

Ministry of Finance**BRIEFING DOCUMENT**

To: Honourable Michael de Jong **Date Requested:** Sept. 28, 2015
Minister of Finance **Date Required:** Oct.9, 2015

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CLIFF # 346213

TITLE: Enhanced Compliance and Enforcement on Gambling Activities

PURPOSE: SUPPLEMENTARY INFORMATION FOR MEETING WITH RCMP ON
OCTOBER 14, 2015 – FOR FUTURE DECISION

Executive Director approval: _____

ADM approval: _____

Associate DM approval: _____

DATE PREPARED: Oct. 9, 2015

TITLE: Enhanced Compliance and Enforcement on Gambling Activities

ISSUE: Phase 3 of the government's anti-money laundering (AML) strategy centres on additional measures for enhancing due diligence and regulator guidance and intervention. The Gaming Policy and Enforcement Branch (GPEB) is focusing resources on areas of highest risk to gaming integrity. GPEB has identified the prevalence of large and suspicious cash transactions at lower mainland gaming facilities as a high risk.

Gambling activities taking place outside of legal gaming facilities that contravene the *Criminal Code* of Canada are also a high risk to the integrity of gaming in B.C. Enforcing provisions of Part VII of the *Criminal Code* is outside the authority of GPEB investigators and rests with the police.

Three possible enforcement options are proposed to address the concern of proceeds of crime and large suspicious cash transactions at B.C. gaming facilities as well as illegal gambling concerns. The recommended option would provide strategic enforcement that is targeted, proactive and designed for maximum deterrence of suspicious cash and other unlawful activities which detract from the integrity of gaming and revenue generated for the Province.

RECOMMENDATION: Option 2

Introduce a joint interdiction team between BCLC, GPEB and the RCMP to strategically investigate suspicious cash transaction inside gaming facilities and unlawful forms of gambling.

BACKGROUND:

- In 2011, government implemented an AML strategy focused on minimizing opportunities for money laundering. The strategy is led by an internal working group at GPEB. Phase 1 of the strategy involved the development and implementation of cash alternatives (substantially complete) and phase 2 involved intervention by service providers to encourage use of cash alternatives by patrons. Phase 3 focuses on regulator guidance and, where necessary, intervention regarding customer due diligence (CDD).
- GPEB is aware of a prevalence of large cash transactions, often resulting in suspicious transaction reports (STR), in B.C. gaming facilities. Based on analysis of the number of STRs and value of cash, it has been determined that this issue is predominantly concentrated in lower mainland gaming facilities.
- Lower mainland gaming facilities experience wealthy foreign patrons who prefer cash and wager substantial amounts while gambling. The British Columbia Lottery Corporation (BCLC) asserts these patrons use cash rather than cash alternatives due to convenience, superstition and cultural preferences and not for the purpose of laundering money. Moving large sums of cash in and out of gaming facilities presents a significant concern to government and a public safety risk in and near the facility.
- GPEB has been made aware of reports of high stakes illegal gaming houses and other illegal activities related to gambling taking place in the lower mainland. These activities impact both

the integrity of gaming and revenue generated by legal gaming facilities and is believed support organized crime.

Integrated Illegal Enforcement Team (2003-2009)

- The Integrated Illegal Gaming Enforcement Team (IIGET) was established by a 2003 Memorandum of Understanding (MOU) between the RCMP, the Ministry of Public Safety and Solicitor General (Police Services) and GPEB. IIGET was created due to a concern about the enforcement response to illegal gaming in the province.
- IIGET was directed to investigate illegal gaming activities occurring outside of licensed gaming facilities such as illegal lotteries, common gaming houses, the distribution of illegal video lottery terminals, animal fights, bookmaking, and internet gaming. IIGET was not mandated to focus their attention on large cash transactions in legal gaming facilities.
- BCLC provided the majority of IIGET funding. The RCMP did not seek a renewal of the IIGET MOU in 2009 citing exigent funding pressure (BCLC cut their funding), criminal enterprise activity and/or other operational and investigative priorities. The province determined that the IIGET's effectiveness was not meeting program objectives.

Role of BCLC Corporate Security and Compliance Division & GPEB Compliance Division

- BCLC's Corporate Security and Compliance division is responsible for corporate security and compliance related to the conduct and management of legal commercial gaming, including customer service complaint investigations, information systems security and employee and service provider compliance.
- BCLC must report specific activity, conduct or incidents to GPEB as per section 86(2) of the GCA. BCLC investigators have no authority to investigate or to issue violation tickets under the GCA or the *Criminal Code*. BCLC only has the authority to monitor incidents that contravene their policies, procedures and agreements as per section 7(1)(h) of the GCA and not take any further action beyond reporting it to GPEB and, if necessary, the appropriate police agency.
- BCLC's corporate security division may take actions up to and including the suspension and/or termination of activities as outlined in the service agreements between BCLC and the service provide (or individual) when it is related to the conduct and management of gaming. BCLC's corporate security division would be able to provide assistance to a joint enforcement team by way of business acumen, business intelligence and data analytics and support as required.
- GPEB's compliance division carries out strategic enforcement activities under the authority of the provincial *Gaming Control Act* (GCA) and *Gaming Control Regulation*. Section 97(2) of the GCA outlines specific offences¹ that are enforceable by GPEB through issuing of violation tickets under the *Offence Act*.
- The division employs more than 20 employees who have been designated by the general manager as "investigators" under section 81 of the GCA; all of these investigators have also received appointments as special provincial constables (SPC), appointed under *Section 9* of

¹ Commonly enforced GCA offences include unauthorized lottery schemes and sales of lottery tickets; unregistered gaming service providers, gaming supplies and gaming workers; offences relating to minors; and prohibited person to remain on or enter into the premises of a gaming facility.

the *Police Act*. The SPC status is meant to enhance the role of GPEB investigators so they can, in limited circumstances, assist the police in connection with *Criminal Code* offences.

- Only the police have the authority to conduct investigations and enforcement actions for offences such as those found in Part VII (Disorderly Houses, Gaming and Betting) of the *Criminal Code*. Consequently, GPEB's role is limited to enforcing relevant sections of the GCA unless assisting or acting under the direction of the police (any recommended charges would be submitted to Crown Counsel via the police). There is also occasion where GPEB may take continuity of minor criminal investigations with the approval of local law enforcement, such as a minor theft in a gaming premise.

DISCUSSION:

Suspicious cash transaction in B.C. casinos

- Section 86(2) of the *Gaming Control Act* requires BCLC, registrants and licensees to notify the general manager immediately about any conduct, activity or incident occurring in connection with a lottery scheme or horse racing, if it involves an offence under the GCA or under a provision of the *Criminal Code* relevant to a lottery scheme or horse racing.
- GPEB's compliance division performed an analysis of STRs of amounts over \$50,000 occurring in lower mainland gaming facilities in July 2015. The analysis concluded that while gaming service providers were fulfilling their statutory reporting requirements under the Financial Transactions and Reports Analysis of Canada (FINTRAC), there was limited action being taken with suspicious large cash transactions.
- The July analysis found that, lower mainland gaming facilities reported \$14.9 million in suspicious transactions (buy-ins) made in \$20 bills out of a total of \$20.7 million. Of that \$20.7 million, five patrons were responsible for nearly half of the amount (\$9.8 million).
- Monthly STR totals fluctuate throughout the year; however, July 2015 is currently the highest total of all 2015 months. From January 1, 2015 to present, STR's recorded total \$112 million. For fiscal year 2014/15, \$212 million in STRs have been reported to date.
- GPEB's analysis of the STRs illustrate there is limited refusal of suspicious cash. Front line gaming facility staff are trained to identify and file STRs but there was little evidence that transactions were being declined.
- Since July 2015, GPEB has noted that there has been an increase in actions taken by service providers and BCLC resulting in a decrease in the volume of cash being accepted at gaming facilities.

Current and Planned Phase 3 AML Strategy Activities

- Phase 3 of the Gaming Policy and Enforcement Branch's (GPEB) anti-money laundering (AML) strategy is centered on regulatory guidance and additional measures for enhancing AML due diligence.
- Planned or underway phase 3 activities include:
 - Consultation with the Department of Finance Canada on regulatory amendments to the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*. GPEB has

requested that FINTRAC consider requiring service providers to determine source of funds and source of wealth for inbound currencies in gaming facilities.

- An external review by Meyers Norris Penny (MNP LLP) of BCLC reporting processes to inform GPEB of the effectiveness of current BCLC AML policies and procedures and provide recommendations for improvement.
- Implementation of new and enhanced cash alternatives including the consideration of delimiting convenience cheques and offering credit to specific patrons.
- BCLC will be increasing its efforts to develop and promote the use of cash alternatives and implement enhancements to its due diligence and compliance and interdiction programs. This includes capacity to detect and interview customers on their source of funds and make a determination on whether to accept or deny the cash.
- Implementation of a new intelligence unit in GPEB's compliance division to address the lack of interdiction and enforcement presence in lower mainland gaming facilities.

Meetings have recently occurred with the RCMP Division Intelligence Officer to establish a new Memorandum of Understanding (MOU) and as to how to best integrate combined resources to address gaming integrity.

- GPEB has further requested BCLC implement rigorous customer due diligence policies and practices constructed around financial industry standards and to focus on knowing their customer and identifying source of funds as an integral component to client risk assessment.
- BCLC and its service providers will continue to file reports with the appropriate enforcement agency such as FINTRAC and GPEB. GPEB will continue to make efforts to liaise and leverage police authorities to take action where appropriate. However, the decision to take action on criminal matter remains with the police of jurisdiction.

Illegal Gaming in British Columbia

- Gambling activities that contravene Part VII of the *Criminal Code* and occur outside of legal gaming facilities are a high risk to the integrity of gaming in B.C.
- In the past 5 years, GPEB has referred 47 occurrences of illegal common gaming houses to police to investigate. Of those, 10 cases are from the lower mainland with the remaining 37 from the rest of B.C. Many of the cases outside of the lower mainland relate to unlicensed bingo events taking place on First Nations reserves. Numerous steps have been taken by GPEB to shut these events down with warnings and referrals to the police, however these gaming events remain low priority for police and there appears to be limited interest by First Nations to become compliant with gaming laws and regulations when the events take place on their territory.
- Since 2011, no charges have been laid related to common gaming houses in B.C.

Enforcement authority of the Criminal Code as it relates to gaming in BC

- As the *Gaming Control Act* does not confer specific authority for GPEB investigators to enforce the *Criminal Code* outside of their mandated duties, significant legislative amendments would be required to enable this function. For an outline of statutory enforcement authorities of BCLC, GPEB, and the police, see Appendix I.

- The investigation of suspicious cash transactions occurring in gaming facilities is within GPEB's compliance division mandate. While crimes associated with money-laundering are contained in the *Criminal Code*, in particular Part XII.2 *Proceeds of Crime*, GPEB has the authority to investigate these to a point in time where reasonable grounds determine a *Criminal Code* offence is occurring. These investigations may lead to larger more complex investigations involving organized crime. Once this is determined, the investigation is forwarded to the police as GPEB does not have the authority, or the capacity, to undertake further enforcement activities such as surveillance, undercover operations, and technical installations which require consideration of safety and use of force.
- Section 86(2) of the *Gaming Control Act* requires the lottery corporation, registrants and licensees to notify the general manager immediately about any conduct, activity or incident occurring in connection with a lottery scheme or horse racing, if it involves an offence under the GCA or under a provision of the *Criminal Code* relevant to a lottery scheme or horse racing. Failing to comply with this section of the Act is not an offence and therefore, there are limited means of recourse in instances of non-compliance.

Gaming enforcement in Canada

- With the exception of Ontario, all Canadian gaming regulators rely on the police of jurisdiction to investigate illegal gaming under part VII of the *Criminal Code*.
- In Ontario, the Investigation and Enforcement Bureau (Alcohol and Gaming Commission of Ontario, AGCO) is comprised of seconded members of the Ontario Provincial Police (OPP) (currently 160 officers). These OPP members along with approximately 55 GCO/OLG Inspectors (designated Provincial Offences Officers for the purposes of Ontario's *Liquor Licence Act* and the *Gaming Control Act*) provide enforcement for both liquor and gaming. The enforcement officers are directly involved in assessing STR activity at the casino and making a determination on the source of funds. This preventative on-site intervention deters the amount of illicit activity related to money laundering or loan sharking from occurring.
- Ontario also has an Illegal Gambling Unit (IGU) within the OPP's Organized Crime Enforcement Bureau which investigates illegal gaming with an emphasis on organized crime.
- Nationally, FINTRAC creates data trails that are used by law enforcement to identify patterns and gather evidence of potential money laundering. In 2014/15, FINTRAC data shows that large cash transaction reports from casinos (all large-cash transactions and disbursements over \$10,000) from B.C. make up 72 per cent of the national total. As concerning is that suspicious transactions reports from B.C. casinos account for 73 per cent of the national share. These totals indicate that this issue is primarily a B.C. problem given that BC only accounts for 24 per cent of casinos nationwide (17 out of 72).²

OPTIONS:

- Option 1: Continue with planned activities for phase 3 AML strategy implementation. This includes addressing suspicious cash in gaming facilities and referring unlawful gaming activities occurring outside gaming facilities to the police to take action (status quo)**

² Source; 2012/13 Canadian Gambling Digest, *Table 1. Venues*. Found <http://www.cprg.ca/articles/Canadian%20Gambling%20Digest%202012-13.pdf>

GPEB and BCLC will continue to build on the accomplishments of phases 1 and 2 of the AML strategy and implement phase 3 as planned.

Implications

- Without any new interventions by BCLC, GPEB and/or government, a high volume of suspicious cash may continue to be brought into B.C. gaming facilities.
- Illegal gaming activities outside of gaming facilities may remain a low priority for police of jurisdiction.
- Likely to have a negative impact on gaming revenues.
- Significant impact on resources of BCLC and gaming services providers who will need to expend revenue on training and oversight as BCLC implements enhancements to its due diligence and compliance and interdiction program.
- Inability to investigate illegal gaming houses occurring outside of gaming facilities without police support.
- Employee safety may be put at risk as the implementation of BCLC's compliance and interdiction program may escalate behavioural issues as it may cause clients to be upset.

Option 2: Introduce a joint interdiction team between the Ministry of Finance's GPEB and the RCMP to strategically investigate suspicious cash transactions inside gaming facilities and unlawful forms of gambling

A new joint interdiction team would be formally established by a Memorandum of Understanding (MOU) and accountable to the Minister of Finance and Minister of Justice. The RCMP would be responsible for liaising with municipal police forces and other enforcement bodies as appropriate. The team would provide targeted and proactive enforcement predominately in the lower mainland to deter large cash transactions and other unlawful activities to ensure the gaming industry is conducted with integrity and free from criminal activity.

This team would be integrated with GPEB to identify projects, share intelligence and focus on matters which not only impact gaming integrity but disrupt revenue from legitimate gaming services providers. This team would consist of trained professionals who could assess and interdict suspected activities on-site and potentially make referrals to other agencies such as Civil Forfeiture.

BCLC's role in the team would be limited to monitor incidents that contravene their policies, procedures and agreements and the requirement under the GCA to inform GPEB where appropriate. BCLC will offer support to the team with business acumen, business intelligence and data analytics.

This option is similar to the Ontario integrated regulator and police gaming enforcement model.

Implications

- Significant upfront and long term cost implications. Unknown who will bear these costs (government or BCLC).
- Will likely require the Ministry of Finance seek requisite approval – from Cabinet and Treasury Board – for additional funding.

- Will have an immediate impact on criminal organizations who consider using gaming facilities or patrons as a vehicle to move their illegitimate cash.
- It is likely that this new team will have a short-term impact on casino revenues.
- The RCMP may not be able to assign FTE positions to a joint team.
- The RCMP will be reallocating police offices to this team away from other non-gambling law enforcement priorities.
- May have negative impacts on gaming revenue as patrons may choose to gamble in other jurisdictions.

Option 3: Create a new designated gambling enforcement policing Unit under Section 4 of the *Police Act*

Under this option, a designated policing and law enforcement Unit would be established under *Section 4 of the Police Act*. The Unit would be an independent policing agency with a unique mandate to tackle illegal gambling and unlawful activities within legalized gaming. The independent Unit would not report to the General Manager, GPEB.

Implications

- Requires legislative changes to the *Gaming Control Act* and requirements under the *Police Act*.
- Would solely focus on gaming in the Province and may be deemed by the public to be excessive.
- Significant upfront and long term cost implications. Unknown who will bear these costs (government or BCLC).
- Will likely require the Ministry of Finance seek requisite approval – from Cabinet and Treasury Board – for additional funding.
- May have negative impacts on gaming revenue as patrons may choose to gamble in other jurisdictions.

RECOMMENDATION: Option 2

APPROVED / NOT APPROVED

Honourable Michael de Jong
Minister of Finance

Date

APPENDIX I – STATUTORY ENFORCEMENT AUTHORITY

Enforcement authorities of BCLC, GPEB and Police:

	Designation	BCLC Policies & Procedures	Gaming Control Act (GCA)	Part VII Criminal Code of Canada (CCC)
BCLC	No special designation	<ul style="list-style-type: none"> • Monitor incidents that contravene their policies, procedures and agreements related to the conduct and management of gaming • BCLC must report specific activity, conduct or incidents to GPEB (s86(2) GCA) 	<ul style="list-style-type: none"> • No authority to investigate offences under the GCA or to issue violation tickets • Provides assistance and information as requested by GPEB or police 	<ul style="list-style-type: none"> • No authority to enforce the CCC • Provides assistance and information as requested by GPEB or police
Employees of GPEB	GM designated Investigators under s. 81 of the GCA & Special Provincial Constable Status	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Authority to investigate and to issue violation tickets in relation to offences under the GCA 	<ul style="list-style-type: none"> • Limited authority to investigate criminal offences in order to assist police or under the direction of police
Police	Police officers (members of the provincial police force, a municipal police force)	<ul style="list-style-type: none"> • Not applicable 	<ul style="list-style-type: none"> • Can investigate and issue violation tickets in relation to offenses under the GCA, although in practice the police do not do so 	<ul style="list-style-type: none"> • Full jurisdictional authority to enforce the CCC • Can make arrests, issue appearance notices, recommend charges, etc

APPENDIX II – Biography of Deputy Commissioner Craig Callens**Deputy Commissioner Craig Callens
Commanding Officer of E Division
Royal Canadian Mounted Police**

Deputy Commissioner Craig Callens joined the Royal Canadian Mounted Police in September 1985. Over the course of his service he has been assigned to duties ranging from General Duty to Major Crime and from Federal Drug Enforcement to Criminal Operations throughout British Columbia.

He was first posted in Prince George, British Columbia and he received his first promotion in 1995 when he became the Detachment Commander of Wells Detachment. He was transferred to Kamloops Detachment in 1997 and later promoted to Sergeant. In 2002 he was commissioned to the rank of Inspector as the Operations Officer E Division Drug Enforcement Branch. Two years later he would serve in the RCMP's largest detachment, Surrey Detachment, for five years as the Investigative Services Officer as both an Inspector and Superintendent. In 2009 he served as the Lower Mainland District Operations Officer and was promoted to rank of C/Supt. Then in 2009 he moved to E Division Headquarters to become the Deputy Criminal Operations Officer (Contract Policing) for the Province of BC.

Prior to his appointment as Commanding Officer of E Division, he served as the Officer in Charge of Criminal Operations. In 2013, Deputy Commissioner Callens was appointed to the Order of Merit of the Police Forces.

Deputy Commissioner Callens was born in Ottawa and raised in Saskatchewan. He is the third of four generations of RCMP members in the Callens family. He is married to RCMP Sergeant Joanne Callens and is the proud father of a daughter, Constable Courtney Callens, and a son Taylor.