



BY DEREK RAMM, VICE PRESIDENT, MT>PLAY

Upping the Ante with AML Regulatory Changes

Canada's gaming industry is facing another round of anti-money laundering regulatory changes. After several years of consultation, parliamentary reviews and significant media attention on the issue of money laundering in Canada, the federal government has released the regulatory amendments under the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

Suspicious Transactions

One of the most notable regulatory changes involves the filing deadline for Suspicious Transaction Reports (STR). Currently, casinos must file an STR with FINTRAC within 30 days after the day on which they detect a fact that constitutes reasonable grounds to suspect that the transaction or attempted transaction is related to the commission of a money laundering or terrorist financing offense. Effective June 1, 2021, casinos must report STRs “as soon as practicable after they have taken measures that enable them to establish that there are reasonable grounds to suspect” that the transaction or attempted transaction is related to the commission of a money laundering or terrorist financing offense (emphasis mine).

In practice, casinos generally turn around STRs quickly, not only because they have a vested interest in maintaining the integrity of the industry by keeping criminals out of their establishments, but many gaming regulators have additional requirements for reporting suspected criminal activity. Under the new timing provisions, casinos would be well-advised to clearly and carefully document their process for identifying potentially suspicious transactions, investigating, escalating and ultimately making the determination as to whether there are “reasonable grounds to suspect” a money laundering or terrorist

financing offence. The last stage in that process – how suspicion is determined – is critically important, as FINTRAC will likely use the casino’s own policies to assess whether they are filing reports in a timely manner.

Expanded Information

The regulatory amendments also greatly expand the amount of information that must be included in an STR, if the casino has the information available. Starting June 1, 2021, casinos will be required to report information such as the customer’s source of funds, email address, IP address and device details (for online transactions) and virtual currency particulars (if applicable). AML compliance personnel will need to coordinate closely with their casino’s marketing, player development, accounting and responsible gaming departments to ensure that the information on file is at their fingertips.

Customer Identification

Effective immediately, the customer identification regulations have been broadened to allow for casinos to accept identity documents that are “valid, authentic and current.” Practically, this may provide more flexibility for provincial gaming corporations that offer online and mobile gaming platforms, as they can accept copies (electronic or otherwise) of government-issued photo

identification. However, casinos will need to have clear policies in place to define their risk threshold for “valid” or “authentic” documents and the process for dealing with documents that do not meet those criteria.

24-Hour Rule

The 24-Hour Rule has been amended to allow casinos to aggregate multiple transactions that total \$10,000 or more in 24-hour period to be reported in a single Large Cash Transaction or Casino Disbursement Report. Currently, casinos must separate single transactions of \$10,000 or more and report them individually.

Reasonable Measures

In June 2016, the regulations were amended to include a provision that required casinos to keep detailed records of “reasonable measures” attempts to obtain customer information, even when those attempts were unsuccessful. After consultation with stakeholders, the government concluded that this requirement placed a “significant administrative burden” on business. The new regulatory amendments have repealed this provision.

Electronic Funds Transfers

Casinos that send or receive international electronic funds transfers (EFT) on behalf of customers should take particular heed of the changes to EFT regulations.

Casinos must take reasonable measures to ensure that incoming and outgoing EFTs include all prescribed information on the sender and receiver. They must also develop risk-based policies and procedures to deal with incoming EFTs that have incomplete information and whether they should “suspend or reject” such transfers.

Additionally, at present casinos are only required to report and keep records of EFTs that are initiated “at the request of a client.” As of June 1, 2021, the requirement will be changed to include those initiated “at the request of a person or entity.” Casinos that utilize junket operators or host international poker tournaments may be affected by this change in wording and should review their internal controls as appropriate.

Virtual Currency

The new regulations bring virtual currencies into Canada’s AML regime. While most casinos in Canada do not currently accept virtual currencies, operators and provincial

gaming corporations should familiarize themselves with the record-keeping and reporting requirements for virtual currencies.

The Elephant in the Room

From the “Dirty Money” reports authored by Peter German, to the Commission of Inquiry into Money Laundering in British Columbia, to this summer’s high-profile organized crime arrests in Ontario, money laundering issues have received much attention over the past year. The “Dirty Money” reports, in particular, made a number of recommendations to improve anti-money laundering efforts in the gaming industry and to more clearly define the roles between casino operators, provincial gaming corporations and provincial gaming regulators. In fact, the “Dirty Money” recommendations were largely incorporated into the House of Commons Finance Committee’s November 2018 report on enhancing Canada’s anti-money laundering regime,

but were ultimately rejected by the federal government because of how legal gaming is structured under the Criminal Code.

It is unfortunate that, to date, the federal and provincial reviews haven’t sparked a more holistic assessment of the challenges to gaming in Canada that may be created by current legislation. Anti-money laundering compliance continues to be a high priority for Canada’s gaming industry. Policymakers should endeavor to assist the industry in combatting financial crime by adopting a pragmatic approach to regulation that addresses potential gaps and recognizes the rapidly changing landscape of gaming. **CGL**

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