming business consultancy division and was subsequently appointed Group Director. Roger consults with companies setting up in Malta to make the right choices, to understand the licensing and regulatory requirements as well as to assist in setting up their respective Malta based operations. Roger has proven to be key to the smooth incorporation of iGaming companies. With a wide network of contacts and know-how within the online iGaming industry, Roger brings with him a wealth of experience and is strategic in bringing key stakeholders together. Since 2005 he has also served in the position of Key Official and Executive Director, representing various iGaming entities internationally. Fluent in English, Maltese, Italian and French and with knowledge of Dutch and German, Roger's network is highly international. Roger was also elected to the Malta Remote Gaming Council (MRGC) Board (2008-2010 committee). MRGC is continuously involved in discussion with stakeholders, regulators, ministries, and their members on various iGaming issues. As a seasoned iGaming expert, he contributed to various Malta Gaming Authority (MGA) committees on gaming standards. He now also sits on the GamingMalta Foundation board - a non-profit organisation founded by the Government of Malta and the Malta Gaming Authority and launched in March 2015. Its objectives include the promotion of Malta as the leading iGaming jurisdiction, attracting new companies to set-up in Malta - a centre of excellence in the iGaming industry. roger.strickland@csbgroup.com | www.csbgroup.com +356 2557 2557

MEMBERS IN THE NEWS

LARRY GREGORY APPOINTED TO THE BOARD OF DIRECTORS OF THE AMERICAN GAMING ASSOCIATION

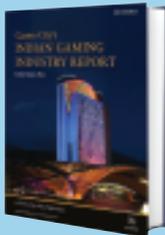
Larry Gregory, Executive Director, Ms. Gaming and Hospitality Association and former recipient of the IMGL Regulator of the Year award for



North America was recently appointed to the Board of Directors of the American Gaming Association.

2016 EDITION OF INDIAN GAMING INDUSTRY REPORT RELEASED

In March 2016, Alan P. Meister, Ph.D., Principal Economist with Nathan Associates and a California-based member of IMGL, released the latest edition of his annual Indian gaming study, the *Indian Gaming Industry Report*. In its fourteenth year of publication, the study provides comprehensive and up-to-date nationwide and state-by-state data and analysis on Indian gaming in the United States. A summary of the study's findings is included in Dr. Meister's article starting on page 30 of this issue of *American Gaming Lawyer*.



Entity Wagering

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rules and procedures for wagering communications, (3) has been informed that patrons are prohibited by law from placing wagering communications from outside Nevada, and (4) consents to monitoring or recording by the Board of any wagering communications.²¹ Both the Sports Book's employee and supervising employee must also sign statements that they witnessed the patron's signature and confirmed the patron's identity and residence.²²

Once the account has been established, the entity may begin wagering. However, all business entity wagering account deposits and withdrawals must only be made by transfers between the entity's account at its bank or financial institution, and may not be made in cash.²³ A Sports Book may not extend credit to an entity and may only accept wagering activity from an entity through its wagering account.²⁴ Also, the Sports Book may only deposit winnings into the entity's wagering account.²⁵

A Sports Book must report any violation (or suspected violation) of law or regulation related to an entity wagering account to the Board immediately, including, but not limited to, the Federal Wire Act, the Illegal Gambling Business Act, and anti-money launder-

ing laws.²⁶ Similarly, the Sports Book must notify the Board, within five days, of any account being suspended or closed, as well as the reinstatement of any suspended account.²⁷

In conclusion, although SB 443 and its related regulations provide an interesting vehicle to conduct an entity wagering business, including the ability to raise equity and debt financing, there are serious risks involved. These include administrative and criminal penalties for violating certain requirements of the new law and regulations, as well as applicable federal laws. Additionally, just as in any other business, how the entities are structured and operated can raise regulatory concerns, as well as expose the entity and individuals associated with that entity to civil lawsuits and other typical business risks. Therefore, should one be interested in exploring the entity wagering model, we recommend consulting with knowledgeable legal and business experts in order to understand and mitigate such risks. ♣

²¹ Reg 22.140(7)(e)

²² Reg 22.140(7)(f)

²³ Reg 22.160(5)

²⁴ Reg 22.150(9); Reg 22.150(8)

²⁵ Reg 22.150(8)

²⁶ Reg 22.155(7)

²⁷ Reg 22.150(10)

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now faces Malta is its ability to adapt to new market conditions. Regulations enacted in 2004 have served the industry well; however, technology has advanced in leaps and bounds. The current authority chairman has taken a serious pro-active approach to this, undergoing consultations with industry

stakeholders to gain recommendations and opinions in order to further improve the regulatory framework. Innovation here is key, and Malta seems to have this in abundance. Malta has become the default choice for operators looking to establish themselves in a serious regulated environment; however, in reality Malta's success stems from the different members of its eco-system which give it the right environment to thrive. ♣