



Office of the Auditor General of Ontario

Value-for-Money Audit  
Alcohol and Gaming  
Commission  
of Ontario



*December 2020*



# Alcohol and Gaming Commission of Ontario

## 1.0 Summary

The Alcohol and Gaming Commission of Ontario (AGCO) regulates the alcohol, gaming, horse-racing and private cannabis retail sectors in Ontario and oversees about 78,500 licensees across the four sectors. The AGCO is required to regulate the licensed entities in accordance with the principles of honesty and integrity, and in the public interest.

Sectors regulated by the AGCO generate significant cash flow for the province in the form of net proceeds from alcohol sales, lotteries and gaming, licensing and registration fees, and related provincial income tax. However, if not regulated effectively, these sectors have the potential to contribute to significant social and health-care issues through such things as addictions, violence and criminal activities.

We found that the AGCO does not use its compliance tools effectively to provide adequate oversight of the four sectors it regulates. Its compliance activities are not focused on higher-risk establishments and licensees. Compliance officials, who are largely able to select which establishments to inspect, do not use a consistent approach to their selections and do not document their rationale for selections. In addition, its processes do not provide assurance that electronic gaming machines with potential problems are being inspected. We also noted that the AGCO does not have a policy to rotate compli-

ance officials who conduct inspections or judges who officiate at horse races.

At the time of our audit, the AGCO had identified money laundering as a major risk in casinos and recognized it had gaps in its regulatory processes, but it had not developed a plan to address those gaps. Further, Ontario Provincial Police (OPP) officers assigned to the AGCO to investigate potential money laundering exclude few patrons from Ontario casinos.

During the initial COVID-19 shutdown period from March 23, 2020, to June 17, 2020, staff at the AGCO conducted most compliance activities remotely. During this period, the compliance officials completed 3,214 compliance activities, primarily in the alcohol and cannabis sectors. Of these, about 80% were not on-site inspections but rather were consultations, education and pre-opening inspections.

The AGCO also lacks public transparency and accountability. Although it spends about \$86 million annually and employs 614 staff, it is not required to produce audited financial statements. All other regulatory agencies in Ontario that are board-governed produce audited financial statements as required under the government's Agencies and Appointments Directive. In addition, the AGCO's publicly reported performance measures focus largely on turnaround times and client satisfaction, with little measurement of its effectiveness as a regulator. For example, there are no measures for the integrity of the gaming sector and for the

AGCO's effectiveness in regulating in the public interest, and protecting minors and other vulnerable individuals.

Our more significant audit findings include the following:

### Compliance and Inspections

- **AGCO inspection activities are lax in documenting reasons for selection and the risk areas inspected.** Based on our sample of inspection reports that we reviewed and our review of the iAGCO system, compliance officials do not document the rationale for selecting an establishment for an unannounced inspection in the alcohol, cannabis, gaming and horse-racing sectors. In addition, the compliance reports do not state which areas of risk were inspected. Without seeing the rationale for selecting an establishment or the area that the compliance official reviewed, it is difficult for a manager to assess the compliance official's judgment in selecting the establishment or to ensure that the inspection covered higher-risk areas.
- **Compliance officials are not following the advice of the AGCO's risk-based inspection model.** In late 2018 the AGCO's Regulatory Intelligence identified that the risk of non-compliance in the alcohol sector was higher in 15 regions in the province, and on Saturdays and Sundays. However, when we analyzed inspections done since that time, we found a 30% increase in weekday inspections and only a 15% increase in inspections on Saturdays, and an 11% decrease in inspections on Sundays. Inspections were increased in only 10 of the 15 high-risk regions, although they were increased in some other regions that were deemed lower risk.
- **Compliance officials inspect the same licensees for extended periods of time without being rotated.** We noted that liquor licensed establishments and cannabis retail stores are frequently inspected by the same AGCO inspector. For example, for the 18 retail cannabis stores that were inspected at least five times in 2019/20, eight were inspected by the same official at least five times. For the liquor sector, the AGCO did not maintain regional work assignments for staff, but compliance officials we spoke to told us that they have worked in the same inspection region (of 70 total regions) of the province for over 10 years. The AGCO does not have a policy to rotate staff. Similarly, in the horse-racing sector, the AGCO does not have a policy of rotating judges at racetracks. We noted that between 2017 and 2019, eight officials who officiated at least 10 races over this period, spent more than 50% of race dates officiating at the same racetracks. The risk of not rotating compliance officials and horse-racing judges is that their independence and judgment may be compromised by long-term relationships with licensees.
- **Compliance officials were not following up on all complaints.** The AGCO received around 4,800 complaints over the last two fiscal years. Complaints are an extremely valuable resource for a regulator, as they provide an opportunity to improve compliance. For the horse-racing sector, the most frequent complaints related to cheating, race rulings, safety of participants and animal welfare. Based on our sample of complaints in the horse-racing sector, the AGCO could not provide any evidence that it had followed up on 63% of these complaints. For the alcohol sector, the most frequent complaints related to intoxication/overserving, serving to minors, operating outside prescribed hours, and not providing appropriate alcohol sales and service training to servers. In 35% of the complaints in the alcohol sector where contact information was available, the AGCO did not respond to the complainant.
- **AGCO's oversight for electronic gaming machines operating in casinos needs improvement.** All gaming system software

and hardware is tested and approved by the AGCO before electronic gaming machines (such as slot machines) are put into operation. Once they are approved, the AGCO relies on the Ontario Lottery and Gaming Corporation's (OLG's) gaming management system to monitor gaming machines; the AGCO receives data each month from the OLG's management system to verify that only AGCO-approved software continues to be installed in these machines. In February 2020, the AGCO noted that casino operators reported 686 gaming machines on the casino floors that were not connected to the OLG's gaming management system, meaning these machines could be vulnerable to software tampering affecting payouts to clients. The AGCO's practice is to follow up with casino operators only when 15% or more of a casino's gaming machines are not connected to the system. We noted that the AGCO did not conduct any inspections to verify the reasons for machines being offline. Furthermore, from 2015/16 to 2017/18, gaming machines with integrity or security issues (incorrect payouts or jackpot displayed) more than tripled, and the number of machines requiring repairs' more than quadrupled. Over this same period, the number of AGCO inspections decreased by 40%. In addition, in January 2018, the AGCO moved to a standards-based model for electronic gaming compliance that allows gaming operators to repair or make changes to machines, and add machines to the gaming floor, without requiring an AGCO inspection.

- **AGCO does not monitor operating electronic gaming machines to ensure the machines have paid out at a rate of 85%.** The AGCO's gaming standards set the theoretical minimum payout of 85% for an electronic gaming machine over a period of time or a predetermined number of plays. However, the AGCO does not regularly monitor these machines to see if they are actually

paying out the theoretical minimum. Instead, it relies on the OLG to monitor the payouts and note which machines are paying under or over the theoretical payout amounts. This information is not shared with the AGCO. However, the private casino operators, contracted by OLG, are required to notify the AGCO if there are any integrity issues with the gaming machines. Similarly, the AGCO relies on the private operator of PlayOLG to monitor payouts on the online gaming website. It would be prudent for the AGCO as a regulator to monitor payouts of electronic gaming machines and online gaming.

### Money Laundering in Casinos

- **While suspicious transactions reported in Ontario casinos are increasing, enforcement by the OPP officers working for the AGCO has been limited.** From 2017 to 2019, casinos submitted over 9,700 suspicious transaction reports in total, involving almost 4,800 individuals. Suspicious transactions are transactions that casino employees suspect may be related to money laundering or terrorist financing, such as when patrons' occupations do not justify the amounts being wagered. Over this three-year period, the number of suspicious transaction reports increased by 19% to 3,722 and the value of suspicious transactions doubled to \$340 million. Despite having 67 OPP officers positioned in casinos to oversee gaming integrity and to investigate potential money-laundering activities, few charges were laid, low amounts of cash were seized, and few people were barred from casinos. Specifically, between 2017 and 2019, the OPP laid 23 charges, of which three related to money laundering, and seized cash on four occasions. In addition, in 2019, only 2% (or 33) of 1,698 people involved in suspicious transactions reported were excluded from entering

any casino in Ontario for a five-year period, through an OPP direction to exclude a patron.

- **Casino patrons gambling significant sums of money without a justified source of funds were allowed to continue gambling.** The OPP has many tools at its disposal for investigation purposes. It is able to obtain witness statements, perform criminal background checks, review surveillance footage, do credit checks, conduct informal checks with the Canada Revenue Agency, request information from the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), and conduct a source-of-funds interview with the individual. However, based on our review of a sample of investigations of individuals who brought large sums of money into Ontario casinos and either did not report an occupation or reported one that would not support the funds wagered or otherwise transacted, the OPP relied mainly on a criminal background check and rarely performed any additional checks or interviews with the individuals. Only one individual from our sample was asked to meet with the OPP for a source-of-funds interview. This person had suspicious transactions totalling \$1.3 million over three years and stated his occupation as restaurant cook, and told the OPP that he had borrowed the funds from family. An additional 20% of individuals in our sample had a criminal record on file, but none of them were called for a source-of-funds interview. In all these examples, the OPP did not gather additional evidence to assess the source of the funds wagered or otherwise transacted, and these individuals were allowed to continue gambling.
- **Suspicious transactions given insufficient weight in deciding risk level for money laundering in casinos.** In 2019, the AGCO had assessed ten casinos in Ontario to be at high risk for money laundering, based on the fact that in 2018 the AGCO's audit and financial investigations group had identified

these casinos as having gaps in their anti-money-laundering policies. However, the risk assessment did not take into consideration the volume of suspicious transactions. Only five of these casinos were among the top 10 casinos with the highest value of suspicious transactions reported in 2019.

## Cannabis Sector

- **Most recreational cannabis sold in the province continues to be sold illegally.** Despite the legalization of cannabis in October 2018, the illegal sale of recreational cannabis accounted for about 80% of cannabis sales in the province in 2019/20. Legal sales increased from about 5% of total sales in the fourth quarter of 2018 with only the government's online store in operation (Ontario Cannabis Store) to about 20% in the first quarter of 2020 with 49 private retail stores operating as of March 2020. One of the core objectives of the Ontario Cannabis Store is to move consumers from the illegal to the legal market. Over the coming years, the Ontario Cannabis Store plans to support the growth of private licensed retailers to continue to capture sales from the illegal cannabis market by improving its storage capacity and distribution channels to be able to supply existing and future cannabis stores.
- **The AGCO is not properly monitoring the movement of recreational cannabis in retail stores.** Provincially regulated retail cannabis stores are required to submit monthly sales reports to the AGCO. In addition, retail stores are also required to self-report any discrepancies in inventory (within 24 hours), transfers of cannabis between stores (monthly), and destroyed cannabis products (monthly). From September 2019 to July 2020, retail cannabis stores reported destroying 5,477 units of cannabis products and having 84,228 fewer units of cannabis on hand than recorded in their inventory

systems. The AGCO had no assurance that these units were not lost, stolen or diverted elsewhere. The AGCO has never conducted any retail store inventory counts to confirm that information being reported is reliable or requested surveillance videos from store operators to review the destruction of cannabis products.

- **Mystery shoppers are not being used effectively to monitor the risk of cannabis sales to minors.** The AGCO uses an external consultant to conduct mystery shopper inspections to ensure cannabis store operators are checking ID to confirm the age of customers. From August 2019 to March 2020, 26 new stores opened, but the AGCO had requested these inspections for only three stores. The AGCO informed us that it decreased its use of mystery shoppers because it was not satisfied with their work and documentation. We noted that there are benefits to using mystery shoppers because store operators may become familiar with the inspectors in their region and change their usual behaviour while an inspector is present.

## Online Gaming

- **Unregulated online gaming continues in Ontario with little action from the regulator.** In 2015, the AGCO's Report on Unregulated Internet Gaming in Ontario estimated that there were approximately 2,200 unregulated gaming websites accessible to Ontarians, operated by 745 companies. At that time, the AGCO was considering several options to discourage unregulated internet gaming, such as targeting licensed suppliers who supply the unregulated internet market, obtaining financial institutions' co-operation in blocking payments to these sites, and raising public awareness. However, at the time of our audit, the AGCO had not taken any action to discourage or reduce unregulated online gaming. In contrast, the New Jersey regulator

we spoke with had worked effectively with credit card companies to block transactions with unlicensed online gaming sites. New Jersey also has tried to educate its population on the risks of unregulated gaming and has reached out to radio stations, TV stations and other advertisers to discourage them from giving airtime to unregulated gaming sites.

- **A proposed government plan to bring internet gaming into the legal market could put AGCO in conflict with its regulatory role.** The 2019 Ontario Budget estimated that Ontarians spent over \$500 million a year on unregulated online gambling websites. In the budget, the province announced plans to establish a competitive market for online legal gambling in Ontario that would attract key operators in the industry, in order to bring the unregulated online gaming operators into the legal market. In March 2020, the government approved a plan to establish a subsidiary corporation of the AGCO to be responsible for the new role of conducting and managing internet gaming. Although there are examples in other provinces of regulators also operating gaming activity, this does create a potential conflict of interest. Currently, these functions are separate in Ontario, with the OLG operating and managing the gaming sector and the AGCO regulating it. It would be prudent for these functions for online gaming to be done by different entities, not a subsidiary of the regulator.

## Transparency and Cost-Recovery

- **Publicly reported information is not consistent with internal records.** For its 2018/19 annual report, the AGCO could not reconcile many of the key statistics to data in its IT systems, including the number of licensees and registrations, investigations conducted, inspections of liquor establishments, serious offences escalated for further review and enforcement

statistics. In addition, the agency had difficulty supporting the results reported against its performance measures for the reduction in serious violations and clients' satisfaction rates. Specifically, the AGCO reported that 100% of gaming operators rated their level of satisfaction with AGCO's electronic gaming lab as excellent, while in actual fact this was true of only 78% of operators; an additional 22% rated the level of service as good.

- **The AGCO is not self-sufficient.** The AGCO relies on the Ministry of the Attorney General (Ministry) to subsidize any shortfall. Only costs incurred to regulate the gaming sector are fully recovered from the sector itself through fees collected and cost recoveries. Although the AGCO has identified that liquor fees represent the bulk of the cost-recovery gap and the greatest opportunity to move the agency closer to full cost recovery, in October 2019 the AGCO decided not to pursue liquor fee increases to avoid burdening small businesses with additional costs, upon advice by the Ministry.

## Overall Conclusion

Our audit concluded that the Alcohol and Gaming Commission of Ontario (AGCO) does not have strong processes and systems in place to effectively carry out its regulated activities in all four sectors it regulates. Specifically, although one of its primary roles is to ensure the integrity of all legal gaming activity in the province, the AGCO relies on the OLG to monitor payouts for both electronic gaming machines at casinos and online gaming (PlayOLG). As well, while suspicious transactions reported in Ontario casinos are increasing and the AGCO recognizes money laundering as a major risk in casinos, enforcement by the Ontario Provincial Police has been limited. We also noted that while cannabis inventory control has been recognized as a major risk, the AGCO does not verify any of the self-reported inventory discrepancies, transfers of cannabis between stores or destroyed cannabis products.

In addition, the AGCO's operations and financial reporting lack public accountability and transparency. The AGCO does not produce audited financial statements. Instead, its financial information is reported as part of the Ministry of the Attorney General's financial statements within the province's Public Accounts. We also noted that the AGCO's publicly reported performance measures focus largely on turnaround times and client satisfaction with the AGCO's new IT system, which is used for, among other things, submitting licensing applications. However, there is very little measurement of its effectiveness as a regulator.

Although the AGCO directs significant resources into its regulation of the alcohol, gaming and horse-racing sectors and cannabis retail stores, it did not have assurance that its compliance activities were focused on the higher-risk establishments. As well, we noted that the AGCO did not always follow up on complaints to validate the concerns that were reported.

This report contains 26 recommendations, consisting of 62 actions, to address our audit findings.

## OVERALL AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendations. The AGCO has made progress to ensure it is delivering value for money for the people of Ontario and the individuals and industries it regulates, including:

- implementing an online service delivery system, which serves tens of thousands of individuals and businesses;
- automating the processing and issuance of tens of thousands of low-risk permits and licences each year to focus time and resources on higher-risk activities;
- cross-training the AGCO's compliance officials to support multiple sectors;
- implementing an outcomes-focused regulatory approach in gaming and cannabis retail, providing businesses greater flexibility and less burden while maintaining regulatory standards.



During the COVID-19 pandemic, the AGCO pivoted to support compliance with provincial emergency orders. The AGCO helped businesses by extending licence and registration terms at no charge, modifying requirements, and introducing new permissions that offered flexibility to businesses (e.g., sale of alcohol with takeout and delivery from restaurants and bars).

The AGCO will focus its efforts on delivering strong and effective regulatory services. This report's recommendations will assist us in our efforts, including with anti-money laundering. We have an integrated police bureau focused on preventing illegal activities at casinos, including money laundering. The Auditor General has identified clear opportunities for improvement and the AGCO is committed to moving forward.

## 2.0 Background

### 2.1 Overview

The Alcohol and Gaming Commission of Ontario (AGCO) is a provincial regulatory agency reporting to the Ministry of the Attorney General (Ministry). The mandate of the AGCO is to regulate the alcohol, gaming, horse-racing and private cannabis retail sectors in accordance with the principles of honesty and integrity, and in the public interest.

The alcohol sector includes, among other things, bars and restaurants that sell or serve alcohol, grocery stores that sell beer and wine, liquor manufacturers, liquor delivery services, and special occasion permits for serving alcohol at wedding receptions, charity events and other occasions. The gaming sector includes provincial lotteries, casinos, charitable gaming and online gaming conducted and managed by the Ontario Lottery and Gaming Corporation (OLG). The horse-racing sector includes racetracks and those involved with race horses, such as owners and trainers. The cannabis sector includes retail store operators, excluding the online retailer of recreational cannabis (the Ontario Cannabis Store). **Appendix 2** compares how Ontario and the other provinces and territories in Canada regulate these sectors.

The AGCO performs the following regulatory activities in each of the four sectors:

- licensing and registration;
- inspections and related compliance activities;
- investigations; and
- enforcement (including education, training and awareness focused on compliance).

The AGCO was established on February 23, 1998, under the *Alcohol and Gaming Regulation and Public Protection Act, 1996* (now called the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996*). Its responsibilities have evolved over time, as shown in **Figure 1**. A

**Figure 1: Evolution of Responsibilities of the Alcohol and Gaming Commission of Ontario**

Prepared by the Office of the Auditor General of Ontario

Regulated Sector/ Sub-Sector	AGCO Oversight Begins	Previous Regulator	Laws Administered by AGCO
Alcohol	Feb 1998	Liquor Licence Board of Ontario	<ul style="list-style-type: none"> <li>• <i>Liquor Licence Act</i></li> <li>• <i>Wine Content and Labelling Act, 2000*</i></li> <li>• <i>Liquor Control Act*</i></li> </ul>
Gaming (casino, lottery and charitable gaming)	Feb 1998	Gaming Control Commission	<ul style="list-style-type: none"> <li>• <i>Gaming Control Act, 1992</i></li> <li>• Charity Lottery Licensing Order-in-Council 1413/08*</li> </ul>
Online Gaming (PlayOLG)	Nov 2014	n/a—Previously unregulated	<ul style="list-style-type: none"> <li>• <i>Gaming Control Act, 1992</i></li> </ul>
Horse Racing	Apr 2016	Ontario Racing Commission	<ul style="list-style-type: none"> <li>• <i>Horse Racing Licence Act, 2015</i></li> </ul>
Cannabis Retail Stores	Sep 2018	n/a—Previously illegal and unregulated	<ul style="list-style-type: none"> <li>• <i>Cannabis Licence Act, 2018</i></li> </ul>

\* The AGCO administers only sections of these acts and the Order-in-Council.

new act was passed in December 2019 (*Alcohol and Gaming Commission of Ontario Act, 2019*), but it has not yet been proclaimed. The current law has two parts—the first is dedicated to the AGCO’s responsibilities, and the second covers taxes on beer, wine and spirits. The 2019 law will focus solely on the AGCO’s responsibilities; the part of the act dealing with beer, wine and spirits taxation will be renamed the *Liquor Tax Act, 1996*. The Ministry of the Attorney General informed us that regulations need to be developed for the 2019 act before it can be proclaimed and come into force.

The AGCO operates from its head office in Toronto and eight regional offices. It employs 614 full-time-equivalent employees, 494 of which are AGCO staff and 120 of which are Ontario Provincial Police (OPP) officers assigned to the AGCO. In 2019/20, the agency’s expenditures totalled \$85.8 million, of which \$77.7 million was covered by revenue generated from its own operations including recoveries from the regulated sectors, and \$8.1 million was covered by the taxpayers.

## 2.2 Key Responsibilities for Each Sector

### 2.2.1 Alcohol

For the alcohol sector, the AGCO is responsible for licensing and regulating the following:

- *Establishments* that sell or serve alcohol to the public, such as bars and restaurants. The AGCO does not regulate the Liquor Control Board of Ontario (LCBO), except for the hours of sale, or The Beer Store, except for the hours of sale and store locations.
- *Ferment-on-premise facilities* that provide equipment for making wine and beer “on the premises” to customers for personal use.
- *Liquor delivery services* that buy alcohol from the LCBO or other approved stores and deliver it to customers.
- *Manufacturers’ licences* that allow manufacturers of alcohol to sell alcohol to the LCBO. (The AGCO licence is not a licence to manu-

facture alcohol, which falls under federal jurisdiction.)

- *Manufacturer retail store authorizations* that allow manufacturers to operate on-site or off-site retail stores.
- *Manufacturer’s representative licences* that allow representatives to receive or solicit orders for the sale of alcohol products to the LCBO for resale to consumers.
- *Special occasion permits* for the sale and service of beverage alcohol on special occasions (for example, cash bars at fundraising events, weddings). About 60,000 special occasion permits are issued annually.
- *Grocery store authorizations* that allow grocery stores to sell beer, wine and/or cider.

The AGCO also has the following key regulatory objectives for the sale and service of alcohol:

- ensuring the alcohol sector operates with honesty and integrity and in the public interest (for example, following up on public concerns about a licensee);
- investigating, based on complaints or information received, the sale of illegal alcohol by licensed establishments (smuggled into Ontario, illegally manufactured or watered down);
- ensuring that alcohol is sold and served responsibly (for example, not sold to minors, establishments not exceeding lawful capacity, no serving outside prescribed hours);
- ensuring that residents are provided an opportunity to have their views considered during the licensing process; and
- permitting Ontarians and visitors opportunities to responsibly enjoy alcohol within an economically viable hospitality and tourism sector.

### 2.2.2 Lottery and Gaming

The AGCO is responsible for licensing and regulating the following types of gaming activities:

- Ontario Lottery and Gaming Corporation (OLG) lotteries (such as LottoMax and 649);

- Casino gaming, including slot machines at racetracks (for example, Fallsview Casino and Casino Woodbine);
- OLG charitable gaming (such as Delta Bingo and Gaming St. Clair);
- charitable gaming (conducted by charities and religious organizations at places such as bingo halls); and
- Internet gaming (PlayOLG).

The AGCO performs the following key regulatory activities with regard to lotteries and gaming:

- assessing eligibility and registering gaming operators, suppliers/manufacturers of gaming and non-gaming equipment, gaming employees and lottery retailers/sellers;
- establishing standards and requirements for the conduct, management and operation of lottery schemes, gaming sites and related businesses that provide gaming equipment and services to gaming operators;
- approving rules of play or changes to the rules of play for games conducted and managed by the OLG (including lotteries and casino games operated by private operators);
- inspecting, auditing and monitoring gaming sites and charitable gaming events/facilities for compliance (including investigating lottery insider wins, suspicious wins and complaints of criminal activity by retailers); and
- testing and approving electronic games (including customer payout rates), lottery equipment and gaming management systems for compliance with AGCO's/Registrar's Gaming Standards and minimum technical standards.
  - Gaming management systems provide accounting, monitoring, cashless wagering or a combination of these functions in casinos.
  - The gaming standards cover six risk themes: (1) entity level (such as management integrity, independent oversight and information technology); (2) responsible gambling; (3) prohibiting access to desig-

nated groups; (4) ensuring gaming integrity and player awareness; (5) public safety and protection of assets; and (6) minimizing unlawful activity related to gaming.

- The minimum technical standards set out the requirements for data and software integrity, transaction logging, game payout and other functions.

### 2.2.3 Horse Racing

The AGCO's main regulatory functions related to horse racing in Ontario include:

- *Licensing* individuals and businesses involved in the horse-racing industry (groomers, trainers, new racetrack owners, teletheatres and others).
- *Regulation of racetracks*: licensing racetracks and reviewing racetrack business plans, backstretch (restricted access area at racetrack for stabling horses and training staff) improvement plans, fire safety plans and health and safety improvements. The AGCO also approves race dates recommended by Ontario Racing (the industry association) and the OLG.
- *Officiating at horse races*: Twenty-five AGCO race officials (judges or stewards) supervise all races to ensure they are run fairly without misconduct and in accordance with the Rules of Racing. AGCO officials determine the official order of race finishes and disqualify horses or jockeys/riders who violate the rules.
- *Compliance and investigations*:
  - administering the animal drug testing and breathalyzer program for jockeys;
  - searching for prohibited items, such as drugs and syringes;
  - enforcing equine medication control programs;
  - conducting due diligence checks on proposed applicants or licensees;
  - investigating racing violations, including illegal gambling activities, horse abuse,

horse deaths, race fixing, or other racing and rule infractions; and

- acting as the liaison with the police and other civilian regulatory bodies (such as the Canadian Pari-Mutuel Agency, which is responsible for the oversight of wagering).

### 2.2.4 Cannabis

In April 2017, the federal government introduced legislation to legalize and regulate non-medical cannabis in Canada. The federal *Cannabis Act* includes rules for producing, possessing and selling recreational cannabis across Canada. It came into force on October 17, 2018. For a comparison of how each province implemented the sale of cannabis, see **Appendix 3**.

Under the legislation, the federal government has authority to set requirements for producers along with industry-wide rules and standards, including packaging, advertising and promotion. Each province is responsible for the distribution and sale of cannabis within its jurisdiction.

On October 17, 2018, the province launched its online store (Ontario Cannabis Store) to sell legal cannabis to Ontarians for recreational use. It is a Crown agency of the province of Ontario that reports to the Ministry of Finance. Initially, the Ontario Cannabis Store was to operate retail stores, but in August 2018, the province decided that cannabis retail stores would be privately owned and operated. In September 2018, the government announced that the AGCO would be the provincial regulator to grant store licences and enforce compliance.

On April 1, 2019, Ontario's first private cannabis retail stores opened. Initially, individuals who would be eligible to apply for a retail store operator's licence were selected through a lottery system because of the limited supply of legal cannabis at that time. Since January 6, 2020, operator licences have been issued through an open-market system, on a first come, first served basis, with no cap on the number of private cannabis stores in the province. The number of licensed retail cannabis stores will be whatever the market can bear. As of June 30, 2020, 107 private retail stores were operating in Ontario; 56 operators had been selected through lottery processes, 49 were licensed through the open-market process, and two were allocated to First Nations applicants.

Ontario store retailers are required to comply with Ontario's *Cannabis Licence Act* and regulations, as well as Standards for Cannabis Retail Stores.

Private retail operators are required to acquire their inventory exclusively from the Ontario Cannabis Store, which itself can obtain inventory only from federally licensed producers. The Ontario Cannabis Store sells cannabis products to private retail stores at a 25% markdown from the prices on its website, to allow retail stores to earn a reasonable profit margin while accounting for lease and labour costs. Each retail store is able to set its own prices. According to data published by the Ontario Cannabis Store, in fiscal 2019/20 private retail stores accounted for 81% of the \$385 million in legal cannabis sales compared to only 19% for the online store, despite the higher prices charged by retail stores (see **Figure 2**).

**Figure 2: Price Comparison of Legally Sold Cannabis Products in Ontario by the Ontario Cannabis Store and Licensed Private Retail Stores**

Source of data: 2019/20 Ontario Cannabis Store, *Insights Report*

	Dried Flower	Pre-rolls	Capsules	Oils
Ontario Cannabis Store (online) (\$)	8.56	12.71	17.21	10.73
Licensed Private Retail Cannabis Stores (\$)	10.84	14.76	24.18	13.81
% difference in price	27	16	40	29

Note: Prices of cannabis products are stated per gram. They are based on the weighted average of volume sold during the fiscal year from April 1, 2019, to March 31, 2020.

**Figure 3: Key Regulatory Risks for Each Sector**

Source of data: Alcohol and Gaming Commission of Ontario

Regulated Sector	Areas of Regulatory Concern	Key Regulatory Tools
Alcohol	<ul style="list-style-type: none"> <li>• Permitting drunkenness, disorderly behaviour, drugs or unlawful gaming</li> <li>• Sale or service to intoxicated person</li> <li>• Sale to minors</li> <li>• Sale or service outside prescribed hours/fail to remove</li> <li>• Overcrowding</li> </ul> <p>These risks are collectively referred to as the “Big 5”</p>	<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Follow-up of complaints by compliance officers</li> <li>• Unannounced inspections by compliance officers; high-risk establishments to be inspected four times per quarter</li> <li>• Use of mystery shoppers</li> </ul>
Cannabis	<ul style="list-style-type: none"> <li>• Sale to minors</li> <li>• Diversion to or from the illicit market</li> <li>• Public health and safety (e.g., not selling to intoxicated individual, selling only products containing the Health Canada seal)</li> </ul>	<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Unannounced inspections by compliance officers</li> <li>• Use of mystery shoppers</li> <li>• Review of surveillance footage, as needed</li> </ul>
Gaming	<ul style="list-style-type: none"> <li>• Protection of minors</li> <li>• Responsible gambling</li> <li>• Game integrity</li> <li>• Minimizing unlawful activity related to gaming (e.g., money laundering)</li> </ul>	<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Ontario Provincial Police (OPP) presence in select casinos 20 hours/day</li> <li>• Inspections by compliance officers</li> <li>• Follow-up of incidents (e.g., cheat-at-play) by compliance officers</li> <li>• Testing and approval of electronic gaming machines</li> <li>• OPP investigations of suspicious transactions</li> </ul>
Horse Racing	<ul style="list-style-type: none"> <li>• Animal welfare issues</li> <li>• Positive drug tests (performance-enhancing drugs)</li> <li>• Race fixing</li> </ul>	<ul style="list-style-type: none"> <li>• Licensing</li> <li>• Races supervised by AGCO race officials</li> <li>• Animal drug testing, both during competition and out-of-competition</li> <li>• Human drug testing</li> <li>• Investigating race fixing</li> </ul>

The AGCO has responsibility for regulating Ontario’s private cannabis retail stores. Specifically, the AGCO is responsible for:

- licensing eligible retail store operators and managers;
- authorizing cannabis retail store locations;
- regulating the sale of cannabis at private retail stores (for example, no sale to minors or serving intoxicated persons); and
- approving cannabis retail employee training programs.

The AGCO’s key regulatory objectives for cannabis retail stores are to prevent sale and access

to minors through the use of mystery shoppers, inspections and education; ensure authorized stores sell only legal cannabis by inspecting a store’s inventory to ensure it has a Health Canada seal; and promote responsible sale of cannabis (not serving intoxicated individuals or selling to minors) through education and training.

### 2.2.5 Summary of Key Regulatory Risks for Each Sector

The key regulatory risks for each sector are summarized in **Figure 3**.

## 2.3 Organizational Structure and Operations of AGCO

The AGCO is governed by a board of directors whose members are appointed by the Lieutenant Governor in Council. The agency has six divisions organized by function. As of March 2020, AGCO had 614 full-time-equivalent employees (FTEs). The AGCO's organization structure and FTEs by division are shown in **Appendix 4**.

## 2.4 Key Program Statistics

### 2.4.1 Licences and Registrations

At the time of our audit in June 2020, there were approximately 78,500 active licences. Most licences had been issued in the alcohol sector, followed by the gaming and horse-racing sectors, as shown in **Figure 4**. The data provided excludes about 58,600 Special Occasion Permits issued for one-time events in 2019/20. For a breakdown of active licences and registrants, see **Appendix 5**.

### 2.4.2 Compliance

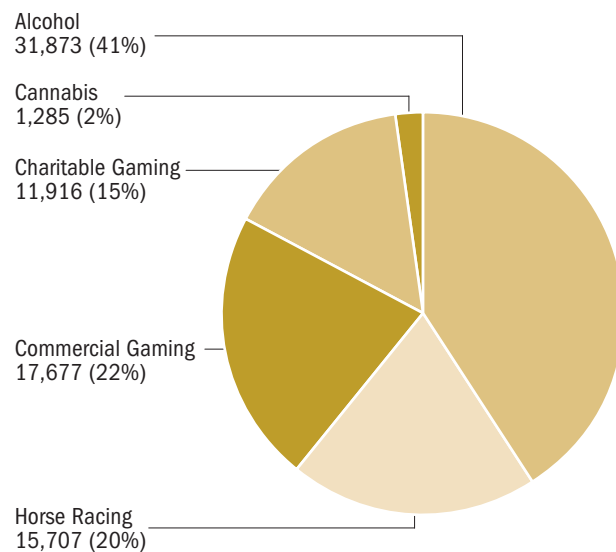
Compliance activities include inspections of licensed premises and licensees, consultations and education. In the last two fiscal years, approximately one-quarter of all compliance activities were assigned by management and three-quarters were performed at the discretion of the compliance official.

The compliance team comprises 134 staff. Activities assigned to compliance officials by management are generally of higher priority and are reactive rather than proactive. For instance, a compliance official may be assigned to follow up on a complaint, a police report, a major incident that has attracted media attention (such as gun violence at a licensed liquor establishment), or to support a key step in the licensing/registration process (for example, mandatory pre-authorization inspection of cannabis stores, or a new bar/restaurant opening).

For self-determined inspections, compliance officials are expected to use their judgment and discretion to select entities based on risk. The risk

**Figure 4: Active Licences and Registrations by Sector, as of June 9, 2020**

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO system



Note: About 800 expired licences, 80% in the alcohol sector and 20% in the gaming sector, were deemed to continue as a result of COVID-19.

factors to consider are compliance history, media or social media monitoring (such as a special occasion permit event with high public safety risk), and complaints or self-reported notifications from licensees/registrants. **Figure 5** shows compliance activity over the last five years by sector.

### 2.4.3 Investigations

The AGCO's Investigations and Enforcement Bureau conducts investigations into incidents at casinos, such as cheating in gaming (called "cheat-at-play"), and suspected money laundering, as well as suspicious lottery wins reported by the Ontario Lottery and Gaming Corporation. Based on requests from the Licensing and Registration Branch, the group also investigates new applicants or existing licensees/registrants to confirm whether they remain eligible and suitable based on integrity and criminal background checks. The investigations are conducted by a dedicated team of 120 Ontario Provincial Police officers that work exclusively on AGCO matters. See **Figure 6** for the number of investigations conducted over the last five years by type and sector.

**Figure 5: Compliance Activity<sup>1</sup> by Sector, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO system, CRIS System

Sector	2015/16	2016/17	2017/18	2018/19	2019/20	5-Year Change (%)
Alcohol	29,122	28,138	22,029	16,450	20,600	(29)
Gaming	7,061	6,928	6,783	7,031	2,444	(65)
Cannabis	n/a	n/a	n/a	58	638	–
Horse Racing <sup>2</sup>	595	591	646	614	559	(6)
<b>Total</b>	<b>36,778</b>	<b>35,657</b>	<b>29,458</b>	<b>24,153</b>	<b>24,241</b>	<b>(35)</b>

1. Compliance activities include consultations, education, pre-opening inspections, unannounced inspections and following up on complaints.
2. Horse racing compliance data is from the CRIS system because there were issues with the integrity of the racing data in the iAGCO system.

**Figure 6: Number of Investigations Conducted by Ontario Provincial Police Officers, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario (AGCO), Annual Reports

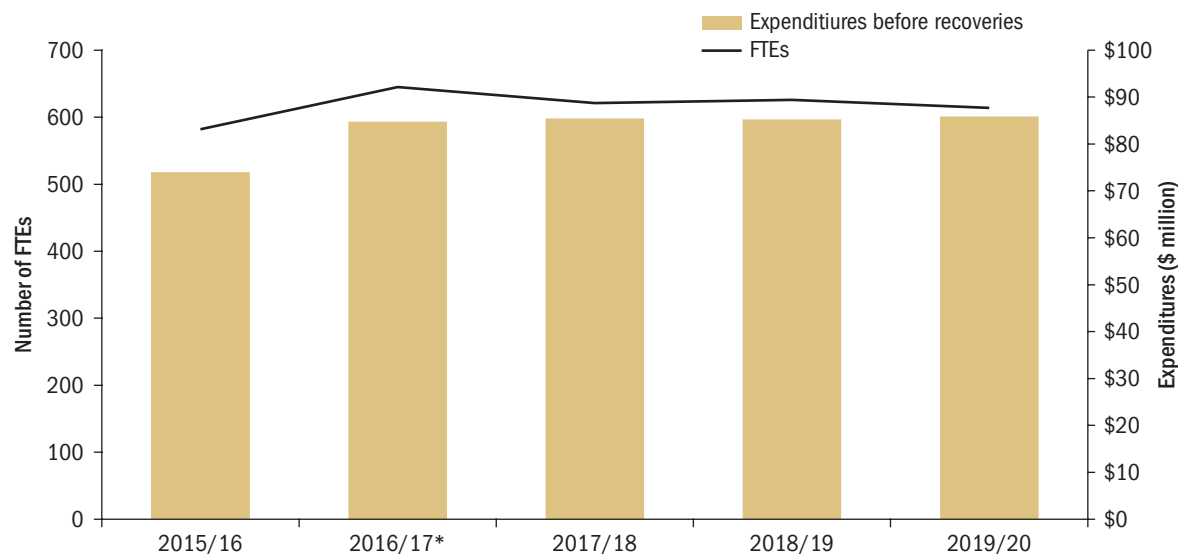
Type/Sector	2015/16	2016/17	2017/18	2018/19	2019/20	% Change	5-Year Average
<b>Casino Gaming Investigations</b>	<b>7,412</b>	<b>4,845</b>	<b>8,507</b>	<b>9,424</b>	<b>8,294</b>	<b>12</b>	<b>7,696</b>
Non-Criminal-Code-related offences <sup>1</sup>	5,490	3,405	5,245	7,133	6,713	22	5,597
Criminal Code investigations <sup>2</sup>	1,922	1,440	3,262	2,291	1,581	(18)	2,099
<b>Eligibility Investigations<sup>3</sup></b>	<b>1,136</b>	<b>1,216</b>	<b>1,256</b>	<b>1,080</b>	<b>1,142</b>	<b>1</b>	<b>1,166</b>
Providing investigative assistance to external law enforcement agencies <sup>4</sup>	575	600	725	562	536	(7)	600
Gaming- and non-gaming- related suppliers, horse racing, teletheatres, <sup>5</sup> casino gaming employees, lottery retailers	561	616	531	518	606	8	566
<b>Lottery Investigations</b>	<b>376</b>	<b>286</b>	<b>241</b>	<b>309</b>	<b>223</b>	<b>(41)</b>	<b>287</b>
Lottery suspicious wins	80	85	83	87	79	(1)	83
Lottery insider wins	52	45	49	55	51	(2)	50
Other lottery investigations	244	156	109	167	93	(62)	154
<b>Other</b>	<b>430</b>	<b>317</b>	<b>321</b>	<b>196</b>	<b>198</b>	<b>(54)</b>	<b>292</b>
Liquor licence holders and applicants	125	93	127	110	139	11	119
iGaming	35	41	21	33	45	29	35
Charitable gaming	30	31	30	21	14	(53)	25
Additional investigations reviewed and referred to AGCO regulatory compliance for follow-up <sup>6</sup>	240	152	143	32	0	(100)	113
<b>Total</b>	<b>9,354</b>	<b>6,664</b>	<b>10,325</b>	<b>11,009</b>	<b>9,857</b>	<b>5</b>	<b>9,441</b>

Note: Includes both ongoing and completed investigations.

1. This includes investigations related to alcohol service, trespassing or mental health-related offences under the *Liquor Licence Act*, *Trespass to Property Act* or *Mental Health Act*.
2. This includes investigations into areas such as “cheat-at-play.”
3. Eligibility investigations involve applicants or active registrants and licensees. The investigations assist the AGCO in determining the eligibility or continued suitability of individuals and entities for licensing and registration.
4. The Investigations and Enforcement Bureau supports other local police services with any criminal investigation that is not under the jurisdiction of the AGCO, in areas such as assault, illegal drugs and weapons to support potential criminal charges.
5. Teletheatres are off-track betting facilities, operated by racetracks and licensed by the AGCO, in which horse races are viewed on television.
6. The compliance officials are asked to conduct follow-up inspections for establishments to ensure improvement in any noted violations in over-serving, serving to minors or overcapacity.

**Figure 7: Trend in Total Expenditures before Recoveries, and Number of FTEs, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario (AGCO)



Note: FTEs are full-time-equivalent employees as of March 31 of each year, and include both AGCO staff and Ontario Provincial Police officers assigned to the AGCO.

\* The increase in both expenditures and the number of FTEs is due to the Alcohol and Gaming Commission becoming the regulator for the horse-racing sector.

#### 2.4.4 Audits

The Audit and Financial Investigations group, with 19 full-time-equivalent employees (FTEs), selects entities for audit based on significant events and trends in each sector. The analysis is shared with internal and external stakeholders (for example, the Investigation and Enforcement Bureau and the OLG, respectively) for feedback. The group completed 62 audits over the last five fiscal years, including 56 gaming-related audits. The group completed 80 financial investigations over the last five fiscal years, 49 (61%) of which were financial due diligence investigations of gaming suppliers.

#### 2.5 Information System

The AGCO has procured a new IT system, known as iAGCO, to replace seven different legacy systems and incorporate all of its regulated sectors and functions into one system. The iAGCO system was launched in May 2017 and is being phased across all sectors; all regulated sectors are expected to be moved into iAGCO by December 2020.

#### 2.6 Financial Information

In 2019/20, the AGCO incurred \$86 million in expenditures to perform its regulatory responsibilities. The agency's expenditures increased in 2016/17 by almost \$11 million, or 15%, when it became responsible for regulating the horse-racing industry. There was no significant increase in expenditures in 2018/19 when it became responsible for regulating the newly created retail cannabis stores, because the stores opened slowly.

**Figure 7** shows the trend in total expenditures before recoveries and the number of FTEs, including OPP staff assigned to the AGCO, over the last five years.

At the time of our audit, the AGCO's budget for 2020/21 showed a 25% increase in total expenditures compared to actual figures for 2019/20, as shown in **Figure 8**. The reason provided for the increase in service costs are primarily two-fold: a carry-over of the unused amount in existing consulting contracts for conducting eligibility assessments in the casinos sector; and expected increase in consulting costs related to performing eligibility assessments in the cannabis sector as the market



**Figure 8: Comparison of Budgeted Expenditures for 2020/21 to Actual Expenditures in 2019/20**

Source of data: Public Accounts of Ontario and expenditure estimates for the province of Ontario

	2019/20	2020/21	Difference	
	Actual (\$)	Budgeted (\$)	\$	%
Salaries and wages	60,388,424	68,480,000	8,091,576	13
Employee benefits	12,985,038	12,939,200	(45,838)	0
Transportation and communications	1,640,231	3,315,500	1,675,269	102
Services	10,100,050	20,520,200	10,420,150	103
Supplies and equipment	720,108	1,837,500	1,117,392	155
<b>Total Expenses before Recoveries</b>	<b>85,833,851</b>	<b>107,092,400</b>	<b>21,258,549</b>	<b>25</b>
Recoveries	(48,490,961)	(72,241,600)	(23,750,639)	49
<b>Total Net Expenditures</b>	<b>37,342,890</b>	<b>34,850,800</b>	<b>(2,492,090)</b>	<b>(7)</b>

opens up. The reason provided for the increase in salaries and wages is that the budgeted expenditure takes into consideration about 100 staff positions that have not yet been filled.

### 3.0 Audit Objective and Scope

The objective of our audit was to assess whether the Alcohol and Gaming Commission of Ontario (AGCO) has effective processes and systems in place to:

- regulate the alcohol, gaming and horse-racing sectors and cannabis retail stores in accordance with legislative requirements, established policies, and its mandate to regulate in accordance with the principles of honesty and integrity, and in the public interest;
- deploy its resources efficiently and effectively to carry out its regulated activities consisting of licensing and registration, inspections, investigations and enforcement; and
- measure and publicly report on the effectiveness of its regulatory activities.

In planning for our work, we identified the audit criteria we would use to address our audit objectives. We established these criteria based on a review of applicable legislation, policies and procedures, internal and external studies and best practices. Senior

management at the AGCO reviewed and agreed with the suitability of our objectives and associated criteria as listed in **Appendix 1**.

We conducted our audit between January 2020 and August 2020. We obtained written representation from the AGCO that, effective November 20, 2020, it had provided us with all the information it was aware of that could significantly affect the findings or the conclusion of this report.

Our audit work was primarily conducted at the AGCO. We reviewed licensing and compliance functions of the AGCO in relation to all of its regulated sectors. Our review was focused on the five-year period ending March 31, 2020. Specifically, the areas within each sector we have reviewed include:

- **Gaming**—licensing and compliance of casinos, money laundering at casinos, charitable gaming, Internet gaming and inspection of slot machines
- **Alcohol**—licensing and compliance of liquor sales licences with a focus on high-risk violations
- **Cannabis**—cannabis lottery, sale to minors and illegal sales
- **Horse racing**—drug testing, licensing and compliance

We compared the AGCO's operations to other provinces to determine how other Canadian provinces and territories regulate the alcohol, gaming, horse racing and cannabis sectors. We contacted

the Alberta Gaming, Liquor and Cannabis Commission to discuss how Alberta was able to successfully open over 400 cannabis stores before any other Canadian province. We also contacted the Ontario Cannabis Store to understand its responsibilities in relation to quality of cannabis, delivery of cannabis to retail stores, and its role in curtailing the illegal cannabis market. We also compared requirements for cannabis store locations in relation to schools.

We accompanied compliance officials on inspections of licensed liquor establishments, cannabis retail stores and racetracks. Aside from a few bingo halls and small casinos, most casinos were still closed as a result of the COVID-19 pandemic at the time this report was being finalized.

We conducted jurisdictional comparisons on whether regulatory responsibilities were carried out by government ministry/department or a government agency, governance practices and public reporting practices. We held discussions with representatives of the New Jersey Division of Gaming Enforcement, responsible for regulating, among other things, casinos in Atlantic City.

We engaged a gaming expert from the University of Las Vegas, Nevada, to serve as an advisor on money laundering and electronic gaming for our audit.

We conducted our work and reported on the results of our examination in accordance with the applicable Canadian Standards on Assurance Engagements—Direct Engagements issued by the Auditing and Assurance Standards Board of the Chartered Professional Accountants of Canada. This included obtaining a reasonable level of assurance.

The Office of the Auditor General of Ontario applies the Canadian Standard on Quality Control and, as a result, maintains a comprehensive quality-control system that includes documented policies and procedures with respect to compliance with rules of professional conduct, professional standards and applicable legal and regulatory requirements.

We have complied with the independence and other ethical requirements of the Code of Professional Conduct of the Chartered Professional Accountants of Ontario, which are founded on

fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour.

## 4.0 Detailed Audit Observations

### 4.1 AGCO Is Not Self-Sufficient and Relies on Taxpayer Subsidies to Regulate the Sectors

The Alcohol and Gaming Commission of Ontario (AGCO) is not self-sufficient and does not generate enough revenue from the regulated sectors to recover all of its operating costs. Instead, it relies on the Ministry of the Attorney General (Ministry) to subsidize its shortfall. As seen in **Figure 9**, between 2015/16 and 2019/20, subsidies provided by the Ministry totalled \$26.8 million. During this period, the annual subsidy from the province for the AGCO's operations ranged from \$3.0 million to \$8.2 million.

The AGCO recovers all of its costs related to regulatory compliance and enforcement activity in the gaming sector from gaming licensees. For 2019/20, recoveries from the gaming sector totalled \$38.5 million (comprised of \$23.2 million from casinos, \$9.3 million from Ontario Lottery and Gaming Corporation (OLG) lotteries, \$3.6 million from OLG iGaming, and \$2.4 million from charitable gaming). In addition, with revenue of \$13.5 million from fees, and program expenditures of \$44.5 million, the gaming sector generated a surplus of \$7.5 million.

However, for the horse-racing, alcohol and cannabis sectors in 2019/20, program expenditures totalled \$41.3 million while fees and recoveries totalled only \$25.7 million, leaving a deficit of \$15.6 million for these three sectors.

The AGCO charges fees for various licences issued with respect to horse racing (refer to **Appendix 5** for the types of licences). These licensing fees along with regulatory fees and chargebacks paid to the AGCO for certain drug testing costs are not enough

**Figure 9: Fee Revenue, Expenditures and Recoveries by Sector, 2015/16–2019/20 (\$ 000)**

Source of data: Alcohol and Gaming Commission of Ontario (AGCO)

	2015/16	2016/17	2017/18	2018/19	2019/20
<b>Gaming</b>					
Fee revenue	15,840	15,625	16,005	15,818	13,506
Recoveries	43,578	44,065	45,500	40,528	38,491
Program expenditures	(55,150)	(51,728)	(51,772)	(47,566)	(44,519)
<b>Surplus/(Deficit)</b>	<b>4,268</b>	<b>7,962</b>	<b>9,733</b>	<b>8,780</b>	<b>7,478</b>
<b>Alcohol</b>					
Fee revenue	9,189	9,979	11,570	14,268	14,760
Recoveries	–	–	–	–	–
Program expenditures	(17,938)	(20,938)	(20,707)	(20,673)	(22,781)
<b>Surplus/(Deficit)</b>	<b>(8,750)</b>	<b>(10,959)</b>	<b>(9,137)</b>	<b>(6,405)</b>	<b>(8,021)</b>
<b>Horse Racing</b>					
Recoveries	–	8,790	9,400	9,400	9,400
Program expenditures	(892)	(12,129)	(12,994)	(13,452)	(12,536)
<b>Surplus/(Deficit)</b>	<b>(892)</b>	<b>(3,339)</b>	<b>(3,594)</b>	<b>(4,052)</b>	<b>(3,136)</b>
<b>Cannabis</b>					
Fee revenue	–	–	–	1,345	915
Recoveries	–	–	–	–	600
Program expenditures	–	–	–	(1,440)	(5,998)
<b>Surplus/(Deficit)</b>	<b>–</b>	<b>–</b>	<b>–</b>	<b>(95)</b>	<b>(4,483)</b>
<b>Combined Total</b>					
Fee revenue	25,029	25,604	27,574	31,431	29,181
Recoveries	43,578	52,855	54,900	49,928	48,491
Program expenditures	(73,981)	(84,795)	(85,473)	(83,130)	(85,834)
Year-end adjustment by the Ministry*	–	–	–	(2,130)	–
<b>Net Deficit (Cost to the Province)</b>	<b>(5,374)</b>	<b>(6,336)</b>	<b>(2,998)</b>	<b>(3,901)</b>	<b>(8,162)</b>

\* This adjustment was applied by the Ministry of the Attorney General (Ministry) at year-end to fully utilize funds relating to the Transit Exit Initiative and Voluntary Exit Programs. As a result, the Ministry included accruals to cost centres even though staff may not have belonged there. This was a Ministry corporate accounting decision. (Note: Sum of sector expenditures plus adjustment made by the Ministry at year-end agrees to \$85.3 million in expenditures of the AGCO reported in the Public Accounts for 2018/19.)

to cover all the regulatory costs related to horse racing. The provincial government heavily subsidizes this industry, as noted in our 2019 audit report, *Provincial Support to Sustain the Horse-Racing Industry*. Ontario's 15 racetracks currently rely on annual government subsidies of close to \$120 million. The AGCO's unrecovered regulatory costs are equivalent to a subsidy, yet they are buried in the AGCO's expenses in the Public Accounts of Ontario rather than being disclosed as a subsidy in the province's financial statements.

According to the AGCO, the cost of compliance and enforcement activity incurred in relation to the

alcohol and cannabis sectors is also not recovered from these sectors in order not to overburden small businesses. However, we noted that as of August 2020, 11 cannabis stores originally owned by small businesses had been sold to large commercial cannabis operators.

With regard to the liquor sector, Ontario charges all restaurants, bars and nightclubs a flat fee of \$1,055 for the initial two-year licence and \$300 every two years to renew the licence. In comparison, we noted other jurisdictions where the regulator charges different fees to liquor establishments based on the type of establishment,

amount of liquor purchased and/or the location of the establishment. For example, British Columbia charges one initial fee to restaurants (\$950 for the first year) and another to bars and nightclubs (\$4,400 for the first year), and after that they are all charged a renewal fee ranging from \$250 to \$2,000, depending on their liquor purchases in the previous 12 months. In Saskatchewan, the regulator charges all restaurants, bars and nightclubs the same initial application fee of \$525; the annual licensing fee depends on the location, ranging from \$158 per year for establishments located in villages to \$525 per year for establishments located in cities.

### Government Direction toward Greater Cost Recovery

In 2018, following the government's direction to examine opportunities to move toward cost recovery, the AGCO undertook an analysis of costs and revenues. The AGCO's analysis identified that liquor fees represent the bulk of the cost-recovery gap, and the greatest opportunity to move the agency closer to full cost recovery. As part of the 2019/20 multi-year plan, the AGCO, along with the ministry, proposed increasing all liquor fees and introducing three new liquor fees based on inflationary adjust-

ments. In October 2019, the Agency Review Task Force, commissioned by the government to identify inefficiencies and improve services, also recommended that AGCO review and revise its fees for cost recoveries.

In October 2019, however, the AGCO proposed to not pursue broad liquor fee increases, in order to align with the government's strategic direction to avoid negatively impacting small businesses. The mandate letter from the Ministry for 2019/20 cautioned against burdening small businesses with the cost of regulation. The Ministry recommended instead that the AGCO find ways to reduce costs. We found no evidence that the AGCO had a plan in place to reduce program expenditures.

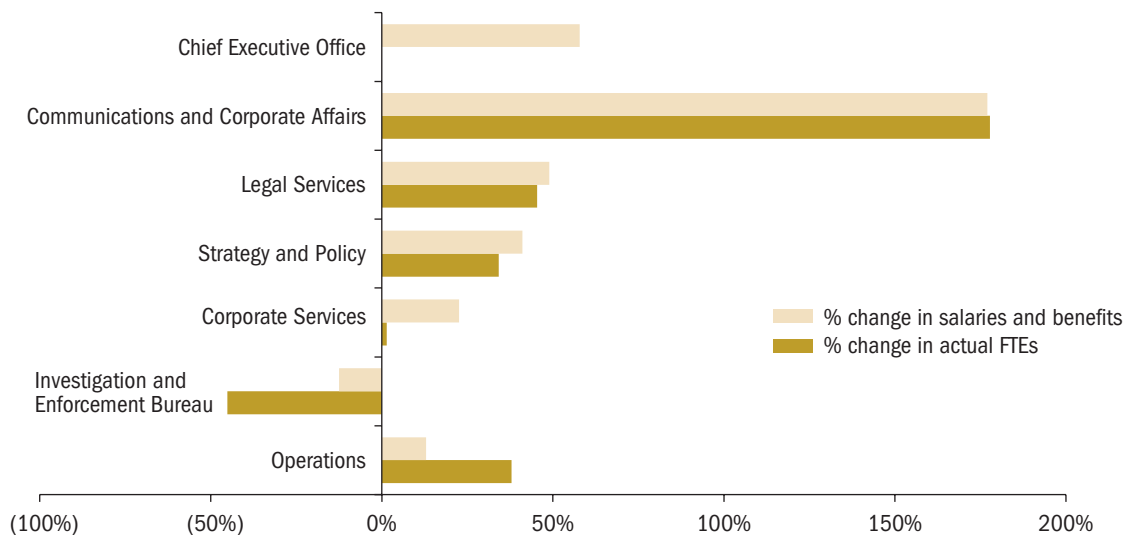
### Trend in AGCO Expenditures

For the last five fiscal years, AGCO's salaries and benefits have increased by 16% overall. For four divisions the salaries and benefits increased by at least 40%, while the staffing increase was above 40% for only two of these divisions, as shown in **Figure 10**.

On a sector basis, over the last five years we noted that expenditures incurred to regulate the gaming sector decreased by 19%, while the cost of

**Figure 10: Change in Salaries and Wage Expenditures in Relation to Change in Full-Time-Equivalent Employees (FTEs), 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario



regulating the liquor sector increased by 27%. The cost of regulating horse racing over the last four years has increased by 3%.

## RECOMMENDATION 1

In order to become a self-sufficient regulatory agency, we recommend that the Alcohol and Gaming Commission of Ontario:

- set fees to fully recover the costs of regulating the alcohol and cannabis sectors, similar to the gaming sector; and
- set differential licensing fees depending on the location and/or purchase volumes of licensed establishments.

## AGCO RESPONSE

The AGCO accepts the Auditor General's recommendation that fully recovering its costs through the setting of regulatory fees in the alcohol and cannabis sectors would help it become a more self-sufficient regulatory agency. The AGCO's regulatory fees are established by the AGCO Board, and must also be approved by Ontario's Attorney General and considered by Treasury Board.

As a result of this audit, the AGCO will develop options to support increased cost recovery through the setting of new fees in the alcohol and cannabis sectors, and will explore how differential fees for licensed establishments based on their location and/or purchase volumes might work in the Ontario context. In establishing its fees, the AGCO will consider the overarching government commitment to burden reduction measures for small to medium-sized businesses, and other considerations. The AGCO is mindful of the ongoing impact of the COVID-19 pandemic on the sectors it regulates, and, in particular, the hospitality industry.

## RECOMMENDATION 2

In order to fully disclose the taxpayer's support of the horse-racing sector, we recommend that the Ministry of the Attorney General record the

unrecovered costs from regulating the horse-racing sector as a subsidy in the AGCO's future audited financial statements.

## RESPONSE FROM THE MINISTRY OF THE ATTORNEY GENERAL

We will consult with the Office of the Comptroller General to determine how best to disclose the unrecovered costs from regulating the horse-racing sector.

## 4.2 Public Reporting

### 4.2.1 Publicly Reported Information Not Consistent with Internal Records

The information reported publicly in AGCO's annual reports is not verified by senior management, and detailed listings supporting the summarized data in the annual report were not available in all cases. In addition, we noted instances where the performance results reported were overstated or misleading.

We requested that the AGCO provide us with support for various figures presented in its 2018/19 annual report, the latest available at the time of our audit. Even though the document was released last year, the AGCO had trouble producing the support or reconciling many of the key statistics contained in the report to the data in its IT systems, including the number of licences and registrations processed in the year (63,100 licensees reported in the annual report versus 65,600 shown in supporting documents), the number of investigations conducted (505 investigations reported in the annual report versus 402 shown in supporting documents), the number of inspections of liquor establishments (14,769 reported in the annual report versus 14,441 shown in supporting documents), and the number of serious offences that were escalated for further review (145 reported in the annual report versus 160 shown in supporting documents).

In addition, the agency had trouble reconciling the results reported against its performance measures for the reduction in serious violations and the satisfaction rates of clients. For example, the AGCO

reported that 100% of gaming operators rated their level of satisfaction with AGCO's electronic gaming lab as excellent. However, in actual fact only 78% of gaming operators rated their level of satisfaction as excellent. But AGCO management combined the good (22%) and excellent survey results and presented both categories as excellent. In another case, the percent of high-risk violations following transition to a compliance-based operating model was reported as an 85% decrease when it was calculated as 81%. (The compliance-based model focuses on bringing entities into voluntary compliance using education and support rather than strict enforcement, unless the violation is intentional.) Similarly, AGCO reported that 93% of customers indicate they are satisfied with iAGCO, but the actual result was 91%.

The AGCO accounted for the lack of supporting evidence and discrepancies by noting that many statistics in the annual report are “point in time” and cannot be reproduced. Many of the records from the previous fiscal years are still open files when the annual report statistics are drawn; if these are drawn again a year later, the numbers will change as details in the open files have been updated. The AGCO told us that it did not save all the reports on which the data was based. Although we were told that senior staff in charge of the various divisions review the content of the annual report before it is released, they do not officially sign off on its content.

### RECOMMENDATION 3

To ensure information in the annual report is accurate and reliable, we recommend that the Alcohol and Gaming Commission of Ontario:

- create a data catalogue that identifies all of the data in its annual report, the source and location of the data and data definition (for example, what was included or excluded);
- require information contained in the annual report to be signed off by senior management as evidence of their review; and
- maintain records and other supports to the annual report for at least seven years.

### AGCO RESPONSE

The AGCO accepts this recommendation as data governance is a key priority for the AGCO. In 2020, the AGCO introduced a new governance framework to improve the co-ordination and oversight of its data collection and maintenance. The AGCO:

- recently developed a data catalogue to maintain consistency and transparency of the AGCO's annual report;
- will formalize documentation of senior management's review and approval of the report; and
- will ensure that all appropriate records and supporting documentation used in the creation of the annual report are maintained and stored for an appropriate period of time.

#### 4.2.2 Performance Measures Do Not Focus on Regulatory Compliance

The AGCO's publicly reported performance measures focus largely on turnaround times, client satisfaction with the new iAGCO system for submitting licensing applications online, client satisfaction with its internal electronic gaming testing lab (until 2018/19), and staff satisfaction with their workplace (starting in 2019/20). There is very little measurement of its effectiveness as a regulator. There are no measures for the integrity of gaming for lotteries, casinos, internet gaming or chartable gaming, or the effectiveness of the investigations and enforcement group in curtailing money laundering.

The AGCO's performance measures for the last several years were based on three strategic goals grouped under the following themes: modern regulation, service excellence and people first. **Figure 11** shows the AGCO's performance measures and results over the last five years. According to its annual report for 2019/20 and prior years, the selected measures are intended to provide a broad overview of the AGCO's activities and to demonstrate progress toward meeting its strategic goals. However,

**Figure 11: Alcohol and Gaming Commission of Ontario (AGCO) Performance Measures and Results, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario, Annual Reports

	5-Year Target				
	2015/16	2016/17	2017/18	2018/19	2019/20 <sup>1</sup>
<b>Modern Regulator</b>					
% of compliance matters resolved internally without the need for a hearing at the Licence Appeals Tribunal	90	87	93	94	Not reported
% of high-risk infractions (serious violations) following transition to compliance-based operating model	(57)	(55)	(61)	(85)	Not reported
Change in # of national and international committees and working groups with AGCO representation (%)	Increase AGCO participation by 5% annually	200 <sup>2</sup>	9.5	Not reported	Not reported
% of users using digital options to transact with the AGCO	85				95
<b>Service Excellence</b>					
Average turnaround time for gaming and liquor application (days)	30	Liquor: 32 Gaming: 13	Liquor: 30 Gaming: 13	Liquor: 13 Gaming: 12	Not reported
Online application turnaround time (days)	20				26
% of applications for Special Occasion Permits auto-issued	90				93
Average electronic gaming lab testing turnaround time (days)	Average turnaround time meets or exceeds comparable jurisdictions New Jersey: 53, Michigan: 52, Nevada: 35 <sup>3</sup>	34	26	20	Not reported
% of gaming suppliers indicating very good/excellent level of service by AGCO testing and lab services <sup>4</sup>	75	60	91	100	Not reported

	5-Year Target	2015/16	2016/17	2017/18	2018/19	2019/20 <sup>1</sup>
Overall customer satisfaction with iAGCO (new automated online licensing and registration solution) <sup>5</sup> (%)	80	–	–	94	93	78.5
% of stakeholders indicating a high level of engagement following AGCO consultations <sup>6</sup>	80% of stakeholders report being engaged/highly engaged	86	95	89	Cannabis Webinar: 88 Municipal Webinar: 93	Not reported
<b>Service Excellence</b>						
Time to fill vacancies (weeks)	9 weeks (until 2017/18) 8 weeks (beginning 2018/19)	8	7.8	6.7	6.7	Not reported
# of training hours per employee	Average 15.75	16	14.7	17.5	19.08	Not reported
% of AGCO staff who would recommend AGCO as a placeto work	75					86
% of AGCO who would believe they have opportunities to have their ideas adopted and put into use	70					<b>65</b>

Note: Targets not met are in bold.

1. Performance measures were revised beginning 2019/20 to fit the AGCO's revised strategic plan.
2. The number of committees and working groups the AGCO participated in increased from six to 18 in that year.
3. The AGCO uses New Jersey, Nevada and Michigan as comparators, as they are prominent North American jurisdictions with in-house gaming test labs.
4. Gaming suppliers base their level of satisfaction with gaming lab services on the fairness of the regulator, including whether games are reviewed and approved based on a first-in first-out model, regular communication throughout the testing process and reasonable turnaround times.
5. Users of online licensing and registration assess the iAGCO system on ease of use and ability to successfully complete the licensing or registration transaction online.
6. The webinars are focused on municipal participants to provide them with an understanding of the AGCO's regulatory role in alcohol, cannabis and charitable gaming. In 2018/19, the AGCO tracked results separately by consultation, unlike prior years.



it does not measure all facets of its operations. For example, the agency does not measure how many licensees that committed serious violations in any of the regulated sectors were brought into compliance. There is no measure of the effectiveness of the over 120 OPP officers assigned to the AGCO's Investigation and Enforcement Bureau. In addition, the AGCO does not measure how efficient it is in processing applications for all four sectors—only the gaming and alcohol sectors up until 2018/19; for 2019/20 it only measures processing times for online applications.

We noted that the AGCO does not have performance measures that address the areas of regulatory concern listed in **Figure 3**. For instance, to promote the protection of minors, a useful performance measure could be the percent of mystery shoppers who look younger than 25 who were asked for proof of age in liquor and gaming establishments and in cannabis stores.

Another area of concern is game integrity in the gaming sector. Useful performance measures could be the number of slot machines that were found not to be operating correctly and were brought into compliance or removed from operation; and the rate at which casino operators implemented the recommendations made by the regulator following an audit.

In the horse racing sector, a useful performance measure to monitor animal welfare could be the incidents of injuries or deaths for race horses and/or jockeys at racing and training venues.

#### RECOMMENDATION 4

In order to effectively monitor and ensure intended regulatory outcomes are achieved, we recommend that the Alcohol and Gaming Commission of Ontario:

- develop meaningful performance indicators that focus on its effectiveness as a regulator; and
- set reasonable targets, compare against actual results and report the results publicly.

#### AGCO RESPONSE

The AGCO accepts this recommendation and shares the Auditor General's view on the importance of meaningful and transparent performance measures. The AGCO has been revising its performance measures, and is committed to improving and enhancing its approach to performance measurement.

The AGCO will review its existing performance measures to ensure its performance indicators are most meaningful for assessing the AGCO's effectiveness as a regulator, that reasonable targets are established in all areas and that these are measured and reported on publicly.

#### 4.2.3 AGCO Does Not Produce and Publish Audited Financial Statements

The AGCO's financial information is reported as part of the Ministry of the Attorney General's (Ministry) expenditures. Its expenditures are presented in the Public Accounts of the Province as a separate Vote and Item. However, these are not segregated by regulated sector, but only by type (salaries and wages, employee benefits, transportation and communication services, and supplies and equipment). In addition, the fees collected by the agency for issuing licences, registrations, permits, authorizations or other gaming-related activity are listed on the Ministry's Statement of Revenue and are not clearly identified as fees generated by the AGCO. The result is a lack of financial and operational transparency and accountability.

The Memorandum of Understanding between the AGCO and the Ministry does not explicitly require the AGCO to produce audited financial statements. However, it does state that the Attorney General may direct that the agency be audited at any time. It also allows the Chair of the AGCO board to request an external audit of the AGCO's financial transactions or management controls at the agency's expense. Neither the Attorney General nor the Chair has exercised that authority. The

Ontario Racing Commission, which until March 2016 regulated the horse-racing sector, did produce audited financial statements. Based on our discussion with the AGCO's chair, he did not feel a need for audited financial statements. According to the Ministry, the AGCO is not required to produce separate and audited financial statements because the AGCO reports through the Ontario government's Integrated Financial Information System (IFIS), and forms part of the Ministry of the Attorney General's printed estimates.

The current act that established the AGCO—the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996*—is silent on whether the agency is required to produce audited financial statements. However, it contains a clause that states, “the Commission shall comply with such directives as may be issued by the Management Board of Cabinet with respect to, the form and content of the annual report; and when and how to make it available to the public.”

Under the Agencies and Appointments Directive issued by the Management Board of Cabinet, board-governed regulatory agencies like the AGCO are required to include audited financial statements in their annual report. An exception is permitted where an audit is not practical. We see no reason why audited financial statements would not be practical for this agency.

We noted that all other government regulatory agencies in Ontario that are board-governed produce audited financial statements. These include the Ontario Securities Commission, the Ontario Energy Board and the Financial Services Regulatory Authority of Ontario. Two of these three agencies incurred smaller expenditures than the AGCO in 2018/19. In all cases, the requirement for audited financial statements is specified under each agency's establishing legislation, and the boards of the respective regulators have appointed the Auditor General of Ontario as their auditor. Comparable regulators in other provinces produce audited financial statements. Specifically, financial statements for the alcohol and gaming regulators in Alberta, Saskatchewan and Manitoba are audited by their respective legislative auditors.

Our Office views the non-preparation of audited financial statements to be a serious void in public transparency and accountability and will exercise its authority under section 9(2) of the *Auditor General Act* to conduct a special audit of financial statements of the AGCO for the year ending March 31, 2021, requesting that the AGCO prepare the required information. Alternatively, the request for the preparation of audited financial statements could proactively be requested by the Management Board of Cabinet.

## RECOMMENDATION 5

In order for the Alcohol and Gaming Commission of Ontario (AGCO) to be transparent and accountable, we recommend that the Ministry of the Attorney General:

- in accordance with the Agency and Appointments Directive, require the AGCO to produce audited financial statements to be audited by the Office of the Auditor General of Ontario for inclusion in the AGCO's annual report for the year ending March 31, 2021; and
- revisit the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996* to incorporate the requirement for audited financial statements and for those financial statements to be audited by the Office of the Auditor General of Ontario.

## MINISTRY RESPONSE

The AGCO will adhere to any financial reporting methods required of it, including the production of audited financial statements. The AGCO is committed to transparency and accountability. It will make best efforts to work with the Ministry for an audit of annual revenue/recoveries and expenses for the year end March 31, 2021, and will work with of the Comptroller General's Office to prepare audited financial statements for fiscal year 2021/22.

The Ministry will make best efforts to support the AGCO to achieve an audit of annual revenue/recoveries and expenses for the year

end March 31, 2021, and will work with legal counsel and the Comptroller General's Office on legislative amendments that may be required for audited financial statements for fiscal year 2021/22.

## 4.3 Gaming Sector

### 4.3.1 AGCO's Efforts Are Insufficient for Curtailing Money-Laundering Activities in Ontario Casinos

Money laundering is the process that transforms “dirty” money (proceeds of criminal activity) into “clean” money. Common types of money-laundering activity in casinos are described in **Figure 12**.

The AGCO, through the Registrar's Standards for Gaming, requires that gaming sites have mechanisms in place to identify and prevent unlawful activities, and that gaming sites implement and enforce anti-money laundering policies and procedures to comply with the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. Among other things, operators must:

- conduct periodic risk assessments;

- report to the AGCO suspicious behaviour, cheat-at-play and unlawful activities in accordance with a set list of occurrences; and
- make available to the AGCO copies of all reports filed with the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) and supporting records (FINTRAC is the federal agency whose mandate is to assist in the detection, prevention and deterrence of money-laundering and terrorist-financing activities).

In January 2020, subsequent to the start of our audit, the AGCO identified challenges and areas for improvement with respect to its anti-money-laundering activities (see **Figure 13**). It has recognized that it has significant gaps in co-ordinating anti-money-laundering efforts across its divisions and branches; instituting best practices within each industry it regulates; and serving as a resource on anti-money-laundering compliance to its staff, licensees and registrants. At the time of our audit, the AGCO had not developed a plan to address the areas where needed improvement is identified.

**Figure 12: Common Money-Laundering Activities in the Gaming Industry**

Source of data: Alcohol and Gaming Commission of Ontario

Type of Activity	Description
"Vancouver model"	High-rollers or VIP casino attendees transfer funds to organized crime syndicates in China. In exchange, these attendees receive illegal funds or cash for gambling upon arrival in Canada from local organized crime groups in order to circumvent the need to transfer the funds internationally. The Chinese and Canadian organized crime groups use this cash transfer as payment for other illegal services or drug exchange.
Loan sharking	Loan sharks use proceeds of crime to advance to patrons. The patrons may be instructed to pay the loan back (plus interest) in gaming chips, which will be exchanged by the loan sharks as “winnings” at the casinos, or they may be told to pay the funds back in the form of a bank draft or e-transfer.
Fraud	An individual may obtain illegal bank draft(s) using funds in the victim's account through identity theft. The fraudster uses these drafts to purchase gaming chips. The bank drafts may be for large amounts (often \$100,000+), although the fraudster will typically engage in minimal play before attempting to exchange the chips for cash or a casino cheque.
Currency refining	A patron will feed multiple bills, usually small denominations (\$5 to \$20), into one or more slot machines. The patron will engage in minimal or no play and then “cash out” to receive large denomination bank notes. This method is commonly associated with drug trafficking.
Structuring	A patron uses multiple transactions to keep each transaction below the FINTRAC reporting thresholds so the patron does not have to produce identification.
Credit	Patrons that qualify may apply for a casino line of credit and use the funds to engage in minimal gaming. The casino line of credit is then repaid with the proceeds of crime.

**Figure 13: Anti-Money-Laundering Activities of the Alcohol and Gaming Commission of Ontario (AGCO)**

Prepared by the Office of the Auditor General of Ontario

AGCO Divisions/ Units Involved	Key Activities	Challenges
Investigation and Enforcement Bureau (Ontario Provincial Police staff)	<ul style="list-style-type: none"> <li>• Conducts complex gaming and money laundering investigations</li> <li>• Receives and analyzes Suspicious Transaction Reports (STRs) to identify potential money laundering activities</li> <li>• Engages with stakeholders to identify potential money laundering trends, patterns and criminal activities, as well as high-risk patrons</li> <li>• Identifies individuals who meet the criteria for a Direction to Exclude and submits requests to the Registrar</li> <li>• Disseminates anti-money-laundering-based intelligence to front-line staff</li> <li>• Participates in provincial anti-money-laundering working group that feeds to federal-provincial-territorial working group</li> </ul>	<ul style="list-style-type: none"> <li>• Need to improve processes and analytics to manage the volume of suspicious transaction reports requiring money laundering investigations</li> <li>• Need better collaboration between stakeholders in cases of known high-risk patrons</li> <li>• No legislative requirement for casino operators to verify patrons' source of funds</li> <li>• Culture change required to accept disruption of money laundering in process as well as requests for directions to exclude</li> <li>• Often insufficient evidence to lay criminal charges or seek a Direction to Exclude despite repeated suspicious activities</li> <li>• Ongoing criminal investigations by law enforcement partners may be compromised if patrons suspected of money laundering activities are banned from the casinos</li> </ul>
Regulatory Assurance Branch	Performs periodic risk assessments of operators/gaming sites, which include anti-money-laundering-related risk concerns	<ul style="list-style-type: none"> <li>• Need to increase information sharing</li> <li>• Need to improve efficiencies among internal anti-money-laundering-related processes and activities</li> </ul>
Regulatory Compliance Branch	Conducts risk and incident-based inspections of gaming sites, which include anti-money-laundering-related risks/incidents	<ul style="list-style-type: none"> <li>• Need to increase staff knowledge and expertise on anti-money-laundering-related matters</li> </ul>
Audit and Financial Investigations Branch	Conducts risk-based audits and/or focused reviews, which also cover anti-money-laundering-related areas	

### AGCO Receives Only One of the Four Federal Reports Focused on Helping Identify Potential Instances of Money Laundering in Casinos

Casinos in Ontario are required to submit the following reports to FINTRAC:

- *Large transaction reports*—for transactions over \$10,000 made in cash by an individual within a 24-hour period (one transaction or several).
- *Electronic funds transfer reports*—for transactions over \$10,000 made, sent or received internationally by an individual within a 24-hour period (one transaction or several).

- *Suspicious transaction reports*—for transactions (or attempted transactions) that casino employees suspect may be related to money laundering or terrorist financing, such as when an individual declares their occupation as student but wagers large amounts.
- *Casino disbursement reports*—when the casino gives out winnings over \$10,000 to an individual either in a single transaction or in multiple transactions within a 24-hour period.

However, the AGCO receives from the OLG and casinos only the suspicious transaction reports sent to FINTRAC. In contrast, regulators in two other provinces (Alberta and New Brunswick) told us that

they receive at least three of the four reports sent to FINTRAC from the casinos in their jurisdiction, specifically the large transaction reports, suspicious transaction reports and casino disbursement reports).

The casinos also notify the AGCO of suspicious gaming-related activity. Under the AGCO's gaming standards, casinos are required to notify it when such activities take place on the gaming floor. Suspicious gaming activities are more related to gaming integrity, including cheat-at-play and patron behaviour, however, while the other four reports focus on the risk of money laundering.

According to the AGCO, FINTRAC will provide all of the four types of reports received from Ontario casinos to the AGCO's Investigation and Enforcement Bureau upon request if the AGCO believes that FINTRAC could have additional information or intelligence relevant to the AGCO's investigation of a particular individual. We noted that on 12 occasions over the last two fiscal years, the AGCO received from FINTRAC information on certain individuals with potential ties to money laundering. The AGCO did not request or receive information from FINTRAC in 2017/18.

In addition, there is a Memorandum of Understanding in place between the AGCO and FINTRAC that states that FINTRAC will share with the AGCO any compliance issues at casinos arising from FINTRAC's compliance work, including deficiencies and corrective action taken. Over the last three calendar years (2018–20), the AGCO has not requested and FINTRAC has not shared any information with the AGCO.

### **Suspicious Transactions Reported in Ontario Casinos Are Increasing but Enforcement Activity by the OPP Has Been Limited**

Each month, the OLG provides a copy of all suspicious transaction reports generated by the OLG to the AGCO's Investment and Enforcement Bureau. Gaming sites do the same with their suspicious transaction reports. In turn, 67 OPP officers

working at the AGCO bureau as of March 2020 investigate suspicious transactions and criminal activity that occur in casinos. This data is uploaded monthly onto the OPP's case management system. A suspicious transaction report includes the name and occupation given by the patron, the amount deposited at the casino, and the reasons for considering their activity suspicious. Based on the outcome of the review, the OPP officer completes an investigation report that outlines whether further action is needed, such as a "direction to exclude" order barring the patron from all casinos in Ontario for five years, or if criminal charges should be laid.

We were directed by the AGCO to obtain suspicious transaction data from the OLG, because the OPP's case management system only allows for extraction of individual inspection reports, and the AGCO's recently implemented data analytics system was missing information from nine casinos and only contained data beginning in July 2018 for the other casinos. The AGCO told us that it was working on receiving missing information from the OLG in the preferred format for the new system. In addition, we noted that the new system did not consider qualitative factors such as media coverage or criminal records. We would have expected the AGCO, as the gaming regulator, and being responsible for deterring unlawful activity such as money-laundering at casinos, to have this information readily available.

We analyzed suspicious transaction reports for activity at Ontario casinos between 2017 and 2019 provided to us by the OLG. During this period, casinos reported over 9,700 suspicious transaction reports involving almost 4,800 individuals. These suspicious transaction reports increased by 19%, but the value of suspicious transactions doubled over the three years, from 3,138 reports totalling \$170 million in 2017 to 3,722 totalling \$340 million in 2019, as shown in **Figure 14**.

According to FINTRAC's guidelines on indicators for potential money laundering in casinos, inconsistency between a person's financial activity and occupation is a red flag that should be examined

**Figure 14: Suspicious Transactions Identified in Ontario Gaming Facilities, 2017–2019, and Related Outcomes**

Source of data: Alcohol and Gaming Commission of Ontario and Ontario Lottery Gaming Corporation

	2017	2018	2019	Total	3-Year Change (%)
Value of suspicious transaction reports (\$ 000)	170,250	283,888	339,945	<b>794,083</b>	100
Value of incoming funds noted in suspicious transaction reports (\$ 000) <sup>1</sup>	81,168	101,827	147,335	<b>330,330</b>	82
# of suspicious transaction reports	3,138	2,875	3,722	<b>9,735</b>	19
# of unique individuals with suspicious transaction reports	1,691	1,388	1,698	<b>4,777</b>	
Value of cash seized (\$ 000)	0	250	46	<b>296</b>	
# of cash seizures	0	1	3	<b>4</b>	
# of individuals charged	12	9	2	<b>23</b>	(83)
# of individuals barred from casinos with a “direction to exclude” order	1	4	33 <sup>2</sup>	<b>38</b>	3,200

1. Represents the value of funds coming in to a casino in cash, or through electronic fund transfers and bank drafts.

2. Fifteen exclusions from Ontario casinos were a direct result of an RCMP money-laundering investigation in Quebec, where individuals charged were also patrons of Ontario casinos.

**Figure 15: List of Select Occupations Provided by Individuals Who Had Suspicious Transaction Reports Submitted by the Ontario Lottery and Gaming Corporation, 2019**

Source of data: Alcohol and Gaming Commission of Ontario, Suspicious Transaction Reports for 2019

Occupation	# of Individuals	Total Value of Suspicious Transactions (\$)	Average Value of Suspicious Transactions per Individual	Maximum Value of Suspicious Transactions in the Year by Single Individual (\$)
University or college student	76	12,970,105	170,659	2,553,035
Restaurant cook	24	9,206,683	383,612	4,617,430
Homemaker	54	7,635,148	141,392	3,492,600
No occupation provided*	130	6,713,278	51,246	1,076,750
Unemployed	52	4,572,030	87,924	776,005
Truck driver	23	2,588,940	112,563	1,069,898

\* Only includes suspicious transactions for \$9,000 and above.

further. We noticed that patrons’ occupations did not always justify the amounts being wagered or otherwise transacted (**Figure 15**). We also noticed that, in 2019, no occupation was documented in the suspicious transaction reports for 130 individuals whose collective suspicious transactions totalled \$6.7 million (or, on average, \$51,200 per person). The OPP investigated these transactions but, based on the testing we completed, investigations seldom resulted in the OPP being able to determine if

the funds had or had not come from a legitimate source. Moreover, the individuals named were allowed to continue gambling.

Although casinos are identifying individuals involved in suspicious transactions to the AGCO, the enforcement action by the OPP was extremely limited, with few charges laid, low amounts of cash seized and few people barred from casinos (**Figure 14**).

The OPP group informed us that it is difficult to lay money-laundering charges because sufficient evidence is needed that the funds being used are illicit. This usually means gathering evidence outside the casino floor. Three of the 23 charges brought against casino patrons between 2017 and 2019 related to money laundering. Most charges related to fraud—for example, withdrawing funds from casino ATMs using stolen debit/credit cards, passing counterfeit money, or using fraudulent bank drafts for wagering. According to an expert we consulted, the low number of cash seizures and charges is in line with other jurisdictions.

With respect to low amounts of cash seized, we were told by OPP staff that in order to seize cash or cash equivalents (such as bank drafts or casino chips), OPP officers require immediate notification and need to be present at the casino and have reasonable and probable grounds to believe the funds being wagered were a result of criminal activity. In some cases, no OPP officer was present at the casino, since OPP officers mostly work out of the nine regional casino locations (Windsor, Sarnia, Brantford, Niagara, Greater Toronto Area, Peterborough, Orillia, Sudbury and Belleville). The OPP informed us that without prior information about the individual or evidence of suspicious activity, reasonable grounds are hard to demonstrate. We did not find evidence of regulators in other jurisdictions receiving real-time information on money-laundering activity from casinos. However, there were some IT systems that allow for internal reporting, but not to the regulator.

To issue “direction to exclude” orders, the AGCO has to, among other things, conclude that the individual has acted in a way that would adversely affect public confidence or support for lottery schemes and related businesses (per section 23 of Ontario regulation 78/12 under the *Gaming Control Act, 1992*). According to the OPP, it is challenging to obtain sufficient evidence of this. We noted that between 2017 and 2019 it took anywhere from 13 to 638 days, with a median of 63 days, to complete an exclusion order, from the moment the OPP rec-

ommended it to when the AGCO sent the notice to the patron. The AGCO legal department stated that in the case of the longest delay we noted, it could not issue an order while the patron was appealing the charges. In this case, the patron was convicted of two counts of fraud over \$5,000, including using an illegally obtained bank draft to deposit over \$800,000 into their casino account and attempting to legitimize the funds as casino winnings. It is unclear why this patron could not be barred from casinos while appealing the conviction. The long processing times allow suspect individuals to continue wagering at Ontario casinos.

We selected a sample of individuals named in suspicious transaction reports between 2017 and 2019, who had each brought into Ontario casinos between \$2 million and \$13 million. In investigating suspicious transactions, OPP officers may obtain witness statements, perform criminal background checks, review surveillance footage, do credit checks, conduct informal checks with the Canada Revenue Agency, and request information from FINTRAC. The OPP can also hold a source-of-funds interview with the individual to get information that will help conclude if the funds used are legitimate. During our testing, we found that the OPP only completed criminal background checks; if there was no criminal activity noted, no additional work was done to verify the source of funds or to conclude if amounts used to wager were legitimate. We also noted that:

- Only one of the individuals we sampled was asked to meet with the OPP for a source-of-funds interview. This person had suspicious transactions totalling \$1.3 million over the three years and stated his occupation as restaurant cook, telling the OPP that he had borrowed the funds from family. No additional checks were done.
- An additional 20% of individuals in our sample had a criminal record on file, but none of them were called for a source-of-funds interview, and the OPP did not gather additional evidence to assess the source of the funds they wagered or otherwise transacted.

**Figure 16: Suspicious Transaction Report Data by the Top 10 Casinos, 2019**

Source of data: Ontario Lottery Gaming Corporation

Gaming Establishment	Suspicious Transactions		Cash Seizures	
	\$	#	\$	#
1. Niagara Fallsview Casino Resort	136,765,758	862	0	0
2. Casino Woodbine	102,331,944	836	45,535	3
3. Casino Rama	51,929,256	737	0	0
4. Caesars Windsor	28,189,242	675	0	0
5. Great Blue Heron Casino	6,688,583	112	0	0
6. Elements Casino Mohawk	3,969,055	65	0	0
7. Elements Casino Brantford	2,810,048	57	0	0
8. Casino Ajax	1,653,216	49	0	0
9. Hardrock Casino Ottawa	1,463,547	43	0	0
10. Elements Casino Flamboro	695,648	37	0	0
Other Casinos*	3,448,855	249	0	0
<b>Total</b>	<b>339,945,153</b>	<b>3,722</b>	<b>45,535</b>	<b>3</b>

\* Other casino amounts include reports from PlayOLG (OLG's online gaming application).

### Additional Monitoring Action Not Taken for Casinos Assessed as High Risk

In 2019, the AGCO assessed ten casinos in Ontario to be at high risk for money laundering: Casino Woodbine, Elements Casino Mohawk, Casino Ajax, Shorelines Casino Thousand Islands, Elements Casino Brantford, Elements Casino Flamboro and Shorelines Casino Belleville, Shorelines Casino Peterborough, Shorelines Slots at Kawartha Downs and Elements Casino Grand River. However, as seen in **Figure 16**, only five of these were among the top 10 casinos with the highest value of suspicious transactions reported in 2019. The other five casinos were deemed high risk due to the findings of a 2018 anti-money-laundering audit by the AGCO that identified gaps in these casinos' anti-money-laundering policies. The gaps have since been addressed, but the AGCO still considers these casinos to be high risk. We noted that the AGCO's OPP officers have not added additional anti-money-laundering surveillance at the ten high-risk casinos, but instead have relied on the AGCO's audit and financial investigations group to conduct additional work. However, the audit group has completed only one audit centred on money

laundering in the last three years, and at only one casino, Woodbine.

### Source-of-Funds Requirement Implemented in British Columbia Successfully Curtailed Suspicious Transactions

Ontario does not currently have any legislative requirements for casino operators to verify the source of funds of casino patrons to ensure that funds used for gambling are not illicit and being laundered in the casino. In contrast, in British Columbia, casino patrons who purchase casino chips valued at more than \$10,000 are required to prove the source of their funds and to sign a source-of-funds declaration form before they wager in a casino. British Columbia casinos may ask for the source of their patrons' funds regardless of the amount wagered. In addition, the casinos are required to label casino cheques as "return of funds—not game winnings" for individuals engaging in minimal wagering to prevent money laundering.

The requirement for patrons to prove the source of their funds came into effect in July 2015, and the requirement for patrons to sign a source-of-funds



declaration form came into effect in January 2018. According to the British Columbia Lottery Corporation, which publicly posts the trend in suspicious transaction reporting at casinos, the number of suspicious transaction reports dropped from 187 (total value \$27.2 million) for July 2015 to 25 (total value \$238,000) for March 2020. As previously shown in **Figure 14**, Ontario's trend is in the opposite direction, which could indicate that the problem is moving to Ontario.

On May 15, 2019, British Columbia announced the establishment of the Commission of Inquiry into Money Laundering in the province. The terms of reference require the Commission to make findings of fact with respect to:

- the extent, growth, evolution and methods of money laundering in British Columbia, with regard to specific economic sectors;
- the acts or omissions of responsible regulatory agencies and individuals, and whether those have contributed to money laundering in the province or amount to corruption;
- the scope and effectiveness of the anti-money-laundering powers, duties and functions of these regulatory agencies and individuals; and
- the barriers to effective law enforcement in relation to money laundering.

In addition, the Commission has the responsibility to make recommendations to address the conditions that have enabled money laundering to flourish in British Columbia.

## RECOMMENDATION 6

In order to reduce the high risk of money laundering being conducted in Ontario casinos, we recommend that the Alcohol and Gaming Commission of Ontario (AGCO):

- require all casinos to provide it with all reports sent to the Financial Transactions and Reports Analysis Centre of Canada;
- allocate compliance resources, including the Ontario Provincial Police (OPP), to

casinos assessed to be at high risk for money laundering;

- exclude from casinos individuals who come with a large amount of cash and are not able to prove the source of their funds;
- require the OPP to use all available tools to gather evidence on the sources of funds for patrons identified with suspicious transactions, including conducting source-of-funds interviews and updating the new data analytics system that the AGCO acquired to help determine patrons' risk ratings with all relevant data from all casinos;
- amend the Registrar's Gaming Standards to require gaming operators to verify the source of funds for patrons who bring into casinos large amount of cash; and
- expedite the development and use of the data analytics system, including populating the database with accurate and complete information.

## AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendations and agrees with the importance of effective anti-money laundering practices. The AGCO agrees that this is an area where continual improvement is required to address information sharing gaps, remain responsive to emerging risks and adjust to evolving federal standards.

The AGCO and the OPP Investigation and Enforcement Bureau will look to enhance their existing regular engagements and co-operation with the Ontario Lottery and Gaming Corporation (OLG) and Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) with the aim of eliminating information and reporting gaps, ensuring timely and coordinated action when suspicious cases arise and sharing best practices. The AGCO will also update its Memorandum of Understanding with FINTRAC to better reflect emerging risks and improve information sharing and analysis,

without duplicating the OLG's data collection effort and/or FINTRAC's data collection and intelligence and analysis effort.

The AGCO will direct additional compliance resources, including the OPP, to casinos assessed to be at higher risk for money laundering.

OPP staff in the Investigation and Enforcement Bureau will better use available tools to gather evidence on the sources of funds for patrons identified with suspicious transactions, including opportunities to increase the number of source-of-funds interviews conducted. The AGCO will work with the OLG and casino gaming operators to develop and introduce a standard for gaming operators to ascertain and record players' source of funds for patrons bringing in large amounts of cash and introduce enhanced due diligence measures, including exclusions, where they are unable to adequately confirm a player's source of funds.

The AGCO will improve its data analytics for anti-money laundering, including capturing accurate and complete information. The AGCO has recently taken steps in this direction by amending reporting requirements to receive a monthly data transfer from the OLG encompassing all suspicious transaction reports.

## RECOMMENDATION 7

In order to address the increase in the number and value of suspicious transactions in Ontario casinos that could be attributed to the presence of money laundering, we recommend that the Ministry of the Attorney General and the Ministry of Finance:

- prepare and present a detailed action plan to Treasury Board/Management Board of Cabinet on the steps to be taken to reduce the high risk of money laundering being conducted in Ontario casinos; and
- report regularly to Treasury Board/Management Board of Cabinet on the actions taken with respect to the plan.

## RESPONSE FROM MINISTRIES

The Ministry of the Attorney General and the Ministry of Finance will work with the AGCO and the OLG to review the effectiveness of the measures currently in place to limit money laundering in Ontario casinos, and to prepare and present a detailed action plan to Treasury Board/ Management Board of Cabinet on the steps they will take to reduce the risk of money laundering in Ontario casinos.

The Ministries will work with the AGCO and the OLG to report quarterly to Treasury Board/ Management Board of Cabinet on the actions taken for the next two years, beginning in 2021.

### 4.3.2 Unregulated Internet Gaming Sites Attract Many Ontarians but Come with Significant Risks

Ontarians spend an estimated \$500 million a year on unregulated online gambling according to the 2019 Ontario Budget. Currently, PlayOLG is the only legally licensed and regulated online gaming site in Ontario. In 2018/19, the latest year for which information was available, PlayOLG generated \$92 million in revenue.

Ontarians use unregulated websites for sports wagers, because the PlayOLG website does not offer betting on a single event or outcome in a sporting event. A wager placed with PlayOLG must correctly predict the outcomes of between three and six sporting events, which reduces the odds of winning. In addition, unregulated gaming websites are able to offer players more prizes, a larger pool of players to play against for longer hours, and better payouts (these entities do not pay taxes). Yet Ontarians who use unregulated gambling websites are not protected against unfair games or offered support for responsible gambling.

Unregulated gaming sites accessed by Ontarians are often regulated by foreign jurisdictions whose standards are less stringent than Ontario's. For example, it is not known how these websites verify the identity and age of players, and protect against

identity theft. Some may not encourage responsible gaming (for instance, they may not discourage players from “chasing their losses”) or test gaming systems to ensure payouts are accurate. We performed a scan of social media sites and found that most of the complaints regarding unregulated gaming websites were about the length of time sites took to pay players. The players believe that these sites make it hard to withdraw money to encourage them to continue to gamble.

### Little Action Taken to Date to Combat Unregulated Online Gaming

In 2015, the AGCO’s Report on *Unregulated Internet Gaming in Ontario* estimated that approximately 2,200 gaming websites, operated by 745 companies, were accessible to Ontarians. The report proposed several actions to discourage unregulated Internet operators from taking bets from Ontarians:

- Licensing and regulatory actions targeting AGCO-regulated suppliers that also supply the unregulated Internet market.
- Payment blocking to unregulated gaming sites by financial institutions, with federal government co-operation.
- Raising public awareness of the risks of unregulated Internet gaming.
- Website blocking, with federal government co-operation.
- Securing the assistance of other jurisdictions’ Internet gaming regulators.
- Tightening restrictions on the marketing of unregulated Internet gaming.

At the time of our audit, these actions had not been implemented.

We spoke with representatives from the New Jersey Gaming Enforcement division, who are facing a similar problem. They informed us that having credit card companies block transactions with unlicensed online gaming sites has been an effective tool. In addition, New Jersey has tried to educate its population on the risks of unregulated gaming and has reached out to radio stations, TV stations and other advertisers to discourage

them from giving airtime to illegal gaming sites. Although the AGCO does not have the authority to prohibit Ontarians from accessing unregulated Internet gaming sites or using their credit cards, it has not taken the other actions that New Jersey uses to prevent illegal Internet gaming.

## RECOMMENDATION 8

In order to create greater awareness of risks of unregulated online gaming, we recommend that the Alcohol and Gaming Commission of Ontario (AGCO), along with the Ministry of the Attorney General:

- list the risks of unregulated gaming on its website and provide a link to AGCO gaming standards and the PlayOLG website; and
- work with credit card companies and financial institutions to block transactions with internet gaming sites not regulated by Ontario.

## AGCO RESPONSE

The AGCO accepts this recommendation and will, along with the Ministry of the Attorney General:

- better promote the risks inherent to the unregulated internet gaming market and links to regulated options such as OLG.ca, particularly on the AGCO website; and
- engage the federal government, given its jurisdiction over financial institutions, to explore blocking financial transactions with unregulated internet gaming sites by Ontario residents.

### 4.3.3 Proposed Government Plan to Bring Internet Gaming into the Legal Market Could Put AGCO in Conflict with Its Regulatory Role

An expert we consulted informed us that the creation of a competitive legal Internet gaming market is a way of addressing unregulated online gaming, accompanied with suitable tax rates, penalties and law enforcement efforts.

In February 2019, the government directed the Ministry of Finance and the Ministry of the Attorney General to proceed in developing a new iGaming strategy for Ontario. The intent of the strategy was to:

- create a competitive legal Internet gaming market in Ontario, conducted and managed by government, that attracts key operators in the industry;
- bring grey market online gaming operators into a legal market;
- generate new revenues; and
- ensure that consumers are protected and have access to responsible gaming supports.

The Criminal Code of Canada prohibits all commercial gaming unless it is conducted and managed by a province. To that end, in early 2019, the AGCO proposed a model in which the government would conduct and manage an Internet gaming portal that would offer games operated by private operators. Under this model, the government would have contractual arrangements with private operators, which in turn would agree to no longer accept Ontario gamblers on their Internet gaming websites which are not regulated by the AGCO.

The government estimates that incremental revenue generated from the establishment of the new Internet gaming market could be as high as \$54 million by 2023/24.

In March 2020, the government approved a joint submission from the Ministry of the Attorney General and the Ministry of Finance to establish a subsidiary corporation of the AGCO to be responsible for conducting and managing the new Internet gaming model. Besides paying licensing fees, private Internet gaming operators would be paying the province a percentage of their gross gaming revenues.

Under the new conceptual model approved by the government, the AGCO would have both regulatory responsibilities and operational/revenue-generating responsibilities through its subsidiary, which could create a conflict of interest.

According to Ministry documents, the AGCO was selected to conduct and manage the new iGaming platform for private operators instead of

the OLG because private gaming providers had stated that they would be less likely to participate in the new provincial model if it were operated by the OLG, as they perceive the OLG, which operates the PlayOLG website, to be a competitor. In addition, the OLG was only interested in operating the PlayOLG website. Under the new model, the OLG would continue to conduct and manage PlayOLG as a competitor in online gaming.

Although the Ministry of the Attorney General and the Ministry of Finance recognize the dual role of the AGCO as a potential issue, they believe that the establishment of a subsidiary to the AGCO to conduct and manage the iGaming model would mitigate potential conflicts of interest between the AGCO's regulatory role and the responsibility for conducting and managing the platform. AGCO staff told us that the proposed subsidiary corporation would have a direct reporting relationship to a separate Board of Directors, which would report directly to the AGCO Board of Directors. However, at the same time, many of AGCO's functions and resources are proposed to be shared to discharge both regulatory and conduct and manage functions. At the time of our audit, details of the new corporate structure were still being determined and were expected to be prescribed by regulation.

## RECOMMENDATION 9

To maintain the Alcohol and Gaming Commission's independent regulatory oversight and avoid any conflicts that could occur if it were to conduct and manage the new iGaming model through a subsidiary, we recommend that the Ministry of the Attorney General and the Ministry of Finance consider using a separate government organization to conduct and manage the online gaming model.

## RESPONSE BY THE MINISTRIES

The Ministries strongly agree with the Auditor General that it is important to maintain the AGCO's regulatory independence and keep any

conflict of interest from arising in Ontario's iGaming model.

The need to avoid any potential conflict of interest was deliberately considered in developing proposed amendments to the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996* and amendments to its successor legislation, the *Alcohol and Gaming Commission of Ontario Act, 2019* that the government introduced on November 5, 2020.

Under the proposed amendments, iGaming would be conducted and managed by an AGCO subsidiary established by Lieutenant Governor in Council regulation, not by the AGCO itself. The subsidiary corporation would have its own board of directors that would report to the AGCO board of directors. The AGCO board of directors would be prohibited from delegating any powers and duties relating to oversight of the iGaming subsidiary to the Registrar (who is also the CEO of the AGCO), whose independence would remain unchanged.

Avoiding any potential conflict of interest will continue to be a driver for the development of the subsidiary model. If the proposed amendments are passed, a regulation would be made to provide further details of this model, which could include prescribing conflict of interest rules for the subsidiary.

## RESPONSE BY THE AUDITOR GENERAL OF ONTARIO

We continue to be of the view that a government organization independent of the Alcohol and Gaming Commission of Ontario be used to conduct and manage the online gaming model.

### 4.3.4 AGCO's Follow-Up of Electronic Gaming Machine Issues Is Limited

All gaming system software and hardware is tested and approved by the AGCO's in-house gaming testing lab, staffed with 20 FTEs, before electronic

gaming machines (such as slot machines) are put into operation. Once they are approved, the AGCO relies on the OLG's gaming management system to monitor gaming machines. As of September 2019, 22 out of the province's 27 casinos had fully converted to the OLG gaming management system, which allows casino gaming machine servers to communicate directly with OLG servers. The AGCO receives data from the OLG's gaming management system monthly to ensure only AGCO-approved software is installed in machines, to prevent casinos from altering payouts or other outcomes that impact game integrity. The AGCO receives a list of existing hardware and software from each gaming establishment (for machines on the gaming floor) through the OLG and then compares the hardware and the software on each machine (using the serial number) to its approved list of AGCO software for the machine. The AGCO also compares the number of and activity for machines on the OLG gaming management system with similar information in the local gaming management system at each gaming establishment. Before the new system was implemented in January 2018, the AGCO could inspect only a limited number of machines manually.

At the time of our audit, five casinos (Caesars Windsor, Casino Ajax, Casino Niagara, Niagara Fallsview Casino and Casino Rama) had not yet converted to the OLG gaming management system. One of these (Casino Ajax) has been assessed by AGCO as being at high risk for money laundering, and three others (Niagara Fallsview Casino, Casino Rama and Caesars Windsor) were among the top 10 casinos with the highest number of suspicious transaction reports. The AGCO manually inspects the slot machines at these casinos when on site to conduct unannounced inspections or when following up on a self-reported issue. Prior to September 2016, AGCO compliance officials checked machines where a jackpot of \$30,000 or more was won; verified that a machine random access memory (RAM) was not cleared without approval; and verified that machine jackpots were stand-alone and not linked to or influenced by the jackpots of other machines

in the casino. (This is important because if machine jackpots are linked, players wagering for the same jackpot may have different odds of winning.)

Effective September 2016, the requirement for electronic gaming inspectors to verify jackpots was no longer required.

Most North American jurisdictions do not have a central gaming management system, which is made possible in Ontario because casinos are under the OLG's authority. Although the central system allows for alerts and efficient flagging of issues, it is a best practice to conduct periodic field checks at the casinos to verify compliance with technical standards. In addition, it would be prudent to periodically test the central gaming management system to confirm that all reporting functions are accurate and working as intended.

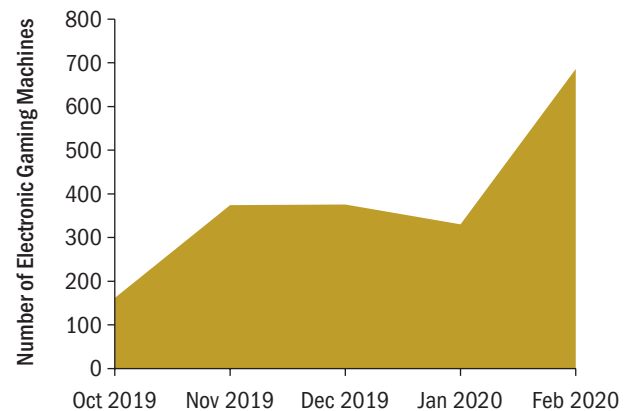
### Hundreds of Machines on Gaming Floor but Not Connected to the Management System

Based on the latest available comparison in February 2020, before the COVID-19-related shutdown, the AGCO noted that casino operators reported 686 electronic gaming machines on the casino floors that were not using the OLG's gaming management system. This means that these machines could not be monitored remotely by the AGCO and were vulnerable to software tampering affecting payout odds. As seen in **Figure 17**, each month between October 2019 and February 2020, significantly more machines were on the casino floor than were on the OLG gaming management system. AGCO compliance officials are encouraged to follow up with the casino operator if the number of machines that are not in the system is higher than 15% of the machines on the gaming floor.

We reviewed a sample of reports where compliance officials reviewed all variances between the electronic gaming machines on the floor and those in the gaming management system. For two-thirds of the reports, the compliance officials concluded that there were no findings because either the number of machines was below the 15% threshold

**Figure 17: Electronic Gaming Machines Operating without AGCO Monitoring, October 2019–February 2020**

Source of data: Alcohol and Gaming Commission of Ontario, Gaming Management System—initial assessment reports



or they were deemed not to be an issue based solely on the explanation provided by the casino. For the remaining one-third, the compliance officials contacted the gaming operator: in 60% of those cases they were informed that the machines were not on the gaming floor, and the other 40% were offline because of a loss of communication with the OLG gaming management system. There was no evidence that any inspections were completed to ensure that there were no other reasons for the machines being offline.

### AGCO Gaming Machine Inspections Continue to Decline Despite Significant Increases in Reported Repairs

Before the OLG gaming management system was implemented in 2018, the average number of inspection procedures completed by the AGCO each month on electronic gaming machines decreased by almost 40%, from 2,904 monthly inspections in 2015/16 to 1,774 monthly inspection procedures for the first 10 months in 2017/18 (ending January 2018). Each inspection may have multiple procedures, such as ensuring the correct payout or that the machine has AGCO-approved software. From 2016/17 to 2018/19, the number of machines requiring repairs increased by 360%.

In addition, for the same period, the number of gaming machines with integrity or security issues (for example, displaying an incorrect payout or jackpot) more than tripled. A slot machine that requires repairs can indicate significant issues that may require the AGCO's attention. As the number of repairs increased, we would have expected the number of inspections to follow a similar trend due to the increased risk. When we followed up on the increased number of repairs, the AGCO had no definitive explanation. The AGCO told us that the decrease in inspections was a result of the transition to a standards-based model.

In January 2018, the AGCO moved to a standards-based model for electronic gaming compliance that allows gaming operators to repair or make changes to machines, and add machines to the gaming floor, without requiring an AGCO inspection. According to the AGCO, a standards-based approach requires the operator to achieve regulatory outcomes without the AGCO having to be overly prescriptive. Under the new model, casino operators are required to notify the AGCO of the changes, and AGCO compliance officials are to conduct inspections after the changes have been completed.

The move to standards-based enforcement means the AGCO is now heavily reliant on self-reporting to drive inspection activities. As a result, the AGCO no longer proactively inspects for electronic gaming issues. Under the new model, the AGCO is now tracking the number of inspection jobs rather than the inspection procedures they were previously tracking. An inspection job can include multiple procedures on multiple machines. Therefore, it is not clear if all self-reported notifications result in an inspection. To illustrate, in 2018/19, the AGCO received 16,717 notifications and completed less than 5,000 commercial gaming inspections (including inspections of electronic gaming machines). It is not clear from the evidence provided by the AGCO if compliance officials are addressing significant notifications related to electronic gaming machines in a timely manner.

## RECOMMENDATION 10

In order to ensure that only approved software is operating on electronic gaming machines, we recommend that the Alcohol and Gaming Commission of Ontario:

- require all casinos to implement the new gaming system that allows for remote monitoring;
- require compliance officials to follow up and inspect electronic gaming machines that are identified as being offline while being on the gaming floor;
- periodically test the gaming management system for data security, reliability of connectivity and accurate reporting of machine details; and
- perform unannounced inspections based on risk (such as number of repairs and complaints, self-reporting frequency) in addition to self-reported notifications.

## AGCO RESPONSE

The AGCO agrees with the Auditor General's recommendation and will work with the OLG to ensure that the OLG gaming management system is fully implemented and maintained. Monitoring and oversight of the OLG's gaming management system is a priority for the AGCO.

The AGCO will monitor the execution of the OLG's scheduled implementation plan for all casinos to be transitioned to its new gaming management system, as per its modernization plans and timeframes, and ensure that the remaining four of 27 sites that have not yet transitioned to the new gaming management system will follow the processes in place to ensure the operators comply with the Registrar's technical standards.

The AGCO will work with the OLG and casino operators to obtain slot count numbers that would allow the AGCO to compare and better determine real variances (i.e., gaming

machines that are offline) that can be analyzed and followed up as required.

The AGCO will improve the way it verifies that the OLG has adequate and ongoing controls to ensure the gaming management system's data security and the accuracy and reliability of connectivity between each gaming establishment and its gaming management system.

In all cases, the AGCO will leverage its ongoing risk assessments and conduct any necessary regulatory compliance activities, including inspections, both scheduled and unannounced. The AGCO will manually inspect slot machines at sites that are not on the OLG gaming management system, both through unannounced inspections based on risk and by following up on self-reported notifications.

#### 4.3.5 AGCO Does Not Monitor Operating Slot Machines to Ensure the Machine Has Actually Paid Out 85%

According to the AGCO's Casino Electronic Gaming Devices and Gaming Systems Minimum Technical Standard, the minimum theoretical payout of a game is 85%, which is in line with other jurisdictions such as Nevada (75%) and British Columbia (85%). This represents the theoretical minimum payback for a machine over a period of time or a predetermined number of plays. However, the AGCO does not regularly monitor slot machines to see if they are actually paying out the theoretical minimum.

The AGCO has a technical gaming laboratory that tests over 2,000 electronic hardware and software items annually for slot machines and other electronic games before they are used in gaming establishments. We obtained payout data for electronic game machines in Ontario casinos from the OLG as at April 2019, the latest information available at the time of our audit. The rates were less than 85% for 3% of machines (439). These machines had been on the casino floor for an average of 32 days (ranging from one to 2,112 days).

The other 97% of machines were paying out over 85% and had been on the casino floor for an average of 399 days (ranging from one to 4,895 days). The expectation is that over longer periods of time, gaming machines will pay out the theoretical 85% amount; however, a machine may be removed from the floor before it reaches its theoretical payout.

Under the current system, casino operators are responsible for conducting their own regular reviews of payout percentages (daily, weekly and monthly) and for ensuring the payouts are within the acceptable percentage. Under the Registrar's Standards for Gaming, casino operators are required to notify the AGCO immediately if there are any issues with the "integrity or security of the gaming system or gaming supplies." Any issues of not meeting the expected payouts would be considered an issue of "integrity," and the casino would be required to notify the AGCO.

The OLG monitors the machine payouts and notes which machines are paying under or over the theoretical payout amounts. This information, however, is not shared with the AGCO, as the AGCO has deemed the issue of machine payouts to be a low risk. The potential impact is that gaming establishments may retain more than 15% of the money wagered and, in turn, Ontarians may not receive the appropriate payouts. The private casino operators, under contract with the OLG, are required to notify the AGCO if there are any integrity issues with the gaming machines. Similarly, the AGCO relies on the private operator of PlayOLG to monitor payouts on the online gaming website. It would be prudent for the AGCO as a regulator to monitor payouts of electronic gaming machines and online gaming, as the AGCO's primary role in the gaming sector is to ensure the integrity of all legal gaming activity.

#### RECOMMENDATION 11

In order to help ensure that each electronic gaming machine is paying out the approved 85% rate, we recommend that the Alcohol and Gaming Commission of Ontario directly and



consistently monitor the actual payout amounts of electronic gaming machines in gaming establishments and take immediate corrective action where necessary.

## AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendation and agrees that electronic machines must appropriately be monitored for paying out at the approved 85% rate.

As a result of this audit, the AGCO will require operators to regularly report on the actual payout amounts of electronic gaming machines and these will be periodically reviewed and assessed by the AGCO, and immediate and appropriate regulatory action will be taken where necessary.

## 4.4 Cannabis Sector

### 4.4.1 Mystery Shoppers Not Used Effectively to Monitor the Risk of Cannabis Sales to Minors

The AGCO uses an external provider that employs people aged 19 to 25 to conduct mystery shopper inspections in stores that sell cannabis. The purpose of these inspections is protection of minors by ensuring cannabis store operators are checking ID to confirm the age of customers as they enter the store and when they are about to make a purchase. AGCO compliance officials notify the external provider each time they want a mystery shopper to visit a store.

The AGCO has significantly cut down on the use of mystery shoppers since July 2019. The first cannabis retail store opened in April 2019. Between April and July 2019, mystery shopper visits were requested and completed for 22 of the 23 stores that were in operation. However, from August 2019 to March 2020, even though 26 new stores opened, mystery shopper visits were requested and completed for only three of the new stores. The AGCO informed us that it had reduced its use of mystery shoppers because it was not satisfied with the work

performed—that the mystery shoppers were not following its instructions, and in many instances, documentation submitted did not capture all of the details of the inspection. The AGCO provided feedback to the external provider on documentation throughout 2020, and created a checklist for the inspection process in June 2020.

We reviewed a sample of reports resulting from the mystery shopper visits between April 2019 to March 2020 and noted that for 70% of visits the mystery shoppers failed to document whether they were asked to produce valid ID when entering the store, whether the security officer attempted to match ID with their physical appearance, and whether a secondary ID check was performed by the cashier at the time of purchase. We tested an additional sample of mystery shopper reports for visits made in June and July 2020 to assess whether the new checklist had been implemented, and found that it had been, and all required information was now documented.

There are benefits to using mystery shoppers, in addition to AGCO staff inspectors, to ensure compliance with legal restrictions relating to the age of the purchaser, the quantity of the product sold and whether only Health Canada products are being sold. We noted that a store is often inspected frequently by the same AGCO inspector. For example, for the 18 stores that were inspected at least five times in 2019/20, eight were inspected by the same official at least five times, and six were inspected by the same official at least 10 times. The AGCO told us that it uses the same compliance official to provide a single point of contact and consistency in approach, and promote relationship building and education. However, under these circumstances, store operators become familiar with the inspectors in the region and may take unusual care to comply with the law while they are present. Given the nature of the inspections, it would be beneficial to periodically rotate inspectors to avoid close relationships with licensees and the potential for successful bribery.

## AGCO Paying More than the LCBO for the Use of Mystery Shoppers

The AGCO contracts with a service provider for the use of mystery shoppers in all its various lines of business. The rate AGCO pays for mystery shoppers was the same whether they visited a retail cannabis store, a licensed liquor establishment or a grocery store authorized to sell alcohol.

We compared the AGCO mystery shopper program to the Liquor Control Board of Ontario (LCBO) program. We found that the AGCO paid \$119 per visit while the LCBO paid \$15 to \$25, and the LCBO requires mystery shoppers to complete a 19-question checklist, while the AGCO checklist contains at least three to a maximum of six questions. The AGCO does not ask its mystery shoppers to look for other risks such as whether the product they purchased had a Health Canada seal or whether the shopper was allowed to buy more than 30 grams of cannabis at one time, the maximum amount a person can have in their possession under federal law.

We also noted that the AGCO has not assigned risk ratings to cannabis retail stores, such as those located near schools that should have a higher level of oversight.

### RECOMMENDATION 12

In order to minimize the risk of cannabis being sold to minors, we recommend that the Alcohol and Gaming Commission of Ontario:

- use a competitive procurement process to acquire the services of mystery shoppers for retail cannabis stores, licensed liquor establishments and grocery stores authorized to sell alcohol, or acquire these services jointly with the Liquor Control Board of Ontario;
- specify in the contract for mystery shopper services what procedures they should perform—which should include checking customer ID at time of entering the store and at time of purchase, observing whether products have a Health Canada seal and

whether more than the legal amount a person can have in their possession at one time (30 grams) was sold—and clearly outline the requirement to document all key observations; and

- increase the use of regularly scheduled mystery shopper visits, focusing on stores located close to middle schools and high schools.

### AGCO RESPONSE

The AGCO welcomes the Auditor General’s recommendation and agrees that its mystery shopper program can be improved with respect to minimizing the risk of cannabis sales to minors.

As a result of this audit, the AGCO will:

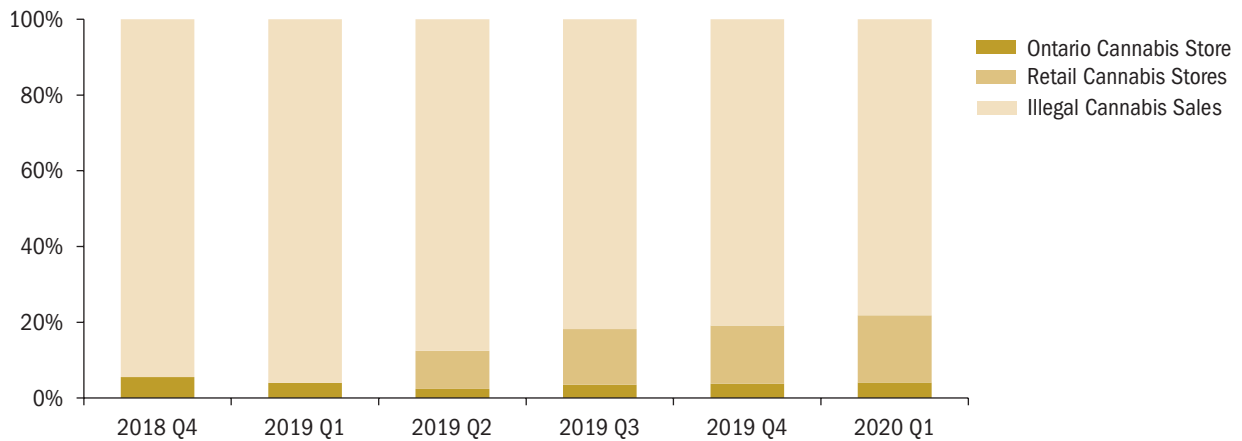
- use a competitive procurement process when the current contract expires, to enter into a new contract for mystery shop services at the most competitive rates. The contract will specify the risk areas mystery shoppers are expected to monitor and other key expectations, including the requirement to document all observations;
- expand the scope of the contract as it relates to mystery shoppers’ reviews to assess compliance with other regulatory requirements; and
- increase the use of mystery shoppers with a particular focus on stores located close to middle schools and high schools.

### 4.4.2 Most Recreational Cannabis Sold in the Province Continues to Be Sold Illegally

Despite the legalization of cannabis in October 2018, the illegal sale of recreational cannabis still accounted for about 80% of cannabis sales in the province in 2019/20, as seen in **Figure 18**. Legal sales have increased from about 5% of total sales in the fourth quarter of 2018 with only the government’s online Ontario Cannabis Store (OCS) in operation to about 20% in the first quarter of 2020 with the online store and 49 private retail stores operating as of March 2020.

**Figure 18: Trend in the Percentage of Recreational Cannabis Purchased in Ontario Legally versus Illegally\***

Source of data: Ontario Cannabis Store



\* The amount of illegal cannabis sales were estimated by the Ontario Cannabis Store using Statistics Canada data.

In our discussions with cannabis store managers and AGCO staff, we heard that some people prefer illegal cannabis because it is more potent and the product is fresh. We also noted that the AGCO received several complaints about the retail stores selling subpar cannabis (too dry, for example). One store operator confirmed that when the OCS ships the product to the retail store, it does not have an expiry date, so it can be difficult to tell which products to sell first.

The price difference between legal and illegal cannabis was not significant at the time of our audit. In June 2020, the OCS published its first report with key data on the industry, such as sales data and pricing. According to OCS management, during 2019/20, licensed producers lowered their prices to capture a greater portion of the market. The OCS passed these savings on to consumers by lowering its price by 20% from the first quarter to the last quarter of 2019/20.

Based on our review of the OCS website, in July 2020 online prices ranged from \$4.07/gram to \$16.36/gram depending on the type, for a weighted average price of \$8.56/gram based on the volume sold. Retail stores charged a weighted average price of \$10.84/gram. In comparison, the illegal market price for cannabis was estimated to be \$8.23/gram, not significantly different from the average OCS price.

The federal objectives for legalizing cannabis were to protect youth and eliminate the illegal market, and Ontario has supported this approach. According to the 2018/19 OCS annual report, a core objective is to move consumers from the illegal market to the legal market. The OCS informed us that it closely monitors the illegal websites to compare prices and products. Over the coming years, it plans to support the growth of private licensed retailers to continue to capture sales from the illegal market. Between January and August 2020, the AGCO received 960 applications to open retail cannabis stores. Until September 2020, the province had limited the number of new stores to five per week due to several factors such as the OCS's limited distribution capacity, supply challenges with certain products, and the province's and municipalities' desire for a responsible rollout of retail stores. On September 28, the province moved to opening 10 new stores per week.

#### 4.4.3 The AGCO Is Not Properly Monitoring the Movement of Recreational Cannabis in Retail Stores

There is a risk that a retail operator may purchase large quantities of cannabis from the OCS and divert it to the illegal market, either to avoid paying

taxes on the revenue generated or to take advantage of the 25% discount given to retailers that purchase cannabis from the OCS (thus making a profit when reselling it illegally). Provincially regulated retail cannabis stores are required to submit monthly sales reports to the AGCO. In addition, retail stores are also required to self-report discrepancies in inventory (within 24 hours), transfer of cannabis between stores (monthly), and destroyed cannabis products (monthly). Each store must complete full physical counts of all cannabis products weekly or when the AGCO requests them. However, during the COVID-19 pandemic, retail stores were only required to conduct monthly inventory counts, to avoid unnecessary staff contact with the product. The AGCO has not verified or conducted any retail store inventory counts to confirm that self-reported information has been reliable.

All cannabis that is ineligible to be sold (after being returned by a customer for quality problems, for example) and discontinued products that cannot be returned to the OCS must be destroyed by the retailer and captured by the store surveillance system. Retailers receive credit from the OCS in the case of recalls only. Retail stores are required to have 24-hour electronic surveillance on their premises to record the destruction of cannabis (and for security and other reasons). Any camera malfunction is to be reported to the AGCO. Between April 2019 and June 2020, 18 different retail stores reported 38 brief surveillance system failures.

The AGCO's Audit and Financial Investigation group has the authority to conduct inventory counts at cannabis retail stores, and review surveillance video of the destruction process. However, as of September 2020, the group had never conducted an inventory count or asked to view a retailer's surveillance video. Over the 11 months from September 2019 to July 2020, retail cannabis stores reported to the AGCO the destruction of 5,477 units of cannabis products, and 84,228 fewer units of product on hand than the amount recorded in their inventory system. AGCO staff told us that these discrepancies could be errors or due to timing

issues with inventory. However, the AGCO had no assurance that these units were not lost, stolen or diverted elsewhere. When we asked why no inventory audit or surveillance video had been requested since the first store opened in April 2019, the AGCO responded that it did not deem it necessary based on the information reported. Without confirming that cannabis was destroyed or conducting periodic inventory counts, the AGCO is not able to ensure that cannabis is not being diverted to the illegal market.

Private retail stores in Ontario, as in other provinces, are also not required to produce audited financial statements or, at the very least, have an independent accounting firm perform specified procedures to confirm the sales and inventory figures. This is the case even though retail stores accounted for over 81% (or \$313 million) of cannabis sales in Ontario in 2019/20. In contrast, the online OCS, which accounted for only 19% of legal cannabis sales in 2019/20, is audited on an annual basis. Since the retail stores account for a greater portion of sales in the legal market, their inventory controls should be at least as strong as those in place for the OCS.

#### 4.4.4 Improved Oversight Needed of Product Sold in Retail Cannabis Stores

Cannabis retail stores are required to purchase all the products they sell from the OCS. Products sold by the OCS are grown by provincially licensed producers and are supposed to undergo strict and rigorous testing for harmful substances by federally licensed third-party laboratories, and each product requires a Certificate of Analysis and a Statement of Attestation outlining the product's lot number with acceptable sample test results that have been checked and verified by a Health Canada-approved and designated laboratory. The products come in child-safe, tamper-proof packaging to protect against accidental consumption, and may contain health warnings, depending on the amount of THC (an intoxicant) in the product.

The AGCO does not typically inspect the inventory when conducting an inspection of a retail store,

even though the secure storage of inventory is a key risk factor for cannabis retail stores. We reviewed a sample of cannabis inspection reports from the last two years and noted that only 15% of those inspection reports mentioned that the inventory was inspected. This is likely because no standard checklist is used during inspections. An inventory inspection only focuses on ensuring that all cannabis inventory has the Health Canada seal and is locked in a secure location with 24-hour surveillance.

As more stores open and competition increases among retailers, they will have an incentive to generate greater profit margins by selling illegal products that compromise consumer health.

### RECOMMENDATION 13

In order to perform the required and necessary oversight of the movement of legal cannabis, we recommend that the Alcohol and Gaming Commission of Ontario (AGCO):

- regularly review reconciliations of all retail cannabis store inventory purchases to sales transactions and inventory on hand;
- reconcile retail store purchases of cannabis with records from the Ontario Cannabis Store;
- review surveillance evidence to verify that reports of cannabis being destroyed are reasonable;
- conduct unannounced periodic inventory counts at retail stores; and
- develop a standardized checklist covering risk areas to be used by AGCO compliance officials when conducting inspections of retail stores.

### AGCO RESPONSE

The AGCO agrees that enhanced AGCO oversight over the movement and destruction of cannabis would be beneficial. The AGCO is committed to ensuring that cannabis retail stores comply with the Registrar's Standards and to supporting the Province's objectives under

the *Cannabis Licence Act*, which includes the prevention of illicit activities in relation to cannabis and the diversion of legal product to the unregulated market.

As a result of this audit, the AGCO will:

- enhance its compliance assurance activities in relation to cannabis retail stores, including regularly reviewing reconciliations of retail cannabis store inventory purchases;
- reconcile cannabis purchases with records from the Ontario Cannabis Store;
- review surveillance evidence to verify reports of cannabis destruction are reasonable;
- conduct unannounced inventory counts at retail stores; and
- ensure that inspections conducted by compliance officials are based on a common understanding of outcomes and risks through training and team meetings, to support a consistent and measurable approach when conducting inspections of retail stores

#### 4.4.5 Consultants Used to Assess Applicants for Cannabis Retail Licences Were Not Allocated Work in an Economical Manner

The AGCO used five consulting firms with forensic expertise to perform eligibility assessments for new cannabis applicants starting in March 2019. While all five charged different prices, the AGCO did not try to use the least expensive consulting firm first.

AGCO management told us that they anticipated a high volume of applications with the launch of private cannabis retailing, and believed they did not have the internal capacity or resources to handle it. The AGCO decided to retain consultants to assist with the eligibility assessments of retail operator and retail manager licences. The consultants were expected to perform due diligence responsibilities that included an assessment of past conduct; financial responsibility, which includes credit checks or status in solvency databases, bankruptcy searches, tax arrears, sources of funds and liens; allegations

of financial impropriety; and ability to exercise sufficient control over a cannabis retail business. The reviews would be done on the applicants and other parties to be involved in managing the business, such as any directors or shareholders.

Five consulting firms with forensic expertise submitted bids, and all five were accepted in November 2018. Because the firms submitted bids with different prices, the costs per type of investigation ranged from:

- \$450 to \$500 for a basic individual investigation;
- \$900 to \$1,000 for an enhanced individual investigation;
- \$1,000 to \$4,000 for a basic corporate investigation; and
- \$5,800 to \$8,000 for an enhanced corporate investigation.

As of June 2020, the AGCO had paid approximately \$3 million for these services, for both lotteries and open-market applications (ranging from \$209,000 to one consulting firm to \$786,000 to another consulting firm for basically the same service). These expenses are higher than they could otherwise have been, since the AGCO did not have a process in place to first allocate work to the consulting firm charging the least and then negotiate a similar price with the other consultants. Given that each consulting firm's bid was accepted, another way to avoid overpaying for services in total could have been to allocate the work to the lower-cost firms. We reviewed how the basic corporate investigation work, which accounted for \$2 million of the \$3 million paid in total to the vendors, was allocated among the five consulting firms. We noted that each consulting firm was generally allocated an equal amount, even though the firm with the lowest rate was charging one-quarter of the price of the most expensive firm, and one-third of the price of the second-least expensive consulting firm. (In fact, the prices charged by the three most expensive consulting firms differed by only \$200, ranging from \$3,800 to \$4,000, still much higher than the two lower-priced consulting firms.) AGCO staff

told us that capacity was not an issue for any of the consulting firms, and that they could add staff as needed.

In addition, no internal analysis was completed to determine the number of consultants actually needed. As many as five consulting firms were procured to support the high volume of applications anticipated when the government first announced an unlimited open market for cannabis retail licenses. However, when the supply of cannabis became an issue and plans changed, the AGCO did not complete a cost/benefit analysis of its need for external vendors in comparison to using its own OPP staff in the Investigations and Enforcement Bureau.

As part of the external consultant-led investigations, the OPP's role is primarily to conduct the standard check on every application, which includes CPIC (criminal record), *Highway Traffic Act* and intelligence checks. Where any of these checks reveal an issue, the OPP investigator will often conduct a more focused investigation to obtain additional information relevant to the assessment of an applicant's eligibility. In addition, the external consultants have the opportunity to ask the OPP to complete a more targeted investigation into areas of concern noted during its review, in areas such as confirming the source of funds and asking about prior legal issues and affiliations with third parties.

After the AGCO opened the cannabis market to all interested parties, for the period from January to August 2020 it had already received 1,106 retail operator applications, 960 retail store applications and 918 retail manager applications. Despite the significant increase in retail operator applications from 75 lottery winners to now over 1,100 applicants, the AGCO has not conducted an assessment to determine whether it would be more economical to build in-house capacity with the support of internal OPP staff or continue to outsource the work to external consulting firms with forensic expertise. As these consulting contracts for eligibility assessments are set to expire in late 2020, this is the ideal time for the AGCO to reassess its current approach.

#### 4.4.6 Concerns with Multiple People with the Same Residential Address Submitting Entries to the Cannabis Lottery

Based on our analysis of lottery entrants into the first lottery, we noted that more than 140 entries were made from one residential address in British Columbia. In this case, the AGCO told us that applicants were using the same consultant to prepare their applicants. In other instances, we noted that there were two other addresses in Ontario that each had over 50 entries submitted. Similarly, for the second lottery, more than 50 applicants applied from one residential address in North York. There was one winner from the address that submitted 50 or more entries, and there were three winners from addresses that had more than 10 but less than 50 entries. Although there were no specific rules in place that limited the number of individuals who could apply from the same residential address, the AGCO did state that business affiliates could submit only one entry for each region. The AGCO did not investigate these entries further to find any issues or patterns of foul play or misconduct.

After the second lottery, the AGCO engaged a consulting firm with forensic expertise because it had concerns that some applicants may have co-ordinated their lottery entries with the intent to increase their chances of winning. The consultant found that about 1,500 of almost 5,000 applications were from applicants that appeared to have colluded in the lottery. Eleven of these individuals were selected as winners but were all later disqualified.

In addition, the consulting firm also identified 414 applications that may not have met the lottery rules but were still allowed to enter the lottery. These applications contained anomalies such as letters of credit dated outside the dates permitted under the lottery rules, inconsistencies in retail location between the application and the confirmation document from the landlord, and applications with cash and cash equivalents or letters of credit not from approved financial institutions or credit

unions. One of these applicants was selected as a winner but was subsequently disqualified. If the data analysis and review of the information had been completed before the lottery was held, the AGCO could have excluded these entrants from the lottery.

#### RECOMMENDATION 14

In order to help ensure that the Alcohol and Gaming Commission of Ontario (AGCO) uses its financial and human resources efficiently, we recommend that it review and assess its internal capacity and the longer-term costs/benefits of conducting eligibility assessments on its own before continuing to procure external consulting services.

#### AGCO RESPONSE

The AGCO accepts this recommendation and will review and assess its internal capacity to fully undertake eligibility assessments in-house, now that the tight initial timeframe for assessing and issuing cannabis licences has passed.

#### RECOMMENDATION 15

If the Alcohol and Gaming Commission of Ontario (AGCO) determines that there is a need to use external consultants, either to supplement the AGCO's internal work or to take responsibility for conducting eligibility assessments and due diligence reviews, we recommend that the AGCO:

- use the services of the lowest-priced consulting firm that is successful in the bidding process that has the capacity to do the work; and
- negotiate rates with other firms to achieve the same pricing, if it is found that more work is required than the lowest-priced consulting firm has the capacity to perform.

## AGCO RESPONSE

The AGCO accepts this recommendation and is committed to the responsible stewardship of public resources. Once the terms of the existing contracts come to an end, the AGCO will assess whether a new procurement is warranted and, if so, explore the most cost-effective options that may be available, including entering into a negotiated request for proposal(s).

## 4.5 Alcohol Sector

### 4.5.1 AGCO's Licensing Process Does Not Emphasize Major Liquor Violations Focused on Public Safety

#### New Liquor Sales Licence Applications

Applicants for a new liquor licence go through a standard check for a criminal record (CPIC), ongoing OPP intelligence investigations including connections with organized crime, *Highway Traffic Act* violations and a check to see if the licensee owns other locations. The OPP officer notifies the licensing staff of any findings on the standard check; depending on the type of infraction and its timing, these may lead to a liquor licence investigation. This licensing investigation is a deeper dive into the applicant's background and the details of the application, including OPP interviews. During the past five fiscal years, the OPP has conducted 226 such investigations. We noted that in 2019/20, standard checks identified infractions ranging from *Highway Traffic Act* offenses to criminal offenses for 20% of new applicants (878 of 4,432); only 1% (43 of the 4,432) underwent a deeper licensing investigation.

While the standard check is being completed, a 14-day public notice placard (28 days if within 250 metres of a school or residence) is posted at the applicant's establishment and on the AGCO website to notify the community and allow it to bring its concerns to the AGCO. All concerns must be addressed before a licence can be issued. Based on our review of a sample of new applications, a

public notification process was completed. For all applications sampled, the CPIC and *Highway Traffic Act* checks were documented, but only 10% of new applications had evidence of a police intelligence check or a check of whether the applicant owned another licensed location. The reason why these checks were not performed on other files was not documented in the files.

### Licence Renewals

Licence renewal is required every two or four years after a licence is issued. Most renewals are done upon application without a standard check. When new applicants are first assessed, the AGCO's eligibility officer uses a risk scorecard to assign each applicant an overall risk level between 0 and 3. These ratings, along with any updates to the applicant's profile, are used at licence renewal. For all renewal applicants with a risk level of 0 or 1 and no major violations, the licence is automatically renewed without a standard check. For risk levels of 2 or 3, eligibility officers may be required to complete a risk assessment summary that is reviewed by their manager and sent to the deputy registrar for final review and licensing decision. Based on the sample of renewal applications we tested (excluding applications renewed automatically by the system), we had the following concerns:

- 28% did not have an updated risk assessment; one had a risk rating from 2009 and another had a risk rating from 2011.
- For 86% of the sample, the reviewer was the same person as the eligibility officer completing the file. More than half of these applications were rated as high-risk and were not reviewed by a manager or director.

## RECOMMENDATION 16

In order to help ensure that decisions on new and renewal applications for liquor establishments are consistent and reasonable, we recommend that the Alcohol and Gaming Commission of Ontario:



- complete a risk-based scorecard for all new and renewal applications;
- complete all standard checks and maintain the supporting documentation in the application file; and
- add controls that will restrict eligibility officers from reviewing their own work when assessing either new or renewal applications.

## AGCO RESPONSE

The AGCO accepts this recommendation and currently uses a risk-based approach to licensing and regulating liquor sales licensees, in which the objective is to focus greater resources on those establishments that are more likely to have compliance issues or pose a risk to public safety.

The AGCO will:

- ensure a risk-based scorecard and standard checks are completed to support liquor licence eligibility assessments on new applications and for renewal applications. The AGCO will use its iAGCO online service delivery platform functionality to determine which renewal applications require manual review based on risks identified;
- ensure all necessary supporting documentation is maintained as a standard operating procedure in the application file; and
- ensure new controls are introduced so that eligibility officers do not review their own work.

### 4.5.2 Inspection of Liquor Establishments Based on Outdated Enforcement List

The AGCO has recently started using a risk-based approach to inspecting liquor establishments. Compliance officials are to identify liquor establishments that they think should be inspected more frequently based on their compliance history (liquor violations, association with organized crime, violence) and add them to the risk-based enforcement list so that these establishments are inspected more frequently. The compliance

manager overseeing the region approves the addition or deletion of any establishment. Each liquor establishment on the list is to be visited four times each quarter (16 times per year).

As of April 2020, 129 liquor sales licensees were on the risk-based enforcement list. However, the list is not reviewed and updated on a regular basis. All reviews of establishments to be added or removed are triggered by a compliance official, and generally wait until the licence is up for renewal. We selected a sample of establishments on the list to assess the process for adding or removed establishment on the list. However, for 40% of the sample, the AGCO could not produce the documentations that led to the establishment being added. We also noted two establishments that have remained on the list for over two years but had not committed any violations over the last fiscal year.

We reviewed a sample of liquor sales licensees with the highest number of the Big 5 liquor violations (overcrowding, overserving, serving to minors, permitting disorderly behaviour and serving outside prescribed hours) over the last five years. For the sample selected, the instances of these violations ranged from 14 to 59. We noted that:

- 87% of the liquor establishments were placed on the risk-based enforcement list to be inspected four times per quarter. We reviewed the details of the licence history and found that the exclusion of the other establishments from the list was justified.
- The high-risk violators were inspected on average 11 times annually (less often than the 16 inspections required per year). One licensee was inspected 120 times over the past five years and twice had been ordered to pay monetary penalties (\$1,000 and \$2,250). Both were paid. Further, its number of violations has decreased over the last five years.
- All licensees sampled received warnings from the AGCO and, based on additional inspections, the number of subsequent violations dropped by 93%. In two cases, the number of violations increased after the

enforcement action. Both of these licensees were on the risk-based enforcement list and were inspected on average 12 to 15 times a year. One of them received three monetary penalties, of which two were paid and the third was unsuccessfully appealed, but the establishment closed down before paying the last penalty. The other licensee has had no violations since 2018/19.

- For 23% of the liquor establishments sampled, no conditions were added to the licence despite multiple Big 5 violations. When we asked the AGCO about this, the response was that conditions would be considered at the time the licence comes up for renewal. As the licensing terms are up to four years, a licensee with major violations may continue to operate without conditions until its licence expires.

### RECOMMENDATION 17

In order to focus inspection efforts on entities identified consistently as high risk, we recommend that the Alcohol and Gaming Commission of Ontario:

- maintain an accurate and up-to-date risk-based enforcement list;
- inspect high-risk licensees at least four times per quarter in accordance with program guidelines; and
- reassess a licensee's risk level and the need for licensing conditions as violations are committed, rather than waiting until the time of licence renewal.

### AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendation and will look to enhance its existing risk-based approach to guide its inspection activities. As a result of this audit, the AGCO:

- has recently initiated a review of its risk-based enforcement program to strengthen administrative protocols and practices and improve the focus of regulatory assurance activities;

- will ensure that it maintains an accurate and up-to-date risk-based enforcement list and inspect those licensees on the list at a frequency and in a manner that is consistent with the AGCO's program guidelines; and
- will ensure that a licensee's risk level and licensing conditions continue to be reassessed throughout the licensing period as circumstances warrant, so that compliance activities are tailored and appropriate to the licensee's risk profile at the time.

### 4.5.3 Liquor Inspections Were Overstated between 2015/16 and 2019/20

Information reported publicly and to senior management overstates the number of inspections conducted on licensed liquor establishments. According to the AGCO's IT system for internal reporting, between 2015/16 and 2019/20, compliance officials conducted about 116,300 inspections in the alcohol sector. However, approximately 13% (or 14,680) of these activities were not inspections. Instead, they included activities such as reviewing police reports and follow-ups (8,291); reviewing last-drink reports filed by police when a person takes their last drink at a licensed establishment and is subsequently charged with drunk driving (1,176); consulting with licensees (3,915); educating licensees (784); delivering correspondence to licensees (314); and requesting mystery shopper visits and follow-ups (200).

AGCO senior management does not receive detailed reports on compliance activities but instead receives summarized performance statistics to monitor performance of the compliance group. The data includes activities that overstate inspection statistics.

Statistics in the annual report are also slightly overstated. We compared the numbers in the annual report to actual inspections over the last five years ending in 2019/20 and found that the annual report numbers were cumulatively overstated by 4%, as shown in **Figure 19**.

**Figure 19: Alcohol and Gaming Commission of Ontario (AGCO) Internal Inspection Data Compared to Annual Reports, 2015/16–2019/20**

Source of data: AGCO inspection data and annual reports

	2015/16	2016/17	2017/18	2018/19	2019/20	Total
<b>A</b> # of inspections reported internally	29,122	28,138	22,029	16,450	20,600	<b>116,339</b>
<b>B</b> Activities that were not inspections	3,333	3,099	2,950	2,009	3,289	<b>14,680</b>
<b>C=A-B</b> # of actual inspections	25,789	25,039	19,079	14,441	17,311	<b>101,659</b>
% overstated internally	11	11	13	12	16	<b>13</b>
<b>D</b> # of inspections reported in annual report	26,000	25,379	20,755	14,769	18,590	<b>105,493</b>
<b>E=D-C</b> # overstated publicly	211	340	1,676	328	1,279	<b>3,834</b>
% overstated publicly	1	1	8	2	7	<b>4</b>

**Figure 20: Liquor Infractions Uncovered and Inspections Performed, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario

Fiscal Year	# of Inspections Completed	# of Inspections with a Violation	Violation Rate (%)
2015/16	25,789	5,517	21
2016/17	25,039	5,520	22
2017/18	19,079	3,413	18
2018/19	14,441	2,144	15
2019/20	17,311	1,952	11
<b>Total</b>	<b>101,659</b>	<b>18,546</b>	<b>18</b>

## RECOMMENDATION 18

In order to accurately measure, use and report on inspection statistics, we recommend that the Alcohol and Gaming Commission of Ontario measure and report on inspection activities separately from non-inspection activities, such as report reviews, education or consultation with licensees.

## AGCO RESPONSE

The AGCO accepts this recommendation and agrees with the Auditor General that its inspection/compliance statistics can be further improved with the aim of more accurately using the information to report on results and inform improvements. The AGCO will train and instruct its compliance officials to delineate inspection findings and compliance infractions from education and consultation activities with licensees.

## 4.5.4 Variance in the Average Number of Violations Noted by Inspectors

Over the last five fiscal years, the violation rate per inspection has gradually declined, as seen in **Figure 20**. However, for compliance official who had conducted at least 600 inspections over the last two fiscal years, when we compared the number of violations found and reported per compliance official relative to the number of inspections performed, we noted significant variances in violation rates amongst compliance officials.

**Figure 21** shows the five compliance officials who were most likely and the five who were least likely to identify violations during their inspections. Depending on the compliance official, the likelihood of an inspection leading to a violation could differ significantly. When we posed the question of varying violation rates, AGCO management replied that regional differences would have an impact on

**Figure 21: Likelihood of Compliance Officials to Note Violations During Inspections of the Three Most Inspected Regions, 2018/19 and 2019/20**

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO inspection data

	Violation Rate (%)	
	2018/19	2019/20
<b>Officials Noting High # of Violations</b>		
Official 1	26.2	19.6
Official 2	22.9	21.6
Official 3	22.3	16.4
Official 4	20.8	28.9
Official 5	28.1	22.9
<b>Officials Noting Low # of Violations</b>		
Official 6	1.8	2.2
Official 7	6.4	6.1
Official 8	8.2	4.2
Official 9	6.3	4.0
Official 10	4.7	2.8

the number of inspections performed and the violation rates, but did not provide any explanation for the variance. The AGCO has not assessed the cause of the variance we brought to its attention. AGCO management does not monitor how likely a compliance official is to note a violation during an inspection, and does not compare these rates between compliance officials.

### RECOMMENDATION 19

To improve the consistency and effectiveness of compliance inspections in the alcohol sector, we recommend that the Alcohol and Gaming Commission of Ontario communicate guidance to compliance officials on assessing violations during inspections and on documenting the assessments in the inspection report.

### AGCO RESPONSE

The AGCO accepts this recommendation and will establish better training, education and guidance for its compliance officials on assess-

ing specific violations during inspections and appropriately documenting those assessments in their reports.

### 4.5.5 Compliance Officials Inspect the Same Licensees for Years without Being Rotated

During our review of inspection data for the last five years, we noted that compliance officials were not rotated among licensees but rather stayed in the regions to which they were initially assigned to continue to oversee the same establishments. We asked AGCO senior management for officials' regional work assignments and the dates they were assigned, and if any were reassigned in the last five fiscal years. The AGCO informed us that it has information on current assignments but does not track regional assignments going back five years. It has no rotation policy for its compliance officials.

When we accompanied compliance officials on visits to licensees in the alcohol sector, we learned that the officials had worked primarily in the same inspection region of the province for over 10 years. While familiarity with an inspection region can be beneficial, it presents the risk that the compliance officials' independence and judgment may be affected by long-term ongoing relationships with licensees.

### RECOMMENDATION 20

In order to maintain the objectivity and independence of compliance officials, we recommend that the Alcohol and Gaming Commission of Ontario periodically rotate compliance officials across different inspection regions.

### AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendation and is focused on ensuring the objectivity and independence of AGCO compliance officials. The AGCO's compliance area has been moving toward a team-based approach to staffing and servicing the different sectors and

regions. Inspection regions have recently been realigned so that there are now a larger number of compliance officials assigned to a particular area. This will allow for:

- a better distribution of workload and resources for peak risk/priority events; and
- greater diversity of compliance officials inspecting establishments within a region, so that the same official is not always inspecting the same establishment.

As a result of this audit, the AGCO will rotate its compliance officials, while balancing other key considerations and factors such as cost, travel and staff interest and capacity for different assignments.

## 4.6 Horse-Racing Sector

### 4.6.1 Little Sharing of Information between the Canadian Pari-Mutuel Agency (CPMA) and AGCO

The Canadian Pari-Mutuel Agency (CPMA) is a federal agency that regulates and supervises pari-mutuel betting on horse racing at racetracks across the country, to ensure that betting is done in a fair way, through supervision of all horse-race wagering and through drug testing of horses on race days. The CPMA does not willingly share information relating to wagering with the AGCO, unless the racing or compliance officials request it for an investigation. The CPMA does not alert the AGCO to any large bets that are placed, even though a successful large bet may indicate a risk to the integrity of the sport in that it may indicate potential race-fixing.

Since the AGCO became responsible for horse racing in April 2016, its race officials have requested wagering information from the CPMA in only three instances—once in 2017 and twice in 2018. The AGCO informed us that it requested the information for two races because the betting odds had dramatically improved, and for another race because the AGCO judge wanted to review the betting odds. Yet between 2017 and 2019 there have been 2,791

race dates, typically with 10 races each, in Ontario. Aside from the three instances cited, the AGCO has not requested or received wagering information or information on large bets from the CPMA.

### 4.6.2 AGCO Lacks Full Information on Animal Drug Testing

The federal agency that tests horses after every race for banned performance-enhancing substances shares only positive drug results with the AGCO. Negative results, including instances where presence of the banned or therapeutic drug is confirmed but without meeting the threshold for a positive result, are not shared with the AGCO.

Aside from regulating and supervising pari-mutuel betting on horse racing across the country, the CPMA also performs a sample of drug tests after each race to ensure racing is being conducted fairly. The CPMA can only test for a panel of medications for each sample, and it rotates the medications being tested periodically. It does not inform the participants or the provincial regulators what it is testing for on any given day. AGCO race officials, who are on site for every horse race, determine which horses are selected for CPMA drug testing; the CPMA provides any positive results to the AGCO. In each race, usually the winning horse is selected, as well as one other horse that has performed significantly better or worse than expected. Upon receiving a positive test result from the CPMA, the AGCO then assesses the testing results and applies the appropriate penalty to the trainer and horse according to the rules of racing.

We selected a sample of positive drug tests across nine different racetracks to assess whether the penalties assessed were in line with the AGCO's policy for drug testing. We noted that the AGCO suspended and fined the trainers in all instances we reviewed, and the penalties were more severe for repeat offenders. However, the suspensions and fines were generally less than the AGCO directive on penalties. According to the AGCO, these suggested penalties are guidelines only. In each of the

case samples, all penalties and fines were signed off by the Deputy Chief Operating Officer.

The AGCO's manager of veterinarian services told us that although a quantity of drugs below the positive test threshold may not be sufficient to impact the integrity of racing, it may indicate a risk to animal welfare through unnecessary use of therapeutics or other drugs.

The AGCO generally does not allow any drug or medication, whether prescribed by a veterinarian or not, to be used on a race day. The CPMA publishes a guideline for veterinary-approved therapeutic medications that may not be used on race days. The AGCO is the agency that performs out-of-competition testing (on horses that did not run a race). Unannounced out-of-competition drug testing can be conducted on all licensees' horses for illegal drugs and prohibited substances. According to the AGCO, the list of drugs that it tests for is kept confidential because of the risk that participants might use other drugs to avoid positive test results. Over the last three years since AGCO began acting as regulator, it has conducted 146 out-of-competition tests of training facilities, where it tested 778 horses for banned substances. Only three positive results were noted in these out-of-competition tests.

The CPMA charges the AGCO if it wants results for non-positive drug tests. More comprehensive tracking of the use of therapeutics and other drugs would help the AGCO accurately assess the risk to animal welfare and better target its out-of-competition testing to trainers who use specific drugs on their horses. Currently the CPMA conducts about 25,000 drug tests across Canada each year (with about a 0.25% positive test rate) as compared to about 260 tests conducted by the AGCO each year. Therefore, there is great value in the AGCO receiving more detailed information on the tests performed by the CPMA.

Both race test results and out-of-competition testing results are more readily available to the regulator in the United States, as both types of testing are done by the one regulator. U.S. jurisdictions such as California, Kentucky and Maryland have

one regulator that conducts both types of testing and has access to detailed results for both.

## RECOMMENDATION 21

In order to accurately assess the risk of unnecessary use of therapeutics and drugs that negatively impact animal welfare, we recommend that the Alcohol and Gaming Commission of Ontario:

- update its memorandum of understanding with the Canadian Pari-Mutuel Agency to receive detailed drug test results of all race horses tested in Ontario, whether results were positive or negative, and whether they were for horses that were competing in a race or out of competition; and
- use these test results to better focus its out-of-competition testing on animal welfare.

## AGCO RESPONSE

The AGCO agrees with the importance of a strong drug testing regime to ensure the long-term sustainability of the horse racing sector by mitigating relevant risks and promoting a healthy environment for both the participants and the horses.

The AGCO will work with the federal Canadian Pari-Mutuel Agency to develop and implement a new system of information sharing. The AGCO will work to formalize this by letter or memorandum between the two organizations, so that the AGCO may be provided with a more comprehensive reporting of drug testing results, including where the results are negative, in order to better focus the agency's out-of-competition testing program and support the agency's commitment to enhancing animal welfare.

### 4.6.3 AGCO Not Rotating Horse-Racing Officials

There is a risk that AGCO judges may become too familiar with the horse owners, trainers and/or

jockeys, which may adversely affect their judgment. The AGCO does not have an official policy of rotating judges at racetracks. We reviewed the schedule of race officials at five racetracks with the highest number of race days between 2017 and 2019 to assess whether officials were being regularly rotated. There are 15 racetracks in the province, and we found eight officials who officiated at least 10 races over this period, spent more than 50% of race dates officiating at the same racetracks.

## RECOMMENDATION 22

In order to minimize the familiarity risk between horse-racing officials (judges) and horse-racing participants (owners, trainers and jockeys), we recommend that the Alcohol and Gaming Commission of Ontario periodically rotate horse-racing officials across different racetracks.

## AGCO RESPONSE

The AGCO welcomes the Auditor General's recommendation that is focused on ensuring the objectivity and independence of the AGCO's horse racing officials.

In the horse racing sector, the AGCO schedules officials based on skill, ability, breed familiarity and experience, combined with considering the calibre and type of racing at the racetracks. These considerations mean assigning the most appropriate officials at the racetracks with larger purses.

As a result of this audit, the AGCO will rotate horse racing officials, while balancing other key considerations and factors such as cost, travel, French-language requirements and staff expertise and capacity for different assignments.

## 4.7 New IT System Has Taken Eight Years and \$27.4 Million to Build but Still Requires More Capabilities

The new iAGCO IT system, developed by a third party to streamline licensing and compliance activities for all sectors it regulates into one system, still needs improvements. The AGCO procured its new IT system as part of its Regulatory Assurance Solution Project. This multi-year project had four components: iAGCO, Regulatory Intelligence (data analysis), Electronic Document and Records Management (document storage) and Business Process Re-engineering (designing AGCO regulatory functions to be compatible with the new system).

The AGCO held a competitive tendering process for the IT project and selected the highest scoring vendor, which also submitted the lowest of four bids received. The lowest bid was \$8.2 million, while the other bids ranged from \$9.6 million to \$34.5 million. As of July 2020, the approved budgeted amount had increased to \$39 million, with approval for additional funds to complete the implementation of the system, pay maintenance and software licensing costs, receive ongoing consulting supports post implementation, and cover the cost of the AGCO's expanded mandate of regulating the cannabis and horse-racing sector.

The actual amount spent on the IT project as of June 2020 was \$27.4 million. The system is expected to have a useful life of 10 years, only two years longer than it took to build it. The AGCO will still be reliant on the consultant for support and maintenance for the next 10 years for a total of \$11.6 million.

During the course of our audit, we became aware of problems with the system:

- **The AGCO does not have a list of all fields in the system with a description of what type of information is in the field.** A data elements manual listing all the tables in the iAGCO system, including data elements for each table and their description, was not part

of the original contract. AGCO staff told us that the high cost of the manual prevented them from buying it. Lacking the data elements list makes it harder for AGCO employees to understand how to input and analyze data, as we experienced over the course of our audit when the AGCO's lead data extract person could not provide us with some of the data we requested.

- **The times at which inspections occurred are not recorded accurately and consistently in the system.** Based on our review of over 140,000 electronic inspection files, over 7,000 files had incorrect or missing information on the time of the inspections. For another 230 inspections, we noted that the start and end times were reversed, leading to a negative duration for inspections. (The system does not have controls built in to restrict this entry error.) Some of the time stamps were not consistently recorded in military time format. For instance, an inspection beginning at 9:00 p.m. may be booked as “21:00 hrs” or “9:00 hrs,” leading to inconsistent time records on the duration of an inspection. Knowing the duration of inspections would let management monitor their inspectors' workloads and assess whether enough time was taken to properly inspect a licensee. As well, it is important to be able to assess if inspections are taking place at the time of day when risk of non-compliance is high—for example, for a liquor-licensed establishment, in the evening and on weekends.
- **The system has had significant data migration issues.** We noted that the names of compliance officials (inspectors) are not available for more than 75,000 inspections that were migrated into the system for the period 2015/16 to 2017/18. Without this information, it is hard to assess the efficiency of AGCO compliance officials and the inspections they completed. In addition, there have been significant data reliability issues with

the completeness of horse-racing inspections data that was transferred into the iAGCO system from the previous horse-racing system. The inspection comments and corresponding attachments did not get transferred into the iAGCO system. The horse-racing data was migrated to the iAGCO in March 2020, and as of September 2020, the horse-racing inspection data was still undergoing data integrity checks because a large number of inspections did not get transferred into the new system.

- **The system has limited search capabilities.** The system's search function limits the number of results to 250 per search item. For an organization that performs hundreds of compliance activities each day, the 250-record limit does not even cover inspections over a three-day period, in some cases. Therefore, all major system data requests have to go through the IT group, which creates delays in data analysis.
- **Some users find the new system difficult to use.** Compliance officials we spoke with told us the new system has reliability issues as it crashes often when they try to submit their inspection reports.
- **The system lack controls to restrict self-review.** Over the last five years, we found 234 instances where the compliance official conducting an inspection and the manager assigned for review were the same individual. The system lack controls to restrict self-review.

## RECOMMENDATION 23

In order to improve the quality of data within the iAGCO IT system and the usability of the system, we recommended that the Alcohol and Gaming Commission of Ontario:

- implement input controls to prevent incorrect inspection start or end times being entered;
- develop requirements for all compliance officials to follow the same format for inputting their inspection time;



- add restrictions in the iAGCO system to ensure the reviewer assigned to an inspection is different from the compliance official;
- ensure all pertinent data from legacy systems is properly transferred into the iAGCO system; and
- significantly increase the system's search capabilities beyond 250 records to permit management to run their own reports as needed.

## AGCO RESPONSE

The AGCO accepts this recommendation and will work to improve and enhance the quality of data within iAGCO, the AGCO's online service delivery platform. The AGCO will:

- implement controls to prevent incorrect inspection start or end times from being entered;
- develop requirements for all compliance officials to follow the same format for inputting their inspection times;
- implement protocols to ensure effective monitoring of inspection reports, including instances where manager sign-off is necessary;
- resolve the remaining data migration issues to ensure all data is properly transferred into iAGCO; and
- discuss with the vendor the technical feasibility of increasing search capabilities.

## 4.8 Efficient and Effective Use of Resources

### AGCO Is Not Tracking How Employees Spend Their Time

Licensing and registration staff do not have different activity codes for different licensing activities, which are currently all coded as licensing and registration activity. Use of additional time codes would be beneficial for data analysis and allow for regulatory costs to be allocated correctly by sector (for example, tracking time spent on reviewing

applications, following up with licensees/applicants, stakeholder education).

Time tracking for compliance officials is limited to the time noted as compliance activity in the iAGCO system. This includes time spent conducting inspections, and consulting with and educating licensees. A typical compliance official works about 1,645 hours per year (235 working days x 7 hours). We selected 10 compliance officials with the highest number of compliance activities completed across any of the four sectors over the years 2018/19 and 2019/20 and calculated the annual time they spent on compliance activity in 2019/20.

As seen in **Figure 22**, the annual inspection time for these 10 officials ranged from 129 to 315 hours, meaning that they spent only from 8% to 19% of their annual work time conducting compliance activities. Moreover, 81% to 92% of their work time was not being tracked. It would be beneficial for the AGCO to track the time its compliance officials spend on all activities performed, including traveling, training, inspecting and writing reports, as it would assist management in assessing their efficiency and accurately allocating costs to the regulated sectors for proper cost recovery.

As of March 31, 2020, the AGCO had 614 employees. We requested from the AGCO workload statistics for employees across each of its functions, but were told that it does not maintain any. For example:

- The Operation Division has 280 FTEs, including 90 compliance officials responsible for inspections, 88 staff working in licensing and registration, and 20 staff testing gaming. However, as noted earlier, there are no workload statistics to measure the efficiency of these employees.
- The Investigations and Enforcement Bureau has about 120 OPP staff responsible for conducting investigations at casinos and of suspicious lottery wins, licensing eligibility investigations, etc. However, similar to the operations division, the AGCO has no workloads or efficiency statistics for the investigative work.

**Figure 22: Time Spent on Compliance Activities by Compliance Officials with the Highest Number of Activities in All Sectors Combined for 2019/20**

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO system

Compliance Official	Compliance Activities in the Liquor Section	Compliance Activities in Other Sectors	Total Compliance Activities	Total Time (Minutes)	Total Time (Hours)	% of Work Hours Spent on Compliance Activities*
Official 1	722	3	<b>725</b>	10,913	181.9	11
Official 2	492	216	<b>708</b>	7,744	129.1	8
Official 3	481	127	<b>608</b>	12,790	213.2	13
Official 4	517	48	<b>565</b>	18,911	315.2	19
Official 5	463	90	<b>553</b>	12,471	207.9	13
Official 6	378	155	<b>533</b>	9,034	150.6	9
Official 7	417	116	<b>533</b>	11,036	183.9	11
Official 8	442	66	<b>508</b>	8,133	135.6	8
Official 9	446	38	<b>484</b>	9,136	152.3	9
Official 10	399	75	<b>474</b>	10,233	170.6	10

\* Based on an estimated 1,645 annual available work hours (235 workdays x 7 hours).

- The Corporate Services Division has 71 FTEs, including 20 finance and administration staff, which may be excessive for an agency that does not prepare annual financial statements.
- The Strategy and Policy Division has 55 FTEs, including a Project Management Office with 26 staff responsible for co-ordinating, planning, implementing and reporting on the AGCO's corporate programs and projects to ensure they stay on track. This office also had accountability for implementation of the new IT system and its supporting components, which has taken eight years to implement and still has significant limitations, as discussed in **section 4.7**.
- The Communications and Corporate Affairs Division employs 50 staff, including 24 staff responsible for the contact centre that handles incoming complaints and inquiries. Currently, the AGCO does not categorize complaints or have target timelines to respond to complaints, as noted in **section 4.9.3**.

## RECOMMENDATION 24

In order to ensure its staffing levels are appropriate and it is using its staffing resources efficiently, we recommend that the Alcohol and Gaming Commission of Ontario:

- assess whether staffing levels at the AGCO are reasonable in relation to its current mandate;
- track the time spent by its staff on all key regulatory activities, including licensing and compliance activities and investigations; and
- regularly analyze this information to focus on areas of improvement.

## AGCO RESPONSE

The AGCO accepts this recommendation and will track the time spent by its staff on key regulatory activities, such as licensing, compliance and investigations, and regularly analyze the information in order to identify areas of potential improvement and to assess whether its staffing levels are reasonable in relation to its current mandate.

## 4.9 AGCO Operations: Licensing, Inspections, Complaints

### 4.9.1 Licensing and Registration Does Reasonable Due Diligence Work but OPP Does Not Share Actual Reports

Based on our review of the licensing and registration process, the AGCO performs due diligence checks on all new and transferred licenses. For renewals, the majority of applications are auto-renewed. The AGCO gets involved only when there is a compliance history or the applicant self-reports a criminal charge or honesty and integrity or financial issues. Licensing unit staff then ask the OPP to update the standard checks. We noted the following:

**Alcohol:** With new or transferred licences, the AGCO requests the OPP to perform the standard checks described in **Section 4.5.1**. The OPP officer notifies the licensing staff of the presence or absence of findings but does not provide evidence or share reports with them. If a basic check comes back with a finding, licensing staff may request the OPP to conduct a more thorough review.

**Cannabis:** The OPP performs the internal CPIC check and intelligence review using its own system to check for ongoing investigations of applicants. In addition, OPP investigators may be requested to conduct a more thorough investigation, when risks and concerns have been identified. All new applications are also sent to external consultants with forensic expertise to perform a more thorough background check through reviews of social media, bankruptcy records, litigation, land titles, adverse media mentions, source of funds intelligence, geospatial satellite images of properties registered and companies associated with the applicant. Our review of reports submitted by the consultants indicated that the checks were done and any findings were noted in the reports. The final decision to license rests with the licensing and eligibility team at the AGCO.

As with liquor licensing, a 15-day public notice placard is posted at the applicant's store location and on the AGCO website to notify the community.

All community concerns relating to public health and safety must be addressed before a licence can be issued. We reviewed public notice concerns submitted for 10 retail cannabis stores. On average, there were 22 public submissions per store. Based on our review, the AGCO requires the applicant to address all relevant objections that are under the AGCO's purview. Although the AGCO states that replies were sent to each person who submitted an objection, we noted on the iAGCO system that responses were sent back to those who raised concerns for only three of the 10 stores we sampled.

**Gaming operators:** The OPP performs a set of standard checks, which includes the CPIC check and intelligence check on all casino operators and employees at the time they are issued a licence or registration. External consultants with forensic expertise are used to perform a more thorough review on all new casino operators and casino employees in supervisory roles. The AGCO uses external consultants for casino operator eligibility assessments (financial and technical assessments), and personal and corporate background checks. We noted that the consultants and the OPP completed all of the checks and no significant issues were noted. As a result, all new casino operators were issued licences. Licences are renewed annually as long as the individuals pay their renewal fees (\$100,000 for casino operators, \$300 for employees with supervisor experience and \$165 for other casino employees). No external consultant review is completed for the annual licence renewal unless significant concerns are identified by standard checks.

**Horse racing:** All new horse-racing applicants require a CPIC background check, an OPP intelligence review, a credit check and a *Highway Traffic Act* review, in addition to a check for racing infractions in Ontario and other jurisdictions; and a risk scorecard is completed for each applicant. For 2019/20, we selected a sample of new applicants and renewals. Based on our review, the risk scorecards and the standard checks were completed for both new applications and renewals.

### 4.9.2 Inspection Activities Need Improvement in Documenting Reasons for Selection and Risks Inspected

Approximately 90 AGCO compliance officials perform inspections only for sectors in which they are trained. About half of the inspections are assigned to the officials and must be completed. The other half are selected by the compliance officials themselves. Assigned inspection activities include following up on complaints or on police reports (alcohol, cannabis), last drink reports (alcohol) or self-reported incidents (gaming, cannabis) that are automatically assigned to the inspection region's compliance official. Other assigned inspections are follow-ups on mystery shopper results (alcohol, cannabis) and positive drugs tests (horse racing). The AGCO's assurance group also asks each sector to do baseline inspections to compile reliable data on all key risks to inform the compliance officials' inspections.

**Alcohol:** The guidance document for compliance officials states that the officials should consider observing licensees for major violations, and for bartender training in serving alcohol safely (SmartServe certification), signs of alcohol service removal (ending service and informing patrons at closing time), evidence of following the compliance plan if serious issues with compliance have been found, following conditions stipulated in their licence, and others. However, the guidance document does not require each compliance official to make these observations for all inspections. Rather, they are required only for baseline inspections, which are randomly generated from the entire population of licensees to gather data used to assess whether risk-based inspections are focusing on areas of greater risk throughout the population.

Based on the sample of inspection reports we reviewed, compliance officials generally do not document the rationale for selecting an establishment for an unannounced inspection. In addition, compliance reports do not state which areas of risk were inspected. Without knowing the compliance

official's rationale for selecting an establishment or the area inspected, it is difficult for a manager to assess the compliance official's judgment and to ensure that higher-risk areas were reviewed.

During our audit, we accompanied a compliance official on their inspections. The official informed us that they were inspecting liquor establishments for Big 5 risks, such as overcrowding. However, when we reviewed the subsequent inspection reports in the iAGCO system, the official had not documented which risks were observed, but instead only noted that the establishments were in compliance.

The AGCO's Regulatory Intelligence branch is aiming to use data analytics to improve the efficiency and effectiveness of inspections to help compliance officials make evidence-based decisions. As part of these initiatives, the branch analyzed liquor inspection data in late 2018 and found that the risk of non-compliance was highest in 15 regions in the province, and on Saturdays and Sundays. We analyzed the dates and regions of inspections performed in the last two fiscal years to determine whether there has been a shift toward focusing more on the identified high-risk areas since 2018/19. We found a 30% increase in weekday inspections and only a 15% increase in inspections on Saturdays; inspections on Sundays decreased by 11%. Inspections increased in only 10 of the 15 high-risk regions, although they increased in other regions that were deemed lower risk.

**Cannabis:** In 2019/20, the first full year for cannabis stores, 258 unannounced inspections were completed, including regular inspections, mystery shopper and mystery shopper follow-up inspections. Based on a sample of inspections we reviewed, we noted that none of the inspection reports outlined the rationale for selecting stores for inspection. As described in **Section 4.4.3**, we also noted that the reports frequently omitted information on whether cannabis was being sold to minors and whether the Health Canada seal was present on the product:

- Only 40% of inspections noted an observation about customer ID's being checked at the entrance of the store for the key risk of sale to minors and only 15% made specific reference to the inventory being observed for its sealed approval from Health Canada.
- Only 15% of the inspection reports we reviewed noted whether surveillance cameras were inspected to ensure they were on and working as required.

Violations were noted for 35% of inspections.

More than half of these violations were self-reported and included failure to ID minors and not having a properly working surveillance system. The remaining violations were identified by the compliance official and related to not properly hiding cannabis from view from outside the store, having an unsecured cannabis display and allowing an unauthorized person in the cannabis storage area.

In addition to unannounced inspections, the AGCO follows up on self-reported incidents. From April 2019 to September 2020, the retail cannabis stores reported 45 incidents of failure and restoration of the surveillance system and 12 incidents of lost or stolen product. However, the AGCO conducted a follow-up inspection for only 23%, or 13, of these incidents.

**Gaming:** The majority of gaming inspections at casinos and in relation to lotteries and charitable gaming are driven by self-reported notifications from the licensees or complaints from the public. For Internet gaming operated by the OLG (PlayOLG), the AGCO performs regular audits (10 over the last three years) but no inspections. A regular audit looks at potential risks, and general processes and inspections assess compliance with AGCO standards. We reviewed gaming inspections and noted the following:

- Over the last three fiscal years, 38% of inspections completed for casinos and lottery retailers were unannounced and another 1% were as a result of a complaint. For the remaining 61%, the inspections were either due to a

notification received from the licensee or scheduled with the licensee.

- Over the same three-year period (2017/18 to 2019/20), only 8% of inspections of casinos and other commercial gaming included any comments documenting the work performed. The remaining inspections contained no detailed comments, and were closed without a violation being noted. In contrast, for charitable gaming, 99% of the inspections were accompanied with inspection comments.

**Horse Racing:** There were 1,173 inspections completed in the horse-racing sector over the last two fiscal years. We reviewed a sample of inspections and noted that none of the inspection reports outlined the rationale for selecting the establishment or individual for inspection. We further noted that:

- None of the inspections had start times and end times noted in the reports, so it was not possible for the AGCO to calculate the length of each inspection.
- For 47% of the sampled inspections, the compliance officials did not document the key details of the inspection. We noted instances of out-of-competition inspections that did not note the names of the horses being tested or the number of horses tested. In one-third of the cases, the inspection report noted only that an inspection was conducted and no violations were found. There was no documentation on the rationale for selecting the establishment for inspection, what risks were inspected, the names of individuals (such as the trainers, owners and grooms) present for the inspection or the length of the inspection.

#### 4.9.3 Complaints Not Followed Up in a Timely Manner by Compliance Officials

The AGCO receives both anonymous and signed complaints from the general public. Since the AGCO began accepting online complaints through iAGCO in January 2018, 76% of complaints are received online; the rest come over the phone or by

**Figure 23: Number of Complaints by Sector or Other Grouping, 2015/16–2019/20**

Source of data: Alcohol and Gaming Commission of Ontario (AGCO)

	2015/16	2016/17	2017/18	2018/19	2019/20	Total
Alcohol	0	0	268	1,394	1,483	<b>3,145</b>
Lottery and Gaming	0	0	77	340	447	<b>864</b>
Cannabis	0	0		187	431	<b>618</b>
iAGCO (online service)	0	0	23	106	79	<b>208</b>
Horse Racing	0	0	20	74	86	<b>180</b>
AGCO employee <sup>1</sup>	0	0	3	31	21	<b>55</b>
Other <sup>2</sup>	0	0	14	85	34	<b>133</b>
Not tracked by sector <sup>3</sup>	760	697	576	0	0	<b>2,033</b>
<b>Total</b>	<b>760</b>	<b>697</b>	<b>981</b>	<b>2,217</b>	<b>2,581</b>	<b>7,236</b>

1. Complaints are generally related to AGCO employee conduct.

2. Other category includes complaints about regulations/policies, communication plan or service delivery.

3. AGCO began tracking complaints in iAGCO by category and sector in January 2018. Before iAGCO was brought online in January 2018, complaints were recorded on a spreadsheet, but were not tracked by sector.

email. **Figure 23** outlines the number of complaints received by the AGCO over the last five fiscal years. The number of complaints noted from January 2018 to March 2020 were captured by sector in the new IT system, iAGCO. Prior to January 2018, complaint data from the previous system was not captured by sector.

About 40% of all complaints in iAGCO are still being categorized as “general” or as “other” or the category was left blank. We reviewed these complaints and categorized them into relevant categories. We noted the following in our review of complaints.

The AGCO’s complaint and inquiry handling policy states that complaints should be responded to promptly within a reasonable time frame based on the nature and complexity of the complaint. However, there is no definition of what is reasonable time for addressing a complaint.

In the alcohol sector, about 3,000 complaints were made from January 2018 to March 2020. The most frequent complaints related to intoxication/overserving (22%), serving to minors (9%), operating outside prescribed hours (9%), and not providing appropriate alcohol sale and service training to servers (6%). We reviewed a sample of complaints

we consider significant enough to prompt further review by compliance officials to confirm the allegation and take appropriate action. We noted that:

- 8% of complaints marked in the system as complete had no evidence of the work done or an explanation for why an inspection was not performed. In an additional 18% of cases, the reason for not performing an inspection was documented and reasonable (for example, insufficient information to identify the establishment in question). And 74% of complaints were followed up with an inspection.
- 40% of complaints took more than a month to complete. One complaint that was received in February 2020 was still under investigation as of November 2020.
- For 35% of complaints that were received from a known source, the compliance officials did not provide a response to the complainant despite having their contact information.

In the cannabis sector, where about 600 complaints were made between April 2019 and March 2020, the most complaints we noted were about the cannabis lottery (37%), public notice process or retail store location (28%), illegal cannabis sale

(8%), public safety (7%) and selling to minors (3%). We reviewed a sample of serious complaints and noted that:

- Average turnaround time for these complaints was 33 days; 13% took longer than 100 days.
- In 23% of the anonymous complaints there was no evidence of follow-up. Without being able to provide us with evidence, the AGCO stated that although the follow-up was not included in the system, it had inspected and resolved all of the complaints.

With regard to the gaming sector, where about 260 complaints were made from January 2018 to March 2019, the most frequent complaints related to suspicious illegal activity (31%), customer service (29%), payouts or prizes (27%), equipment or machine issues (9%) and cheating while playing (4%). We selected a sample of significant complaints for which we would have expected follow-up by the AGCO and noted:

- Average turnaround time for these complaints was 58 days, and 18% took longer than 100 days.
- For 23% of complaints, a response was not provided to the complainant despite having their contact information.
- For 53% of the complaints, there was no evidence of any follow-up work being conducted by the AGCO. Between January and March 2020, the AGCO received three complaints related to unlicensed raffles on Facebook, with one of them offering hunting rifles as a prize. As of September 2020, all three Facebook raffle pages were still active.
- One complaint involved three illegal slot machines being present at a lodge. An AGCO inspector went and confirmed the existence of the illegal machines and forwarded the report to their manager. The AGCO did not instruct the owner to remove the machines because the AGCO considered it a criminal matter. However, there was no evidence that the matter was forwarded to the police.

With regard to the horse-racing sector, where 180 complaints were made from January 2018 to March 2019, the most frequently noted complaints related to cheating (for example, jockey/driver not trying to win, intentional disqualification by bumping into other horses, and trainers winning more than expected) (32%), race rulings (14%), safety of participants (9%), animal welfare (7%), wagering payouts (7%) and licensing (6%). We reviewed a sample of serious complaints and noted that:

- Average turnaround time for these complaints was 22 days; 10% took longer than 100 days.
- For 63% of complaints, there was no documented evidence in the system that they had been followed up by a compliance official. According to the AGCO, the complaints had been reviewed internally by the horse-racing team and had been resolved, although staff provided no evidence and none existed in the system.
- For 57% of complaints, the complainant's contact information was provided. Of these, 41% received a response from the AGCO, but for 59% the system and AGCO staff could show no evidence of a response.

## RECOMMENDATION 25

In order to provide effective regulatory oversight over regulated entities, we recommend that the Alcohol and Gaming Commission of Ontario:

- follow up on all non-frivolous complaints with an inspection or other regulatory tools to verify the validity of allegations;
- train staff to properly categorize complaints in the system;
- set a timeline for review of complaints based on the risk to public safety, and document all resolutions in the iAGCO system; and
- provide training and guidance to compliance officials to document the rationale for all unannounced inspection selections and the risks being inspected.

## AGCO RESPONSE

The AGCO accepts this recommendation and will remind staff to adhere to its new complaints and inquiry handling policy established in 2018 to provide clarity to staff and management on how complaints and inquiries should be received and responded to, and affirm the intention of the AGCO to use information from complaints and inquiries to support continuous improvement.

The AGCO will prioritize work to further improve complaints handling by better documenting how complaints have been addressed and closed. It will do this by:

- training staff on how to consistently categorize and document complaints to improve reporting and monitoring;
- ensuring closure is documented to address any compliance, public service and risk obligation issues or situations where matters are outside of the AGCO's purview, or where determined to be frivolous; and
- ensuring closure includes the AGCO's response to the complainant (where possible).

The AGCO will also establish new service standards for complaint and inquiry handling to meet customer expectations and service performance criteria regarding turnaround times of specific complaint types.

In addition, the AGCO will provide training and guidance to compliance officials to document the rationale for all unannounced inspection selections and the risks being inspected.

## 4.10 COVID-19 Impact on AGCO's Operations

### 4.10.1 AGCO Staff Performed Significant Remote Inspections During COVID-19 Shutdown

The sectors regulated by the AGCO were each affected differently during the shutdown arising

from the COVID-19 pandemic in the spring and summer of 2020:

- Liquor establishments were closed for indoor dining, but were allowed to sell take-out or delivery in mid-March. Patio dining began on June 12 (Peel and Toronto—June 24), and indoor dining resumed on July 17 (July 31 for Peel and Toronto).
- Cannabis stores briefly closed in early April, but were soon allowed to re-open for curbside pick-up or deliveries only. In-store service resumed on May 19.
- Racetracks closed in mid-March but reopened on June 2.
- Casinos were closed in mid-March and, although they were allowed to re-open with a capacity limit of 50 on July 17, they had not yet reopened at the time we completed the audit. Charitable gaming facilities, including bingo halls, opened on July 17.

During the shutdown, staff at the AGCO continued to conduct compliance activities. Between March 23 and June 17, 2020, the compliance staff mostly worked remotely and conducted work over the phone or by video call. During this period, compliance officials completed 3,214 virtual inspection activities (874 for cannabis and 2,340 for alcohol). Of these, 2,539 were consultations, education and pre-opening inspections that were all completed remotely. The remaining 675 were unannounced inspections for which compliance officials made observations from a distance from their cars and followed up with a phone call to report findings to licensees. Even after June 17, compliance officials continued to conduct inspections virtually wherever possible. However, some inspections were completed inside the liquor establishments and cannabis stores as they opened in mid-May.

The AGCO also noted that staff received training during this period, and some were put on special projects during the shutdown. However, the AGCO could not provide details on the training taken by staff.



According to the AGCO, 43 staff were redeployed: from compliance (28), audit and financial investigations (6), facilities (4), IT (3), gaming lab (1), and regulatory assurance (1). They moved to service strategy and experience (customer service) (10), finance (9), strategy and policy division (9), licensing and registration (5), communications (4), internal audit (2), human resources (1), regulatory assurance (1), corporate governance (1) and IT (1).

The licensing and registration group found that overall application volumes decreased, but cannabis applications spiked as the restrictions on cannabis licensing were lifted. The decrease in the volume of applications is mainly due to the lack of renewal applications, because all liquor, gaming, and horse racing licences, registrations and authorizations were extended for a total of 12 months. In addition, cannabis licences and authorizations were extended for nine months. As a result, renewal applications fell from about 400 per week to almost none. In contrast, between January and August 2020, the AGCO's licensing department received 960 applications to open retail cannabis stores.

According to the AGCO, the OPP staff responsible for investigations continued to work during the shutdown and completed due diligence work for licensing investigations remotely. However, the data that differentiates remote from in-person investigations is not tracked. The OPP has about 67 officers assigned to provincial casinos for monitoring compliance with gaming rules and preventing money laundering. According to the AGCO, although the casinos have been closed since March 16, 2020, 54 OPP officers (13 redeployed to other assignments) are continuing to work from these casino locations to complete other investigative work and to perform money-laundering-related investigations on previously reported suspicious transactions. The bureau also redeployed 36 OPP officers to work assignments outside the AGCO.

#### 4.10.2 AGCO Receives Provincial Support to Address the Expected Loss of Cost Recoveries from Regulated Sectors in 2020/21

After the COVID-19 shutdown, the AGCO needed additional government funding to support its funding deficit. In July 2020, the Ministry and the AGCO received approval for additional funding of \$32.4 million in 2020/21 to compensate for an expected decrease in recoveries that it typically collects from regulated industries. Many of these were public venues that closed following the Emergency Order to close non-essential businesses in March 2020.

As part of the request, the AGCO noted that almost 70% of its annual budget is provided for through recoveries it collects from the horse-racing, gaming and cannabis industries. The closure of public venues meant that the AGCO was collecting \$32.4 million less in recoveries than it would have under normal operations. As 80% of the AGCO's expenses are for salaries and benefits, and the AGCO did not lay off any staff during the COVID-19 shutdown, it expected a large deficit. The Ministry noted that the pressure has grown by \$7.4 million, due in part to the addition of eligibility assessment costs for cannabis that can no longer be recovered.

#### RECOMMENDATION 26

To make the most efficient use of resources, we recommend that the Alcohol and Gaming Commission of Ontario limit the use of consultants and reallocate Ontario Provincial Police staff working at casinos and elsewhere to assist in performing eligibility assessments of cannabis applications.

#### AGCO RESPONSE

The AGCO accepts this recommendation and is committed to the responsible stewardship of public resources. The AGCO will analyze its internal capacity and expertise, including the OPP resources from within the Investigation and Enforcement Bureau, to reduce consultant costs for eligibility assessments of cannabis applications.

## Appendix 1: Audit Criteria

Prepared by the Office of the Auditor General of Ontario

1. Effective governance and accountability structures are in place to ensure the Alcohol and Gaming Commission of Ontario (AGCO) meets its regulatory mandate.
2. Effective and efficient registration and licensing systems are in place for all regulated sectors such that individuals and businesses comply with policies and legislative requirements.
3. Effective and timely compliance processes are in place for regulated businesses and individuals, including following up on issues of non-compliance to ensure corrective action is taken on a timely basis. A risk-based approach is used to identify candidates for inspections and audits.
4. Effective processes and systems are in place to ensure that all significant incidents (such as suspected money laundering, casino employee terminations for integrity issues, insider lottery wins, or lost or stolen cannabis) are identified, through a combination of automatic triggers and self-reporting by regulated entities, and are further investigated by the AGCO, and corrective action is taken on a timely basis to prevent future incidents.
5. Human and financial resources are allocated and used efficiently and effectively to fulfill mandated responsibilities.
6. Information systems provide sufficient, reliable information for effective oversight and timely decision-making.
7. Meaningful performance indicators and targets are established, monitored and compared against actual results to ensure that intended regulatory outcomes are achieved and results are publicly reported.

## Appendix 2: Provincial and Territorial Regulatory Bodies

Prepared by the Office of the Auditor General of Ontario

Provincial Regulatory Bodies	Alcohol	Cannabis	Gaming <sup>1</sup>	Horse Racing	# of Regulators
British Columbia	Ministry of the Attorney General – Liquor and Cannabis Regulation Branch		Ministry of the Attorney General – Gaming Policy and Enforcement Branch		2
Alberta	<b>Alberta Gaming, Liquor and Cannabis Commission</b>			<b>Horse Racing Alberta</b>	2
Saskatchewan	<b>Saskatchewan Liquor and Gaming Authority (SLGA)</b>		<ul style="list-style-type: none"> <li>• SLGA</li> <li>• Indigenous Gaming Regulators<sup>2</sup></li> <li>• Saskatchewan Indian Gaming Authority<sup>3</sup></li> </ul>	<b>SLGA</b>  3 (3 for charitable gaming)	
Manitoba	<b>Liquor, Gaming and Cannabis Authority of Manitoba (LGCA)</b>		<ul style="list-style-type: none"> <li>• LGCA</li> <li>• First Nations Gaming Commissions (FNGC)<sup>2</sup></li> <li>• Municipalities (raffles)<sup>4</sup></li> </ul>	<b>Manitoba Horse Racing Commission</b>	4 (3 for charitable gaming)
Ontario	<b>Alcohol and Gaming Commission of Ontario (AGCO)</b>				1
Quebec	<b>Régie des alcools, des courses et des jeux (RACJ)</b>		<ul style="list-style-type: none"> <li>• RACJ</li> <li>• FNGC<sup>2</sup></li> </ul>	<b>RACJ</b>	2
New Brunswick	Department of Public Safety – Gaming, Liquor and Security Licensing Branch	<b>New Brunswick Liquor Corporation</b>	<ul style="list-style-type: none"> <li>• Department of Public Safety – Gaming, Liquor and Security Licensing Branch</li> <li>• FNGC<sup>2</sup></li> </ul>	<b>Atlantic Provinces Harness Racing Commission</b>	4 (2 for charitable gaming)
Nova Scotia	Alcohol, Gaming, Fuel and Tobacco Division	<b>Nova Scotia Liquor Corporation</b>	<ul style="list-style-type: none"> <li>• Alcohol, Gaming, Fuel and Tobacco Division, Service Nova Scotia</li> <li>• FNGC<sup>2</sup></li> </ul>		4
Prince Edward Island	<b>P.E.I. Liquor Control Commission</b>		<ul style="list-style-type: none"> <li>• Consumer, Labour and Financial Services, Dept. of Environment, Justice and Labour, PEI</li> <li>• P.E.I. Lotteries Commission</li> </ul>		4

Provincial Regulatory Bodies	Alcohol	Cannabis	Gaming <sup>4</sup>	Horse Racing	# of Regulators
Newfoundland and Labrador	<b>Newfoundland and Labrador Liquor Corporation</b>		Consumer Affairs Division, Consumer and Commercial Affairs Branch – Service NL	<b>Atlantic Provinces Racing Commission, Standardbred Canada</b>	3
Northwest Territories	<b>Northwest Territories Liquor and Cannabis Commission</b>		Department of Municipal and Community Affairs	n/a	2
Nunavut	<b>Nunavut Liquor and Cannabis Commission</b>		Department of Community and Government Services – Commercial Affairs (bingos and lotteries only)	n/a	2
Yukon	<b>Yukon Liquor Corporation</b>	<b>Cannabis Licensing Board, Yukon Liquor Corporation</b>	Department of Community Services - Registrar of Lotteries (bingos and lotteries only)	n/a	3

Key:

**Government department**

**Government agency/corporation**

1. Includes bingos, lotteries, casinos and charitable gaming, unless otherwise stated.
2. Regulator for charitable gaming on reserves.
3. Regulator for casinos on reserves.
4. Regulator for charitable gaming licensed by municipalities.

## Appendix 3: Provincial Regulation of Cannabis, Ontario and Four Other Provinces

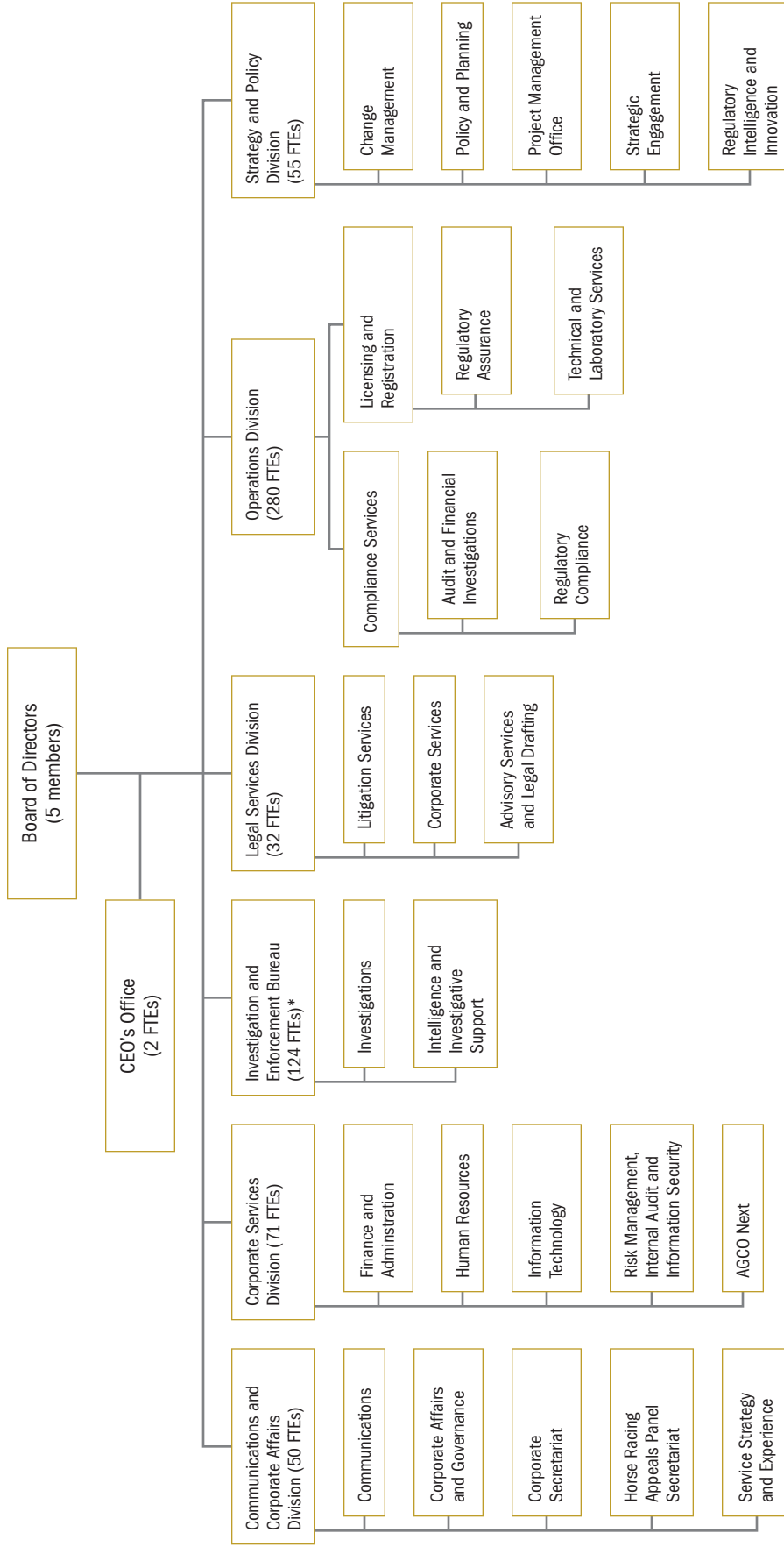
Prepared by the Office of the Auditor General of Ontario

	Saskatchewan	Alberta	Quebec	Ontario	British Columbia
# of Retail Cannabis Stores (as of Jun 30, 2020)	44	486	42	107	259
Online Store – Distribution Model	Private	Government	Government	Government	Government
Retail Store – Distribution Model	Private	Private	Government	Private	Hybrid of private and government
Minimum Age of Use	19	18	21	19	19
Method of Store Allocation	1 lottery initially, followed by an open-market system	Open-market system	Quebec owns both the distribution and the retail stores through a Crown corporation	Two lotteries initially, followed by an open-market system	Open-market system, as well as provincial ownership of retail stores
# of Federally Licensed Cannabis Producers (Dec 2019)	13	32	22	121	68
Total Sales* of Non-medical Cannabis from Legal Sources (Oct 2018–Dec 2019) (\$million) (Statistics Canada)	81	286	287	315	100
Total Population (Dec 2019)	1.2 million	4.4 million	8.5 million	14.7 million	5.1 million
Total Sales per Capita (Oct 2018–Dec 2019) (\$)	68	65	34	21	20

\* Includes online and retail store sales.

# Appendix 4: Alcohol and Gaming Commission of Ontario (AGCO) Organizational Chart

Prepared by the Office of the Auditor General of Ontario



Note: FTEs are full-time-equivalent employees as of March 31, 2020.

\* The Investigation and Enforcement Bureau includes four AGCO staff for administrative support.

## Appendix 5: Active Licences and Registrations by Sector, as of June 9, 2020

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO system

Licence Type	Active
<b>Liquor</b>	<b>31,873</b>
Liquor Sales Licence	17,713
Caterer's Endorsement	4,220
Bring Your Own Wine Endorsement	3,014
Manufacturer's Licence	1,192
Licence to Represent a Manufacturer	952
Retail Store Authorizations	952
Golf Course Endorsement	707
Ferment on Premise Facility Licence	464
Grocery Store Authorizations – Beer, wine, cider	450
Liquor Delivery Service Licence	366
Other authorizations/endorsements	1,843
<b>Commercial Gaming</b>	<b>17,677</b>
Gaming Assistant (employees)	17,244
Non-Gaming-Related Supplier	279
Gaming-Related Supplier – Other	64
Gaming-Related Supplier – Manufacturers	46
Commercial Operators	27
Trade Union	17
<b>Charitable Gaming</b>	<b>11,916</b>
Seller	10,130
Gaming Assistant (employees)	1,703
Gaming-Related Supplier – Lottery	17
Operator – Charitable: four or more events per week	59
Operator – Charitable: three or fewer events per week	7

<b>Licence Type</b>	<b>Active</b>
<b>Horse Racing</b>	<b>15,707</b>
Owner	5,855
Groom	2,252
Trainer/Assistant Trainer	1,959
Stable Licence	1,086
Hot Walker/Exercise Person	982
Occupational	650
Driver/Jockey/Apprentice Jockey	649
Racetrack Association Official	637
Partnership Registration	515
Pari-Mutuel Ticket Seller	285
Tradesperson - Employer/Employee	195
Authorized Agent	119
Veterinarian	110
Spouse of Licensee	102
Teletheatre Location Registration	59
Jockey Agent/Jockey Valet	38
Racetrack Operator Licence	21
Racetrack Site Licence	21
Lease Registration	8
Other categories	164
<b>Cannabis</b>	<b>1,285</b>
Cannabis Retail Operator Licence	613
Cannabis Retail Manager Licence	567
Cannabis Retail Store Authorization	105
<b>Total</b>	<b>78,458</b>



## Appendix 6: Awarding Licences under the Cannabis Lottery Systems and New Open-Market System

Source of data: Alcohol and Gaming Commission of Ontario—iAGCO system

	Lottery 1*	Lottery 2*	Open-Market System (Starting in Jan 2020)
Lottery date	Jan 11, 2019	Aug 20, 2019	n/a
# of applicants drawn/ stores to open	25	42	Stores would open at an initial rate of approximately five per week (pre-COVID-19)
Opening date for stores	Apr 1, 2019	Leases must start by Oct 1, 2019	n/a
# of stores allocated per region	East: 5 GTA: 6 North: 2 Toronto: 5 West: 7	East: 7 GTA: 6 North: 5 Toronto: 13 West: 11	As of Mar 2020, restriction on regional distribution was revoked
Lottery pre-qualification requirements	None	1. Applicant must secure retail space (starting Oct 2019) 2. Applicant must have sufficient capital to open a cannabis retail store (\$250,000 credit)	n/a
Requirements within five business days of being drawn/accepted	1. Provide \$50,000 letter of credit 2. Submit a Retail Operator Licence application along with \$6,000 non-refundable fee 3. Submit a Retail Store Authorization Application along with \$4,000 non-refundable fee	1. Provide \$50,000 letter of credit 2. Submit a Retail Operator Licence application along with \$6,000 non-refundable fee 3. Submit a Retail Store Authorization Application along with a \$4,000 non-refundable fee 4. Submit a legal instrument that demonstrates the applicant has a right to possession of the retail space	Evidence of source of funds and proof of leased premises to be provided with the application

Note: On December 13, 2018, Ontario's Attorney General and its Minister of Finance announced that the AGCO would use a lottery system to determine who could apply for a licence to operate a cannabis store in Ontario. Two lotteries were held in January and August 2019. In neither lottery did the probability of winning by region exceed 1.0% overall.

Lottery 1 had 60,677 entries. Of its 25 winners, 12 failed to open their stores by April 1, 2019, and collectively lost \$487,500 in credit deposits and an additional \$10,000 each in fees. Lottery 2 limited entries to 5,200 and added more stringent entry requirements. Eight stores were to be located on First Nations reserves. As of May 14, 2020, only 31 of the 40 lottery winners had opened their stores, but no one lost their deposits.

In January 2020, the province moved to an open-market system that removed the cap on the number of private cannabis stores and eliminated pre-qualification requirements. Licensed producers and large companies could now apply to operate retail stores, after being excluded from the two lotteries. Some of these had already circumvented the lottery rules by partnering with winners. Limits on the number of stores per licence holder increased to 30 in September 2020 and are planned to reach 75 in September 2021.

\* External parties were used to oversee the selection process (fairness monitors) and to test the lottery software.



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