

# Understanding anti-money laundering efforts worldwide

In Macau and elsewhere in Asia, and indeed around the world, there is sometimes a sense that casinos are being singled out for money-laundering scrutiny and that it is somehow unfair.



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The crackdown on corruption in China has had a dramatic impact on gaming revenues in Macau. Projected gaming revenues for 2016 are expected to be about US\$25 billion, down from US\$44 billion in 2013. The crackdown on corruption is obviously complex but clearly involves a money laundering component. The VIP rooms operated by third parties in Macau have long been suspected by gaming regulators and law enforcement of assisting patrons in the laundering of funds to offshore accounts. Macau casino companies operating premium mass play have taken proactive measures to better control high-value patron activities, but VIP room operators have a long way to go to achieve compliance with international anti-money-laundering (AML) requirements.

The fight against money laundering has been a significant regulatory and law enforcement issue for more than 30 years. In the mid-1980s, the G-7 countries established the Financial Action Task Force (FATF), based in Paris, to oversee AML efforts worldwide. The European Parliament underscored the global AML commitment in May 2015, when it adopted the Fourth Anti-Money Laundering Directive. The EU has made money laundering a top priority for twenty years. The governing body said the new measure will strengthen AML efforts by:

- facilitating the work of Financial Intelligence Units from different Member States to identify and follow suspicious transfers of money and facilitate the exchange of information;
- establishing a coherent policy towards non-EU countries that have deficient anti-money laundering and counter-terrorist financing regimes; and
- ensuring full traceability of funds transfers within, and from the European Union.<sup>2</sup>

Importantly for the purposes of this chapter, the Fourth Directive takes notice of casinos – and all forms of gambling – with respect to combatting money laundering.

The use of gambling sector services to launder the proceeds of criminal activity is of concern. In order to mitigate the risks relating to gambling services, this Directive should provide for an obligation for providers of gambling services posing higher risks to apply customer due diligence measures for single transactions amounting to EUR 2 000 or more. Member States should ensure that obliged entities apply the same threshold to the collection of winnings, wagering a stake, including by the purchase and exchange of gambling chips, or both. Providers of gambling services with physical premises, such as casinos and gaming houses, should ensure that customer due diligence, if it is taken at the point

of entry to the premises, can be linked to the transactions conducted by the customer on those premises. However, in proven low-risk circumstances, Member States should be allowed to exempt certain gambling services from some or all of the requirements laid down in this Directive. The use of an exemption by a Member State should be considered only in strictly limited and justified circumstances, and where the risks of money laundering or terrorist financing are low. Such exemptions should be subject to a specific risk assessment which also considers the degree of vulnerability of the applicable transactions. They should be notified to the Commission. In the risk assessment, Member States should indicate how they have taken into account any relevant findings in the reports issued by the Commission in the framework of the supranational risk assessment.

Member EU countries have two years from the June 26, 2015, effective date to turn the Directive rules into national laws.

Initially FATF issued recommendations to countries; encouraged the establishment of regional organizations such as the Caribbean Financial Action Task Force, the Asia Pacific Group and others; and established a system of peer group review on a country by country basis.<sup>3</sup> The initial 40 FATF recommendations have been supplemented over the years by other recommendations to reflect the changing nature of the threats to include terrorism financing.<sup>4</sup> These initial recommendations included the establishment of suspicious transaction reporting. The casino requirements are just one component of general financial institution reporting including banks, money remitters and other such institutions.

As a result of these efforts money laundering itself is, of course, a crime, but further enables a broad range of crimes including terrorism, drug trafficking, embezzlement, and illegal gambling. In the aftermath of 9/11 in the United States and a series of terrorist incidents in Europe and Asia, the flow of money to terrorist groups has taken a higher priority among law enforcement and gaming regulators.

To combat money laundering, enactment and enforcement of AML regulations and having the governmental will to enforce these laws and regulations are key elements of any well-regulated gaming jurisdiction. Cornerstones of any AML and Know Your Customer (KYC) regimes in the casino industry are the exclusion of criminal elements from owning or operating in the industry, and overt identification of persons involved in suspicious or large transactions.

AML became a front-burner issue for the casino industry in the United States in 2013, and it was made ever clearer by Jennifer Shasky Calvery, Director of the U.S. Financial

2. See European Commission press release dated May 20, 2015: [http://europa.eu/rapid/press-release\\_IP-15-5001\\_en.htm](http://europa.eu/rapid/press-release_IP-15-5001_en.htm)

3. See FATF Mutual Evaluations at <http://www.fatf-gafi.org/topics/mutualevaluations/>

4. See FATF Recommendations at <http://www.fatf-gafi.org/topics/fatf-recommendations/documents/fatf-recommendations.html>



Crimes Enforcement Network (FinCEN), in her September 24, 2013, address to the Global Gaming Expo in Las Vegas and in her June 12, 2014, address to the Bank Secrecy Act Conference in Las Vegas. Among her key remarks that emphasize a focus on the casino industry:

Casinos are responsible for reporting suspicious activity when they suspect that the money being brought to them for gaming derives from an illegal source. ... Those casinos that do choose to ignore their AML obligations and operate outside of the law are going to be held accountable. FinCEN will act to stop abuses of the U.S. financial system.

Significant amounts of money coming in from jurisdictions reported to have high crime or corruptions present greater risks to you. Under a risk-based approach, these situations represent times when you may need to learn more about your customer and his or her source of wealth to identify suspicious activity.

When you are affiliated with or have relations with a casino in an overseas jurisdiction, such as Macau, or when you are receiving patrons through overseas junket operators, you need to be concerned about potentially illicit sources of funds issues and strength of AML controls in the originating overseas jurisdiction.

Importantly, Director Calvery emphasized that casinos embrace a “culture of compliance,” which is a key provision of the BSA. Among the actions that should be taken: Casinos are required to detect and report if an amount involves or aggregates to \$5,000 (the best practice is to report all suspicious activity regardless of amount – the Safe Harbor provision); the institution devotes adequate resources to its compliance function; the compliance program is effective by, among other things, ensuring it is tested by an independent, competent party; and its leadership and staff understand the purpose of its BSA/AML efforts and how its reporting is used.

The United States Bank Secrecy Act has led to stringent regulations within the United States casino industry and worldwide that mandate a compliance program that must include:

1. Development of internal controls;
2. Training of the casino employees;
3. Independent testing for compliance;
4. The appointment of a compliance officer who is responsible for day-to-day compliance with the law and the casino’s AML program;
5. Procedures for using all available information to determine, when required, the name, address and Social Security Number, and to verify the identity of a person; and
6. Procedures for using all available information to determine any transactions or patterns of transactions required to be reported as suspicious, and procedures for using computers to aid in assuring compliance, if the casino has computerized systems.

These same procedures or variations to reflect requirements in specific jurisdictions are valid for casinos operating international and should be the starting point for effective AML controls. One thing is certain, the AML issue and the corruption issues will not be going away anytime soon.

#### **\*About the author**

Frederic Gushin founded Spectrum Gaming Group in 1993 after working 13 years for the New Jersey Division of Gaming Enforcement, where he was Assistant Director and Assistant Attorney General. Gushin has worked with private sector clients throughout the United States, the Caribbean, South America, Asia and Europe on a wide range of issues. With Spectrum, Gushin has led engagements evaluating casino operations for compliance (including AML Compliance) for private sector and governmental clients for over 30 years.