

Supplementary consultation on submitting suspicious activity report unique reference numbers to the Commission

April 2014

1 Introduction

- 1.1 The Gambling Commission (the Commission) periodically reviews aspects of our regulatory approach, including the *Licence conditions and codes of practice* (LCCP) which apply to Commission licensees. At the end of 2013 the Commission consulted on a number of proposed changes to the LCCP. The consultation document was entitled [*Proposed amendments to licence conditions and codes of practice for all operators, September 2013.*](#)
- 1.2 In the above consultation we indicated that the Commission was exploring, with the United Kingdom Financial Intelligence Unit (UKFIU), an appropriate means of improving the Commission's access to information submitted under the UKFIU's suspicious activity reporting and consent regime (the SAR regime). We explained that the result of those discussions may be a requirement on gambling operators (by way of licence condition) that the Commission be given either copies of SARs or copies of the unique reference numbers (URNs) allocated by the UKFIU under the SAR regime.
- 1.3 We received a number of written responses on these proposals, as well as comments during a series of stakeholder meetings and workshops held from October 2013 – February 2014. We have taken these views into consideration and, as highlighted in our response document to the above consultation [*Proposed amendments to licence conditions and codes of practice \(LCCP\) for all operators, Response document – part one, March 2014,*](#) we have agreed a solution with the UKFIU, thus we are now in a position to consult on the draft provision to be included in LCCP on this topic.
- 1.4 In this short consultation we are seeking views on the proposal to require operators to supply the Commission with the URNs of SARs and/or requests for appropriate consent they have submitted, once the URN has been allocated by the UKFIU. We intend that this requirement would appear as a new key event¹, to be added to the information requirements of LCCP.
- 1.5 As this change was outlined in principle in the main LCCP consultation (as set out above), this supplementary consultation on the proposed introduction of this new key event will only run for three weeks, to enable stakeholders to provide comments on the draft provision and for the Commission to consider those views, before implementing this new requirement at the same time as the other LCCP amendments coming into force at the beginning of August 2014.
- 1.6 The closing date for responses to this consultation is therefore **Wednesday 23 April 2014.**

¹ Licensees must notify the Commission, or ensure the Commission is notified, in such form or manner as the Commission may from time to time specify, of the occurrence of any key events as soon as reasonably practicable and in any event within five working days.

2 Background

- 2.1** Under the Proceeds of Crime Act 2002 (POCA)² and the Terrorism Act 2000 (TACT)³, Commission licensed gambling operators, as indeed all businesses, have obligations in respect of reporting knowledge or suspicion that a person is engaged in money laundering (ML), including the spending of the proceeds of crime, or terrorist financing (TF). In addition, of course, casino operators are subject to the provisions of the Money Laundering Regulations 2007 (MLRs). The Commission is focused upon being assured that operators understand their obligations and are complying with POCA, and where relevant the MLRs, as an integral part of their efforts to keep gambling free of crime.
- 2.2** This reporting regime is owned by the UKFIU⁴ which is part of the National Crime Agency (NCA)⁵. Under this regime, all Commission licensed operators are required to submit SARs and/or requests for 'appropriate consent' (ie requests to proceed, where appropriate, with an act that would otherwise be prohibited) directly to the UKFIU.
- 2.3** Operators do not provide such reports to the Commission routinely, however the Commission does receive notification by way of regulatory returns which include information on the number of SARs being submitted by operators over a given period (which can be quarterly or annually depending on licence type).
- 2.4** The Commission works with the NCA to identify thematic learning which can be shared with the industry with a view to improving anti-money laundering (AML). In addition, SARs offer a rich source of information and intelligence enabling the Commission to effectively support law enforcement partners.
- 2.5** In our LCCP consultation at the end of 2013, the Commission consulted on a number of proposed changes to the LCCP. In that consultation, we did not set out a draft amendment to LCCP on this topic, but we did indicate that the Commission was exploring with the UKFIU an appropriate means of improving the Commission's access to information submitted under the SAR regime. We explained that the result of those discussions may be a requirement on gambling operators (by way of licence condition) that the Commission be given either copies of SARs or copies of URNs allocated by the UKFIU under the SAR regime.

Respondents' views

- 2.6** The consultation did not ask a specific question about this issue, but we did receive a number of comments on this issue both during the consultation workshops and in the written responses to the consultation.
- 2.7** Some respondents felt that the Commission had no need of access to information in the SARs they submit. They felt that this was unnecessary duplication of the role of the UKFIU. A small number of respondents felt that it would require a legislative change to enable the Commission to access information in SARs.
- 2.8** Overall however, respondents indicated that they were either in favour of the Commission having access to SARs, or they were content that the Commission should have access. However, they sought reassurance that the NCA/UKFIU would be signed up to the approach before it was implemented. All respondents stated that any new requirements introduced should be efficient and not unduly cumbersome for operators to implement.

² www.legislation.gov.uk/ukpga/2002/29/contents

³ www.legislation.gov.uk/ukpga/2000/11/contents

⁴ www.nationalcrimeagency.gov.uk/about-us/what-we-do/specialist-capabilities/ukfiu

⁵ Previously the Serious Organised Crime Agency (SOCA)

3 Current obligations on operators

- 3.1 One of the licensing objectives in pursuit of which gambling operators are regulated is the prevention of gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. POCA and TACT oblige gambling operators to report known or suspected ML/TF activity and/or obtain appropriate consent. If operators fail in this duty, they risk exposing themselves to criminal prosecution under POCA or TACT.
- 3.2 The UKFIU uses this information to gather intelligence and to work collaboratively with sector regulators, such as the Commission, to provide information related to the SARs supplied by, and also in respect of, their areas of business. This assists with, amongst other things, regulators updating their own risk profiles. The UKFIU also issues urgent bulletins on a range of issues from the intelligence gathered, for instance, around fraud typologies.
- 3.3 Licensees should therefore ensure that they are able to meet this requirement in establishing and maintaining reporting procedures that are fit for purpose, in order to diminish ML risk and provide themselves with a defensible position when things go wrong.
- 3.4 In order to receive assurances that this is happening, the Commission already requires licensees to disclose to the Commission the number of SARs submitted to the UKFIU in a period as part of regulatory returns. This information is valuable for use as a comparator between operators, gambling sectors and other industries, and also for tracking patterns of reporting over time.

4 Consultation proposal

- 4.1 In order to ensure that the Commission has appropriate access to the intelligence from the gambling industry, the Commission continues to explore options with partner agencies to improve collaboration and secure access to information, and cooperation with other gambling regulators.
- 4.2 We are particularly keen to improve our connectivity to the intelligence resources held by the NCA/UKFIU, to increase the speed at which we can assist with investigations and gain insight into threats and vulnerabilities as they have occurred and developed over time.
- 4.3 The Commission and the UKFIU have now agreed that an efficient means of the Commission accessing such information is through access to the UKFIU's relevant databases. This will allow the Commission to promptly match intelligence and enquiries from law enforcement agencies.
- 4.4 The UKFIU is granting the Commission access on the premise that it ensures the confidentiality and the appropriate handling of SARs. Access will be solely for enforcement purposes, that is to say criminal investigations with a view to the prevention, detection and prosecution of crime, and not for purely regulatory activity. The UKFIU and the Commission will ensure these requirements are met.
- 4.5 So that that the Commission can support the work of the UKFIU in real-time and to corroborate the information we already receive via regulatory returns, we intend to require operators - through a new key event - to supply the Commission with the URNs of SARs and/or requests for appropriate consent they have submitted, once the URN has been allocated by the UKFIU. If we proceed with this proposal, the new key event will be added to the information requirements of LCCP.

Supplementary consultation

- 4.6** We consider that the approach of adding a key event which would require the supply of URNs to the Commission is a low administrative burden for operators and is justified for the reasons outlined above. We believe that a key event is the necessary vehicle for this requirement because of the time-sensitive nature with which SARs and consent requests are submitted and the URNs are returned. If this requirement was implemented via an alternative solution, such as supplementary information within regulatory returns, its value would be diminished as the delay in receipt by the Commission, depending on circumstances, could be up to a year after the event.
- 4.7** We consider that just as this will provide value under the current arrangements for AML, based, in part, on the 3rd EU ML Directive, it will remain valuable following the implementation of the 4th Directive.

Proposed requirements

Supply of unique reference numbers from suspicious activity reporting and/or requests for appropriate consent under the Proceeds of Crime Act 2002 and the Terrorism Act 2000.

All licences

- 1 The making of a disclosure pursuant to section 330, 331, 332 or 338 of the Proceeds of Crime Act 2002 or section 19, 20, 21, 21ZA, 21ZB or 21A of the Terrorism Act 2000 (a suspicious activity report): the licensee should inform the Commission of the unique reference number issued by the United Kingdom Financial Intelligence Unit of the National Crime Agency in respect of each disclosure and for the purposes of this key event the five working day period referred to above runs from the licensee's receipt of the unique reference number.

Consultation question

- Q1. Do you have any comments on the draft provision which requires operators - through a new key event - to supply the Commission with the URNs of SARs and/or requests for appropriate consent they have submitted, once the URN has been allocated by the UKFIU?

5 Responding to this consultation

- 5.1** The Commission is inviting comments on the proposed plans and would prefer respondents to provide their responses by email to:
consultation@gamblingcommission.gov.uk
Please indicate clearly the questions or issues to which your comments refer.
- 5.2** Alternatively, responses can be sent by post to:
Consultation
Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
- 5.3** The closing date for receipt of responses is **Wednesday 23 April 2014**.
- 5.4** When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.

Supplementary consultation

- 5.5** Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your response or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email, unless you specifically include a request to the contrary in the main text of your submission, the Commission will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.
- 5.6** Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000 (FOIA). The Commission's policy on release of information is available on request or by reference to our website at www.gamblingcommission.gov.uk.
- 5.7** All information provided to the Commission will be processed in accordance with the Data Protection Act 1998. However, it may be disclosed to government departments/agencies, licensing authorities and other bodies when it is necessary to do so in order to carry out the functions of the Commission and where the Commission is legally required to do so.
- 5.8** All non-confidential responses will be published on our website. We will take full account of the responses when coming to a final view on a recommendation for future data collection. We aim to publish our response to submissions received as part of our explanation of the final view we have reached within two weeks of this consultation closing.
- 5.9** We will be aiming to bring the new key event into force at the same time as the LCCP amendments coming into force at the beginning of August 2014.

Gambling Commission April 2014

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at: www.gamblingcommission.gov.uk

Copies of this document are available in alternative formats on request.

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

E info@gamblingcommission.gov.uk

CON 14/02