

**MINISTRY OF ATTORNEY GENERAL
GAMING POLICY & ENFORCEMENT BRANCH & BC LOTTERY CORPORATION
JOINT BRIEFING NOTE**

PURPOSE: For DECISION of Deputy Minister's Committee on AML

ISSUE: Government aspires for zero acceptance of proceeds of crime in casinos. GPEB and BCLC have been asked to review refusing all unusual financial transactions as one potential action towards this aspiration. Consideration of the implications of requiring every unusual financial transaction (UFT) at BC gaming facilities to be refused in the first instance.

SUMMARY:

- The threshold for Service Providers (SPs) to file an Unusual Financial Transaction (UFT) is significantly lower than the threshold for the BC Lottery Corporation (BCLC) to file a Suspicious Transaction Report (STR) to Financial Transactions and Reports Analysis Centre (FINTRAC). This ensures BCLC and the Gaming Policy and Enforcement Branch (GPEB) are notified of any potentially suspicious activity.
- In 2018, based on objective criteria set out by BCLC, SPs refused 60 per cent of UFTs. In 2018, only 27 per cent of UFTs were deemed as suspicious transactions requiring an STR to FINTRAC.
- A policy to refuse all UFTs would have the following implications:
 - **Redacted by BC - Solicitor Client Privilege**
 - A risk that patrons will shift their gambling to illegal underground casinos;
 - Potential for a substantial increase in the number of UFTs being reported by SPs as the presence of a first prescribed indicator would automatically trigger a report in order to remove SP subjectivity in refusing transactions; and
 - Potential increase in STRs as BCLC would need to treat all refused transactions as attempted suspicious transaction reports.
- A policy to refuse all UFTs using the current risk-based approach would have the first two implications noted above, and would also result in not every UFT being refused, given that some UFTs will not be identified and reported until after the transaction has occurred due to the multi-layered assessment approach.
- Deferring a decision regarding refusal of UFTs until BCLC has further assessed account-based gambling solutions would provide an opportunity to consider implications in conjunction with a potential new solution to reduce cash in casinos.

BACKGROUND

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- In accordance with the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA), all reporting entities must report STRs to FINTRAC to facilitate the investigation of potential money laundering activity. BCLC is currently the reporting entity for the commercial gambling sector in B.C.
- FINTRAC requires an STR when a transaction meets the threshold of “reasonable grounds to suspect” the transaction involves money laundering or terrorist financing, which requires adequate assessment of the facts, context and indicators involved in the transaction.
- BCLC requires SPs to create UFTs when they detect anything unusual about a transaction, which can include a patron not providing a receipt for funds over \$10K.
- The UFT may be filed at the time of the transaction or after the transaction has already occurred if subsequent information becomes available, such as information obtained through video surveillance.
- UFTs are analysed by BCLC and if the information from the UFT, along with BCLC’s analysis of all additional data related to the player and his/her overall transaction history, meets the “reasonable grounds” threshold, it submits a STR to FINTRAC.
- SPs alert BCLC, through the submission of a UFT, to any transaction, irrespective of the value, where there is anything unusual about the transaction. FINTRAC publishes guidance setting out indicators that may be used by frontline casino staff to determine whether a transaction is in any way unusual. The indicators have subjective elements, including, but not limited to, the patron exhibits nervous behaviour, appears to be living beyond their means, or is known to use multiple names. (See *Appendix A*).
- The threshold for filing a UFT is significantly lower than the threshold for an STR. This ensures that BCLC and GPEB are alerted to any potentially illegal activity even if it does not meet the threshold for reporting to FINTRAC.
- BCLC requires SPs to create a UFT and refuse the transaction if:
 - the patron declines to provide the required identification or source of funds documentation;
 - any casino employee suspects an individual of money laundering or attempting to launder money which may be the proceeds of crime, and the suspicion is found to be adequately supported; or
 - the transaction would otherwise violate BCLC Standards, Policies and Procedures.
- In 2018, there were 1,858 UFTs. SPs refused 1,110 (60 percent) of these transactions on the grounds outlined above. There were 748 transactions where a UFT was filed and the transaction was accepted. (See *Appendix B and Appendix C*).
- On April 12, 2019, FINTRAC has provided guidance that it is for BCLC to assess risks to which it may be exposed, determine the risk tolerance and put in place any risk-mitigation measures. FINTRAC noted that the refusal of any financial transaction where any

suspicious indicator is present is in fact a mitigation measure that will be implemented in response to the risk assessed of each transactions.

- However, FINTRAC also noted that it is only in subsequent compliance assessments that FINTRAC can assess BCCL's compliance with risk-assessment requirements, the effectiveness of risk-mitigation measures and the requirements to submit STRs. (See *Appendix D.*)
- BCLC stresses that impact to net income is not a factor in the decisions BCLC makes in the implementation of its AML regime.
- However, in 2018, the net income after tax impact to BCLC of refusing the 748 transactions that were accepted would have been approximately \$600K .Note, the 2018 calendar year does not provide an adequate baseline because of significant changes in AML policies that year².
- Because implementing a policy to refuse all UFTs would be a fundamental change in AML procedures and may result in an increase in UFTs, BCLC cannot estimate the impact to net income from such a change.

Regulator Role

- The optimal regulatory model balances the desire for businesses to operate optimally with a minimal number of powerful regulatory requirements. This is achieved through systematic analysis of risk and potential risk mitigation.
 - Based on Dr. German's recommendation, GPEB is taking a greater role in AML. This role involves both policy and enforcement.
 - A systemic approach that identifies and analyzes evolving vulnerabilities in the industry and regularly evaluates AML policies can be an effective approach to mitigate risk.
 - GPEB has established an Anti-Money Laundering Vulnerabilities Working Group that includes representation from its Audit, Policy, Enforcement and Registration teams. The mandate is to identify money laundering vulnerabilities, analyse the risk, engage BCLC in discussion around existing and potential mitigation strategies, and, when appropriate, make recommendations for policy changes to address those vulnerabilities.
 - GPEB's expanded Enforcement team has increased the regulator's presence in casinos and will allow GPEB the capacity to carry out investigations of suspicious or unusual activity.
- In Ontario, the Alcohol and Gaming Commission of Ontario has an Investigations and Enforcement Bureau (IEB) staffed by Ontario Provincial Police (OPP). When a SP alerts

² In January 2018, BCLC introduced new source of funds requirements requiring all patrons to provide a receipt for transactions over \$10,000.

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OLG to suspicious circumstances³, the IEB is notified so they can investigate, and when necessary, attend at the casino before the patron leaves.

- GPEB is considering how aspects of Ontario's model can be replicated so the regulator can investigate UFTs in real time.

OPTIONS ANALYSIS:

Option 1 – Refuse All UFTs Using Prescriptive Approach

- The current risk-based approach for filing a UFT, utilizing a low threshold for alerting to unusual activity, is in place to ensure BCLC and GPEB are notified of any potential illegal activity.
- If a policy to refuse all UFTs was implemented, BCLC would need to shift from the current risk-based approach for SP UFT reporting to a prescriptive approach, so clear operational standards can be set and monitored for SPs to remove subjectivity and ensure that they are in fact refusing every UFT based on the initial, prescribed indicator.
- Currently, casino staff are trained to make an assessment throughout the transaction. As the transaction is processed more information may be raised to cause what initially appears to be an indicator to be reassessed and no longer be considered unusual.
- Determining the prescriptive operational standard would be based directly on suspicious indicators published by FINTRAC, and would be straightforward; however, there would be a subjective aspect as frontline casino staff must use its judgment and training to assess if a suspicious indicator is present during any particular transaction. Certain indicators, such as the presence of \$20 bills, could provide a purely objective indicator for SPs to follow while other indicators, such as unusual patron behaviour, will require a subjective assessment by casino staff.
- A policy to refuse all UFTs would have the following implications:

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- A risk that patrons will shift their gambling to illegal underground casinos;
- Potential for a substantial increase in the number of UFTs being reported by SPs as the presence of a first prescribed indicator would automatically trigger a report in order to remove SP subjectivity in refusing transactions;
- Potential increase in STRs as BCLC would need to treat all refused transactions as attempted suspicious transaction reports; however, FINTRAC has provided guidance that an increase does not put BCLC offside with PCMLTFA and associated Regulations; and
- Communications challenges to players regarding rationale for refused transaction, as it is illegal to advise an individual regarding a UFT filing.

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- Continuing to enhance the regulator's role in AML policy and enforcement may be an effective way to mitigate risk.

Option 2 – Refuse All UFTs Using Current Risk-Based Approach

- Under the current risk-based approach, casino staff is trained to make an assessment throughout the transaction. As the transaction is processed more information may be raised to cause what initially appears to be an indicator to be reassessed and no longer be considered unusual.
- FINTRAC publishes guidance setting out indicators that may be used by frontline casino staff to determine whether a transaction is in any way unusual. The indicators have subjective elements, including, but not limited to, the patron exhibits nervous behaviour, appears to be living beyond their means, or is known to use multiple names. (See Appendix A).
- As such, a policy to refuse all UFTs using the current risk-based approach would have the following implications:
 - Challenges to monitor compliance with refusal of UFTs given multi-layered and subjective-elements of risk-based indicators set out by FINTRAC;
 - Lack of clear monitoring criteria creates perception risk that SPs are not accurately identifying and reporting UFTs in order to accept transactions;
 - Not every UFT will be refused, given that some UFTs will not be identified and reported until after the transaction has occurred due to assessment approach (if subsequent information becomes available, such as information obtained through video surveillance).
 - Communications challenges to players regarding rationale for refused transaction, as it is illegal to advise an individual regarding a UFT filing.

Option 3 – Defer Until Future to Consider Account-Based Gambling Analysis

- BCLC is exploring options for account-based gambling solutions in order to further and substantially reduce the use of cash, increase capacity for monitoring transactions and to increase non-anonymous play.
- BCLC has undertaken a preliminary analysis of cashless and account based gambling in casinos elsewhere in the world. So far, it has found such systems exist in varying degrees at some casinos in a small number of countries. None of these systems is currently completely cashless.
- For example, players can load a player account card at the cash cage using cash, load a slot machine ticket with cash or, alternatively, in most cases still use cash at slot machines and tables. As such, BCLC has not found a 'totally cashless casino system' in operation in any jurisdiction.
- BCLC is exploring several different options for discussion with the Minister. These options include an account/digital wallet solely for land-based casinos or an account/digital wallet that can be used across all or part of BCLC's business (land-based casinos, lottery retail and PlayNow.com).
- Within these options, additional variables must be considered including the level of play at which an account or wallet would be offered, and whether an account would be optional or mandatory for any level of play (i.e. completely cashless play).
- Deferring consideration of requiring every UFT to be refused in the first instance until further analysis is considered regarding account-based gambling would have the following implications:

- Status quo approach to UFT transactions (in 2018, SPs refused 60 per cent of UFTs); and
- Opportunity to consider UFT refusal in conjunction with account-base gambling solution to further reduce use of cash.

Attachments:

Appendix A: Money Laundering (ML) and Terrorist Financing (TF) Indicators – Casinos

Appendix B: Unusual Financial Transactions reviewed by BCLC in 2018

Appendix C: Simplified graphical representation of an Unusual Financial Transaction

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Appendix A: Money Laundering (ML) and Terrorist Financing (TF) Indicators – Casinos

FINTRAC developed expansive, but not exhaustive, lists of money laundering and terrorist financing indicators, both general and specific to each sector that is subject to reporting requirements. The following money laundering indicators are a sample of the list [provided by FINTRAC](#) and applicable to both suspected money laundering and/or terrorist financing.

FINTRAC notes that casino staff, may observe these money laundering indicators over the course of business activities with a client and that depending on the business activities, some of the money laundering indicators may not apply.

General ML/TF indicators

- Client produces seemingly false information or identification that appears to be counterfeited, altered or inaccurate.
- Client displays a pattern of name variations from one transaction to another or uses aliases.

- Common identifiers (e.g. addresses, phone numbers, etc.) used by multiple clients that do not appear to be related.
- Transactions involve individual(s) identified by media, law enforcement and/or intelligence agencies as being linked to criminal activities.
- Client conducts transactions at different physical locations or approaches different staff.
- Client exhibits nervous behaviour.
- Client appears to be living beyond their means.
- Abrupt change in account activity.
- Client presents musty, odd smelling or extremely dirty bills.
- Client exhibits knowledge of reporting thresholds.
- Client appears or states to be acting on behalf of another party.
- Individual's online presence supports violent extremism or radicalization.
- Client is known to use multiple names.

Casino Specific ML/TF indicators

- Any casino transaction of \$3,000 or more when an individual receives payment in casino cheques made out to third parties or without a specified payee.
- Client requests a winnings cheque in a third party's name.
- Acquaintances bet against each other in even-money games and it appears that they are intentionally losing to one of the parties.
- Client attempts to avoid the filing of a report for cash by breaking up the transaction.
- Client requests cheques that are not for gaming winnings.
- Client enquires about opening an account with the casino and the ability to transfer the funds to other locations when you do not know the client as a regular, frequent or large volume player.
- Client purchases large volume of chips with cash, participates in limited gambling activity with the intention of creating a perception of significant gambling, and then cashes the chips for a casino cheque.
- Client puts money into slot machines and claims accumulated credits as a jackpot win.
- Client exchanges small denomination bank notes for large denomination bank notes, chip purchase vouchers or cheques.
- Client is known to use multiple names.
- Client requests the transfer of winnings to the bank account of a third party or a known drug source country or to a country where there is no effective anti-money-laundering system.

Appendix B: Unusual Financial Transactions reviewed by BCLC in 2018

2018	UFTs reviewed by BCLC	UFTs – Refusals	Table Drop \$ value of UFT Refusals	UFTs – Non-Refusals	Table Drop \$ value of UFTs Non-Refusal
Jan	126	67	\$348,025	59	\$771,785
Feb	225	160	\$778,034	65	\$786,320
Mar	190	140	\$564,230	50	\$620,550
Apr	190	128	\$562,040	62	\$644,790
May	159	88	\$346,830	71	\$500,370
Jun	97	56	\$383,980	41	\$277,500
Jul	140	77	\$343,572	63	\$563,844
Aug	144	69	\$389,575	75	\$740,925
Sep	139	72	\$385,990	67	\$328,600
Oct	152	76	\$1,069,318	76	\$918,726
Nov	163	101	\$520,180	62	\$550,565
Dec	133	76	\$323,180	57	\$419,350
TOTAL	1858	1110	\$6,014,954	748	\$7,123,325
*Dollar amounts are not conclusive due to the narrative provided in iTrak for certain incidents (noted as undetermined amount).					

Note:

Had BCLC refused all UFTs in the calendar year of 2018, \$7.1M less would have been gambled in the Casinos. Since this money would have been played at tables, the net income after tax impact to BCLC would have been approximately \$600K.

However, all these UFT were developed under BCLC’s existing procedure. As there is no experience with procedures for the refusal of all UFT in BC or Canada, BCLC cannot estimate the number and value of transactions should all transactions be refused in future.

Unusual Financial Transactions reviewed by BCLC in 2018

2018	UFTs reviewed by BCLC	UFTs - Unsubstantiated	UFTs – Substantiated	% of UFTs that did not become STRs (NOT reported to FINTRAC)
Jan	126	105	21	83%
Feb	225	203	22	90%
Mar	190	175	15	92%
Apr	190	167	23	88%
May	159	135	24	85%
Jun	97	81	16	84%
Jul	140	100	40	71%
Aug	144	93	51	65%
Sep	139	109	30	78%
Oct	152	122	30	80%
Nov	163	142	21	87%
Dec	133	104	29	78%
TOTAL	1858	1536	322	83%

Appendix C – Simplified graphical representation of an Unusual Financial Transaction

