

Ministry of Finance

BRIEFING DOCUMENT

To: Honourable Michael de Jong, Q.C.
Minister of Finance

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TITLE: Minister’s Directive to Refuse Unsourced Cash in British Columbia
Gambling Facilities

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PURPOSE:

(X) FOR DECISION

DATE PREPARED: Jan XX, 2016

TITLE: Minister's Directive to Refuse Unsourced Cash in British Columbia Gambling Facilities

ISSUE: Report Findings / Recommendations / BCLC Response / Next Steps

BACKGROUND:

As a part of the Province's Anti-Money Laundering strategy, the Gaming Policy and Enforcement Branch (GPEB) reviewed suspicious transaction reports provided by BCLC and service providers, concluding that approximately \$13 million in \$20 bills were accepted by River Rock Casino Resort (RRCR) during July 2015. This represented a significant increase over previous months. Based on the risks identified in this review as well as information obtained from the Exploring Common Ground workshop¹ and recommendations from a September 2014 report on AML best-practices², GPEB engaged MNP to review the current practices regarding large volumes of unsourced cash being accepted at RRCR. GPEB also recommended a need for specialized law enforcement in the area of gambling. As a result the Joint Illegal Gaming Investigations Team (JIGIT) was created.

MNP analyzed current practices at RRCR with respect to source of funds, source of wealth, handling of cash, use of cash alternatives and overall Customer Due Diligence (CDD) and identified immediate near-term actions to address any gaps. The report was intended to be a snapshot in time of one gaming facility and not a full review of BCLC's AML program.

MNP's final report, dated July 26, 2016, was based on field work completed through January 22, 2016. The report findings and recommendations were based on information obtained through:

- 23 interviews with RRCR and BCLC staff,
- observations made at RRCR and BCLC,
- a review of data from September 1, 2013 to August 31, 2015 of reportable transactions or play records provided by BCLC, and
- experience of MNP AML specialists.

MNP provided both GPEB and BCLC the opportunity to provide feedback on a penultimate draft. The report was revised to reflect feedback provided as deemed appropriate by MNP.

Overall, the report found BCLC and staff at the RRCR were generally meeting reporting requirements under the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (PC(ML)TFA). The report also found that BCLC's CDD processes meet Federal regulatory requirements for standard risk patrons.

MNP made 30 distinct recommendations that can be categorized into four general themes:

1. **Risk** - GPEB should consider implementing a policy requirement that Service Providers refuse unsourced cash exceeding an established dollar limit or refuse frequent unsourced cash exceeding an established threshold and time period. GPEB should

¹ The Exploring Common Ground workshop was held in June 2015 and brought together representatives from GPEB, BCLC, gambling service providers, RCMP, financial institutions, FINTRAC, CBSA and CRA to discuss AML in BC gambling facilities.

² GPEB contracted Malysh Associates Consulting to produce a report summarizing best practices of businesses that are required to maintain AML compliance regimes under the PC(ML)TFA (e.g. financial institutions) and provide information to assist GPEB to conduct a gap analysis of their AML policies.

also work with BCLC to support cash-alternatives for Service Providers and should work with BCLC to jointly evaluate the resourcing and functioning of existing investigative units.

2. **Training** - BCLC training for service providers would benefit from enhancements to remind staff of the indicators of suspicious transactions and reporting requirements.
3. **Enhanced Due Diligence (EDD)** - BCLC should review EDD processes to ensure the data and information collected provide a clear picture of the risks and profile of the patron for risk assessment and mitigation.
4. **Technology and Monitoring** - BCLC should appropriately resource the SAS implementation project to improve the quality of the data used for ongoing risk assessment and compliance monitoring and reporting.

In June 2016, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) conducted a compliance review of all aspects of BCLC's AML program. The review found that BCLC was in full compliance with federal AML legislation with one exception: BCLC's training program for service providers required improvement because some staff were not able to clearly articulate how money laundering risks directly related to their specific job functions.

DISCUSSION:

BCLC has concerns about the accuracy of the data used in MNP's analysis, resulting in concerns about some of the report's findings and recommendations. MNP worked from a customized data extraction provided by BCLC. Some of the data in the extraction MNP received was corrupted.

BCLC Response

BCLC has provided GPEB with a response plan for MNP's recommendations. In general, BCLC does not see the need to take action based on MNP's recommendations with the exception of a commitment to enhance BCLC's AML training program in 2017.

BCLC considers the status on almost all of MNP's recommendations to be complete, in many cases citing the FINTRAC compliance review as evidence of the adequacy of existing processes relating to a number of the recommended actions. However, it should be noted that many of MNP's recommendations go over and above PC(ML)TFA reporting requirements and FINTRAC's compliance review focused on compliance with those reporting requirements only.

In some cases, BCLC has provided a rationale for not adopting MNP's recommendations. For example, BCLC will not provide AML training in the primary language of the staff member as recommended by MNP because they believe it will result in potential reporting errors and increased risk.

In their response to recommendations related to direction from GPEB to refuse unsourced cash exceeding specified thresholds, BCLC advised that:

1. they are awaiting GPEB analysis on whether GPEB has the authority to set AML requirements under the Gaming Control Act (GCA),
2. any such requirement may be in conflict with PC(ML)TFA and FINTRAC Guidelines which require BCLC to implement a risk-based compliance regime,

3. a directive requiring refusal of cash impact may have “dramatic adverse fiscal impacts to gaming service providers...and service providers may see the action as frustrating its service contracts with BCLC...” and “...service providers can be expected to seek compensation from government where provincial requirements are not aligned with or conflict with federal law.”

1. Authority to Set AML Requirements

The Minister of Finance has authority under the GCA to issue written directives to BCLC on matters of general policy and BCLC must comply with the directives.

Solicitor Client Privilege

Solicitor-client privilege

Solicitor-client privilege

2. Conflict Between Federal AML Requirements and a Directive to Refuse Unsourced Cash

GPEB’s General Manager and the Executive Director of Compliance met with senior leadership at FINTRAC. FINTRAC had no concerns with GPEB’s intention to implement a threshold over which unsourced cash should be refused. FINTRAC also outlined the need for BCLC to move to a culture of “intelligence for enforcement” with less focus on technical scores from FINTRAC and other audits and instead, advancing to “effectiveness”.

Solicitor-client privilege

3. Financial Impact of Directive to Refuse Unsourced Cash

BCLC has provided no details on the potential financial impact of a directive requiring service providers to refuse unsourced cash.

Solicitor-client privilege

General Manager Recommendation

Under the GCA, the GM “must advise the minister on broad policy, standards and regulatory issues”. The GM is concerned that unsourced cash continues to enter B.C. gambling facilities, presenting a significant risk that laundered money is contributing to government revenue.

With the heightened scrutiny on money laundering in B.C.’s real estate sector and the potential the Joint Illegal Gaming Investigation Team (JIGIT) will publicly announce arrests or charges related to money laundering in B.C. gambling facilities in the near future, government must take all steps necessary to minimize money laundering and unsourced cash in B.C. gambling facilities.

The General Manager is advising the Minister to issue a directive under section 6 of the GCA, instructing BCLC to take the following steps:

1. Implement a policy of refusing unsourced cash from patrons once a business relationship, as defined by FINTRAC, has been established.³ This will minimize the

³ FINTRAC *Guideline 4: Implementation of a Compliance Regime* provides that a reporting entity (e.g. casino) is considered to form a business relationship with a client when they undertake two or more transactions that require

- acceptance of large cash transactions from patrons without establishing source of funds.
2. Require the service provider to complete a questionnaire, establishing the client's source of funds, each time a Suspicious Transaction Report (STR) is filed with FINTRAC.⁴ This will assist BCLC in ensuring that service providers take steps to determine source of funds for all transactions considered suspicious and make a further determination as to whether to refuse the cash. Completed questionnaires will also be used by the Joint Illegal Gaming Investigations Team (JIGIT) for investigations related to organized crime.

Other industries and Ontario casinos....

OPTIONS:

Option 1: Minister's Directive – Minister of Finance to sign attached directive requiring BCLC implement a policy to refuse unsourced cash and require completion of a source of funds questionnaire each time a STR is filed.

Implications:

- Ensures government is taking significant steps to minimize money laundering and unsourced cash in B.C. gambling facilities.
- Assists JIGIT investigations related to organized crime.
- May result in decreased revenue for the province, gambling facility service providers and host local governments (HLGs).
- Consistent with other cash industries and Ontario casinos.

Option 2: Status Quo – Minister of Finance does not issue directive.

Implications:

- No revenue impact.
- Government may be seen as not taking necessary steps to keep money laundering and unsourced cash out of B.C. gaming facilities, particularly if JIGIT announces arrests or charges related to money laundering.

RECOMMENDEDATION:

Option 1: Minister's Directive – Minister of Finance to sign attached directive requiring BCLC implement a policy to refuse unsourced cash and require completion of a source of funds questionnaire each time a STR is filed.

APPROVED / NOT APPROVED

the reporting entity to ascertain the client's identify (e.g. cash transactions exceeding \$10,000). FINTRAC Guideline 4 provides that the reporting entity must perform a risk assessment when the business relationship has been established.

⁴ An STR must be filed with FINTRAC when there are reasonable grounds to suspect that a transaction or an attempted transaction is related to the commission or the attempted commission of a money laundering offence. There is no minimum threshold amount for reporting a suspicious transaction.

Michael de Jong, Q.C.
Minister of Finance

Date

Attachment: Draft Minister's Directive

APPENDIX A: DETAILED TABLE OF RECOMMENDATIONS:

The following table includes all of MNP's recommendations, broken down by the areas identified above and the organization that would be responsible for implementation.

Responsible organization	Section	Recommendation
Risk		
GPEB	4.2 5.69	Should consider implementing a policy requirement that Service Providers refuse unsourced cash deposits exceeding an established dollar threshold or to refuse frequent unsourced cash deposits exceeding an established threshold and time period until the source of the cash can be determined and validated.
	5.6	Define its accepted level of risk for unsourced cash and then develop clear roles and responsibilities for: GPEB – Regulator, Enforcement BCLC – Manage gaming and reporting entity Service Provider – Risk identification
	5.35 5.52 5.74	At the direction of the Minister responsible for gaming, consider issuing a directive pertaining to the rejection of funds where the source of cash cannot be determined or verified at specific thresholds. Source of funds can only be verified by obtaining documentation for the withdrawal of cash from a financial institution or entity covered under the PCMLTFA. A directive from GPEB may also support BCLC in creating a policy which would mandate the Service Provider to decline a transaction when mandatory occupation data is no provided by the patron.
	4.3 5.67 5.68	The review of proposed cash alternative solutions, including credit, and the impact of these solutions should remain a priority for both GPEB and BCLC. Cash alternatives allow Service Providers to receive funds, strengthening the overall compliance regime with minimal impact on revenue generation.
BCLC	5.56	Depending on GPEB / Minister's risk tolerance for large unsourced cash transactions, revise policies

		regarding tolerance of high risk play and consequences of unacceptable high risk activity
	4.8	Consider whether its risk assessment process adequately reflects current thinking around money laundering and terrorist financing risk. The risks associated to specific facilities should be evaluated, rather than simply drawing geographic boundaries for risk.
	5.48 5.49	Rather than base a facilities risk assessment by region, risk assessments should include factors specific to the facility. Consider if the risk register reflects the current environment as it is not as granular as other jurisdictions reviewed by MNP.
	5.70	Consider developing new cash alternative programs and products that include: the ability of non-Canadian players to fund PGF accounts and repay credit if subject to cash restrictions in their home country (i.e. China), and allocating how defaults on repayment will be determined (i.e. between BCLC and service provider.
Training		
BCLC	4.5	If GPEB implements a policy regarding the refusal of large or frequent un sourced cash deposits, BCLC's procedures to address the policy should include refresher training to Service Providers pertaining to BCLC's reporting requirements of attempted transactions to ensure reports are appropriately identified.
	4.11 5.47	Facility staff should be regularly trained on the completion of the forms used for reporting, including UFT reporting.
	4.12	Anti-money laundering training programs should be evaluated for up-to-date content and effectiveness.
	4.12 5.55	Training should be provided in the primary language of the candidate, particularly for its high risk exposed employees (those working in high-limit rooms).
	4.14	The KYP framework at RRRCR is a task-driven compliance activity rather than a risk management activity. Provide further guidance as the manager and responsible entity for AML regulatory obligations to enhance and enforce appropriate KYP measures.

	5.54	Additional training for employees in the VIP area focused specifically on suspicious indicators and required actions to improve independent thinking.	
Enhanced Due Diligence (EDD)			
BCLC	4.7	Enhance the CDD processes from both a risk management and revenue generation perspective with modifications and additional resources to meet EDD expectations for high risk patrons.	
	4.9 5.83	Review its EDD process to ensure the data collected and information gleaned provides a clear picture of the risks and profile of the patron for risk assessment and mitigation.	
	5.15	EDD measures could be more qualitative, and a formal response to specified risk ratings could be created.	
	5.16	Outsourcing the EDD process for higher risk patrons should be considered to clear the current backlog.	
Technology and Monitoring			
BCLC	4.10 5.24 5.28 5.29	Prioritize and appropriately resource the ongoing SAS implementation project (schedule for roll out in fall of 2016) to improve the quality of the data used for ongoing risk assessment and compliance monitoring and reporting.	
	4.11	Ensure that reporting forms used by the facilities are up to date and include valuable information fields for mandatory completion for unsourced or high volume cash transactions such as source of funds, source of wealth and purpose and intended nature of relationship information.	
	4.13	MNP identified instances where non-cash transactions processed to RRCR's PGFs were over-reported to FINTRAC, and instances where mandatory fields in LCTRs were left blank. Both issues are contrary to the PCMLTFA and require remediation and disclosure to FINTRAC.	
	5.27	Due diligence on large volumes of slot Cash Disbursement Reports (CDR) should be monitored for suspicious activity.	
	5.36 5.32	Review all of the FINTRAC reporting (LCTR/CDR) for non-cash for all facilities which offer PGF accounts should be done immediately to stop unnecessary and incorrect reports.	

	5.44	Create a template for Unusual Financial Transaction (UFT) reports for service providers to use to ensure that all required information is included and to create consistency in the quality of submissions between facilities.
Service Providers	5.4	VIP Hosts have the most significant interaction and knowledge of the VIPs and ability to flag instances of receipt and use of unsourced cash for suspicious transaction reporting. Consideration should be given to cross functional reporting lines to the Director, Table Games for a consistent approach to compliance across all table game points of access susceptible to the acceptance of unsourced cash.
	5.46	Floor staff should have more active involvement in the UFT reporting process. UFT reporting is currently carried out by surveillance staff who only have limited info based on video surveillance.
Other recommendations		
GPEB	5.19	Establish a dedicated, cooperative inter-agency AML investigations unit comprised of GPEB and BCLC investigators to delineate the roles between operational and AML investigations and regulatory compliance investigations.
BCLC	5.1	Operating levels for BCLC Investigators may need to be reviewed as the current staffing levels assigned to RRRCR do not appear to be sufficient
All	4.4	Jointly evaluate the resourcing and functioning of existing investigative units. Effective multi-agency units would promote the sharing of information and resources.