

**Ministry of Finance
BRIEFING DOCUMENT**

To: Michael de Jong
Minister of Finance

Date Requested:
Date Required:

Initiated by: ADM

Date Prepared: September 1, 2015

Ministry Contact: John Mazure
Assistant Deputy Minister
Gaming Policy & Enforcement
Branch

Phone Number: [REDACTED]
Email: [REDACTED]
Cliff #: 345699

TITLE: Options for issuing anti-money laundering directives to BCLC

PURPOSE:

DECISION REQUIRED

Executive Director approval: _____

ADM approval: _____

Associate DM approval: _____

DATE PREPARED: August 31, 2015

TITLE: Options for issuing anti-money laundering directives to BCLC

ISSUE: The potential for money laundering, proceeds of crime, and suspicious financial transactions continues to be an issue in BC casinos and gaming facilities. Government may have a policy interest in enhancing current initiatives and measures on anti-money laundering (AML) to diminish suspicious and criminal activities in BC gaming facilities to promote public safety.

BACKGROUND:

- Government launched a three-phased AML strategy in 2011 focused on reducing the use of cash in gaming facilities to minimize the opportunity for money laundering to take place. Government is currently in the third phase of the strategy, which calls for regulatory guidance around additional measures for enhancing AML due diligence.
- On February 5, 2015, the Minister of Finance sent the 2015/16 Mandate Letter to the BC Lottery Corporation (BCLC), outlining five strategic priorities. One of these actions was to create next steps and solutions to prevent money laundering in BC gaming facilities.
- GPEB and BCLC hosted a workshop on June 4, 2015 titled “Exploring Common Ground”, which was attended by anti-money laundering partners, including law enforcement agencies, gaming service providers, and financial institutions.
- BCLC and GPEB continued working on initiatives to identify and mitigate risk. On August 7, 2015, the GPEB general manager sent a letter to BCLC’s CEO on four activities to enhance AML initiatives in BC gaming facilities. These included additional customer due diligence policies, implementing cash alternatives, clarifying roles and responsibilities around AML, and developing a public information strategy.
- Pursuant to the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, casinos must report cash transactions of \$10,000 or more and suspicious transactions to the Financial Transactions and Reporting Analysis Centre of Canada (FINTRAC). FINTRAC uses that information to identify patterns and gather evidence of potential money laundering and may share this data with law enforcement.
- BCLC and casino gaming services providers are required to report large-cash transactions of \$10,000 or more, foreign exchanges over \$3,000, and all suspicious transactions, to FINTRAC.

- In 2014/15, BCLC filed 1,735 suspicious transaction reports to FINTRAC, compared to 1,254 in 2013/14.
- A relatively few number of high value patrons account for a significant portion of BCLC revenue and a corresponding number of suspicious transaction reports. It is understood these clients have a preference for cash transactions.
- S.6 of the GCA permits the Minister to issue directives to BCLC on a matter of general policy. BCLC is obliged to comply with any such directives.
- S.7(1)(j) of the GCA permits the Minister to impose requirements on BCLC in relation to BCLC's responsibility for the conduct and management of gaming on behalf of the government. This may be done in the form of a ministerial directive.
- S.26 of the GCA permits the Minister to issue directives to the general manager on matters of general policy.
- S.28(1) of the GCA permits the general manager to issue directives to BCLC in connection with lottery schemes in BC. BCLC is obliged to comply with any such directives.

DISCUSSION:

- A number of sections in the GCA are available in relation to issuing one or more directives to BCLC on AML.
- The Minister may consider imposing binding obligations on BCLC under s.7(1)(j) of the GCA. In doing so, the Minister could set the stage and context for a general manager directive to BCLC under s.28(1) of the GCA. As a result, the Minister would foreshadow an imminent general manager directive, while simultaneously creating an obligation for BCLC to comply with that general manager directive.
- If the Minister believes general manager involvement is not essential, then s.6 of the GCA permits the minister to issue written directives to BCLC on matters of general policy. This is the most straightforward method to issue a ministerial directive to BCLC on AML. However, the level of detail included within such a directive may be difficult to be categorized as a "matter of general policy". This directive would require ongoing Ministerial involvement should additional edits or adjustments be needed.
- Government may also consider the combination of a Ministerial directive to the general manager on a matter of general policy under s.26 of the GCA, followed by a general manager directive to BCLC under s.28(1). However, a s.26 Ministerial directive regarding AML to the general manager may be seen to imply the general manager is responsible for the conduct and management of gaming and the operationalization of AML initiatives. This may be in conflict both with s.7 of the

GCA, which makes BCLC responsible for the conduct and management of gaming on behalf of the government, and with government's "2015/16 Mandate Letter", which identifies BCLC as the lead on AML.

OPTIONS:

Option 1: Minister sets out obligations for BCLC, general manager issues directive to BCLC

Part 1: Under s.7(1)(j) of the GCA, the Minister establishes obligations that BCLC must carry out; and

Part 2: General manager issues a detailed directive to BCLC under s.28(1) of the GCA.

Pros:

- Allows the Minister to set the context and stage for more detailed general manager directive(s) on AML. This may take the form of a directive.
- Establishes the basis for a legal obligation for BCLC to comply with general manager directive(s) on AML, and helps to remove the argument that the general manager lacks authority to issue an AML directive on the basis of s. 28(1) alone.

Solicitor Client Privilege

Cons:

- Two part directive, requiring additional resource and time.

Option 2: Ministerial Directive to BCLC on a "matter of general policy" under s.6 of the Gaming Control Act

The Minister issues a Ministerial directive to BCLC under s.6 of the GCA

Pros:

- This is the most straightforward and simplest approach to the issue
- Interprets AML as a matter of "general policy" for BCLC, which aligns with government's 2015/16 Mandate Letter

Cons:

- Does not involve the general manager in the directive-making process
- Minister may not wish, or be ready, to set out the level of detail that is necessary in order for the directive to be impactful
- Future edits or adjustments will require ministerial involvement to re-issue new directives.

Option 3: Ministerial Directive to general manager, general manager directive to BCLC

Part 1: The Minister issues a Ministerial directive to the general manager under s.26 of the GCA

Part 2: General manager issues a detailed directive to BCLC under s..28(1) of the GCA

Pros:

- GPEB directs BCLC to enhance initiatives on AML. This is an improvement over the status quo.

Cons:

- Two part directive, requiring additional resources and time
- Implies that the general manager is responsible for AML, which government identified as being part of BCLC's 2015/16 mandate

Solicitor Client Privilege

RECOMMENDATION:

Option 1: Minister sets out obligations for BCLC, general manager issues directive to BCLC

Part 1: Under s.7(1)(j) of the GCA, the Minister establishes obligations that BCLC must carry out; this may take the form of a directive; and

Part 2: General manager issues a more detailed directive to BCLC under s.28(1) of the GCA

APPROVED / NOT APPROVED

John Mazure
Assistant Deputy Minister

Date

Appendix 1 – Option 1: Minister sets out BCLC obligations, general manager issues directive to BCLC

Appendix 2 – Ministerial Directive to BCLC on a “matter of general policy” under s.6 of the Gaming Control Act

Appendix 3 – Option 3: Ministerial Directive to GPEB, GPEB Directive to BCLC

Appendix 4 – Gaming Control Act s.6, 7(1), 26, 28(1)

Appendix 1 – Option 1: Ministerial directive to BCLC, GPEB Directive to BCLC

Part 1: Ministerial directive letter to BCLC

To: Jim Lightbody, CEO of British Columbia Lottery Corporation

Money laundering is a serious concern for the government of the Province of British Columbia. Money laundering has significant implications for public safety and for the integrity of gaming in the Province. British Columbia has an active anti-money laundering regime for gaming facilities in the Province; however, more can be done to combat money laundering.

Based on the authority given to me by section 7(1)(j) of the *Gaming Control Act*, I direct that British Columbia Lottery Corporation, as part of its responsibility for the conduct and management of gaming on behalf of the government, must do the following:

- (i) Enhance all anti-money laundering initiatives and measures, including ensuring legitimacy of all currency being used for gaming in BC
- (ii) Determine all high-limit players' source of funds and source of wealth
- (iii) Implement any directives related to anti-money laundering which are issued by the general manager of the Gaming Policy and Enforcement Branch.

Approved:

Michael de Jong
Minister of Finance

Date

Part 2: General Manager Directive to BCLC

Gaming Policy and Enforcement Branch

General Manager's Directive
Section 28(1) of the *Gaming Control Act*

Anti-money laundering measures in BC

To: British Columbia Lottery Corporation (BCLC)

This directive is issued pursuant to Section 28(1) of the *Gaming Control Act*. It sets out a number of measures that relate to anti-money laundering measures. Specifically, I direct that BCLC must:

- 1) at a minimum and in all circumstances, determine source of funds and source of wealth as part of BCLC's existing Customer Due Diligence Program and its Know Your Customer policy and programs;
- 2) develop and implement additional cash alternatives to further transition from cash-based transactions to electronic and other forms of transactions and instruments;
- 3) increase its coordination and collaboration with intelligence, analysis, audit, compliance, and enforcement officials at BCLC, GPEB and law enforcement agencies
- 4) develop and publish information and education strategies that support BCLC's anti-money laundering measures

Approved:

John Mazure
General Manager of Gaming Policy and Enforcement Branch

Date

Appendix 2 – Option 2: Ministerial Directive to BCLC on a “matter of general policy”

Minister of Finance

Directive to the British Columbia Lottery Corporation (BCLC)
Section 6, *Gaming Control Act*

Pursuant to section 6 of the *Gaming Control Act*, I direct that, as a matter of general policy, BCLC must, in keeping with its responsibility for the conduct and management of gaming on behalf of the government of British Columbia, implement the following anti-money laundering enhancement measures:

- 1) at a minimum and in all circumstances, determine source of funds and source of wealth as part of BCLC’s existing Customer Due Diligence Program and its Know Your Customer policy and programs;
- 2) BCLC must develop and implement additional cash alternatives to further transition from cash-based transactions to electronic and other forms of transactions and instruments
- 3) increase its coordination and collaboration with intelligence, analysis, audit, compliance, and enforcement officials at BCLC, GPEB and law enforcement agencies; and
- 4) BCLC must develop and publish information and education strategies that support BCLC’s anti-money laundering measures.

Approved:

Michael de Jong
Minister of Finance

Date

Appendix 3 – Option 3: Ministerial Directive to GPEB, GPEB Directive to BCLC

Minister of Finance

Directive to Gaming Policy and Enforcement Branch (GPEB)
Section 26, *Gaming Control Act*

Part 1: Ministerial directive letter to GPEB

To: John Mazure, General Manger of Gaming

This directive, issued pursuant to Section 26 of the *Gaming Control Act*, requires GPEB to undertake additional measures and initiatives to address anti-money laundering in BC casinos and gaming facilities. These initiatives must, at a minimum:

- a) Determine all high-limit players' source of funds and source of wealth
- b) Ensure legitimacy of currency being used for gaming in BC
- c) Reduce the prevalence of cash being used for gaming in BC

GPEB should also analyze and implement other approaches to reduce money laundering in BC casinos and gaming facilities.

Approved:

Michael de Jong
Minister of Finance
Date

Part 2: General Manager Directive to BCLC

Gaming Policy and Enforcement Branch

General Manager's Directive
Section 28(1) of the *Gaming Control Act*

Anti-money laundering measures in BC

To: British Columbia Lottery Corporation (BCLC)

This directive is issued pursuant to Section 28(1) of the *Gaming Control Act*. It sets out a number of measures that relate to anti-money laundering measures. Specifically, I direct that BCLC must:

- 1) at a minimum and in all circumstances, determine source of funds and source of wealth as part of BCLC's existing Customer Due Diligence Program and its Know Your Customer policy and programs;
- 2) develop and implement additional cash alternatives to further transition from cash-based transactions to electronic and other forms of transactions and instruments;
- 3) increase its coordination and collaboration with intelligence, analysis, audit, compliance, and enforcement officials at BCLC, GPEB and law enforcement agencies
- 4) develop and publish information and education strategies that support BCLC's anti-money laundering measures

Approved:

John Mazure
General Manager of Gaming Policy and Enforcement Branch
Date

Appendix 4 – Gaming Control Act s.6, 7, 26, 28

Gaming Control Act s.6

Minister's general policy directions to the lottery corporation

- 6** (1) The minister may issue written directives to the lottery corporation on matters of general policy.
- (2) The lottery corporation must comply with the directives.
- (3) The general manager must publish the directives of the minister in the prescribed manner and make them available for public inspection at the offices of the branch during normal office hours.

Gaming Control Act s.7(1)

Lottery corporation's mandate

- 7** (1) The lottery corporation is responsible for the conduct and management of gaming on behalf of the government and, without limiting the generality of the foregoing,
- (a) may develop, undertake, organize, conduct, manage and operate provincial gaming on behalf of the government, either alone or in conjunction with the government of another province,
- (b) [Repealed 2010-21-90.]
- (c) subject to first receiving the written approval of the minister, may enter into agreements, on behalf of the government of British Columbia, with the government of Canada or the governments of other provinces regarding the conduct and management of provincial gaming in British Columbia and in those other provinces,
- (d) subject to first receiving the written approval of the minister, may enter into the business of supplying any person with operational services, computer software, tickets

or any other technology, equipment or supplies related to the conduct of

- (i) gaming in or out of British Columbia, or
- (ii) any other business related to gaming,

(e) may enter into agreements with persons, other than registered gaming services providers, respecting provincial gaming or any other business related to provincial gaming,

(f) subject to subsection (1.1), may enter into agreements with registered gaming services providers for services required in the conduct, management or operation of provincial gaming,

(g) may set rules of play for lottery schemes or any class of lottery schemes that the lottery corporation is authorized to conduct, manage or operate,

(h) may monitor the operation of provincial gaming or horse racing and the premises and facilities in which provincial gaming or horse racing is carried on,

(i) must monitor compliance by gaming services providers with this Act, the regulations and the rules of the lottery corporation, and

(j) must do other things the minister may require and may do other things the minister may authorize.

Gaming Control Act s.26

Minister's general policy directions to the general manager

26 (1) The minister may issue written directives to the general manager on matters of general policy.

(2) The general manager must comply with the directives.

(3) The general manager must publish the directives of the minister in the prescribed manner and make them available for public inspection at the offices of the branch during normal office hours

Gaming Control Act s.28(1)

Directives of the general manager

28 (1) For lottery schemes and horse racing in British Columbia, the general manager, subject to subsection (3), may issue directives applicable to the branch, the lottery corporation or both, as to the carrying out of responsibilities under this Act, including but not limited to directives,

(a) respecting the extent or type of gaming activities that may be carried on at a gaming facility or in relation to provincial gaming,

(b) establishing limitations respecting ownership, control or both, of gaming services providers in general or of classes of gaming services providers,

(c) respecting types of lottery schemes for which gaming event licences may be issued,

(d) respecting types of horse racing for which horse racing licences may be issued,

(e) respecting specified activities in conjunction with lottery schemes or horse racing, in circumstances, or on conditions, that may be set out in the directives,

(f) respecting standards for security and surveillance

(i) at gaming facilities or gaming premises or classes of gaming facilities or gaming premises, or

(ii) in relation to gaming operations or classes of gaming operations,

(g) respecting the technical integrity of lottery schemes,

(h) establishing criteria for the review and evaluation of proposals for new gaming facilities or for the relocation of existing gaming facilities,

(i) prohibiting or restricting the extension of credit to participants in gaming events and governing the extension of credit,

(j) approving the formula for determining the amount of gaming revenue that

(i) must be returned to charitable, religious or other organizations in connection with a licensed gaming event, or

(ii) may be retained by or paid to a gaming services provider in connection with the conduct, management, operation or presentation of lottery schemes,

(k) establishing policies to address problem gambling, and

(l) respecting the method by which the prescribed distance for the purposes of the definition of "potentially affected local government" in section 17.1 must be measured, including rules for determining the terminal points of that distance.