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# Managing AML risk within the online gaming industry

Alan Craig of Mazars Malta focuses on the recent regulation that is giving the egaming industry greater legitimacy

The introduction of the European Union Directive 2015/849 of 20 May 2015 (4th AML Directive) brought within its scope the online gaming industry. While anti-money laundering and combating the funding of terrorism (AML/CFT) was not a new concept to the industry, the inclusion of online gaming in the definition of a relevant activity brought with it additional obligations and responsibilities. Whereas one may argue that these changes placed additional burdens on online gaming operators, it is also true to say that, in the medium to long term, it will provide an opportunity for the industry to improve its perception and image with various stakeholders, including financial institutions.

The 4th AML Directive brought with it a mandatory risk-based approach, whereby subject persons must draw up AML/CFT policies and procedures commensurate to their risk appetite and to the risks that they are exposed to. The 4th AML Directive was transposed to Maltese law through the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), with effect from 1 January 2018.

In determining the applicability to “relevant activity”, the PMLFTR provides a definition of a gaming licence and a gaming service. These definitions do not encapsulate B2B online gaming service providers. Consequently, B2B gaming service providers are not directly subject to AML/CFT regulations under Maltese law.

Businesses continuously face a balancing act between risk and reward. Online gaming operators are no exception to this. The level of risk that an entity is willing to accept is referred to as the risk appetite. An entity's risk appetite varies between different op-

erators, both as a result of their attitude towards acceptance of risk, and also as a result of differences in business models. The mandated risk-based approach allows subject persons the flexibility to draw up policies and procedures in light of the risk that they face. This is not a standard one-size-fits-all process. Operators are required to put into place a control framework that is commensurate with the inherent risk to which their entity is exposed. High levels of inherent risk require highly effective controls. A mismatch between inherent risk and controls will result in a high residual risk exposure that will expose the entity to elevated money laundering risk.

While certain operators may welcome the flexibility that a risk-based approach brings about, others may struggle in applying a risk-based framework, both due to their unfamiliarity with risk management models and a lack of resources.

The diagram (*right*) depicts a typical process flow that a licensed B2C online gaming operator may follow when setting a risk-based control framework.

The definition of the entity's risk appetite is generally the starting position. The risk appetite will strongly influence the entity's business model and requires approval from the highest level (the board of directors).

The preparation of a business risk assessment (BRA) is a mandatory requirement emanating from the PMLFTR. The BRA must seek to assess the inherent risk (likelihood and impact) that an entity's business model is exposed to. Inherent risk is the level of risk that an entity faces prior to taking into consideration the counter effect of the internal control framework. At a minimum, inherent risk should be assessed across the following areas:

- Client
- Product
- Interface
- Geographic location

Risk management does not seek to eliminate risk, but to manage it in line with the entity's risk

appetite, while taking into consideration legal and regulatory obligations. Entities should take measures to document and draw up policies (including a Customer Acceptance Policy) and procedures, and employ quality assurance measures to ensure that these are being adhered to. Furthermore, appropriate systems and tools need to be deployed. These would typically consist of IT solutions that can (continuously) profile customer risk, and monitor customer activity and behavioural patterns, including the identification of high risk/suspicious activity.

Sufficient and adequately trained members of staff are a fundamental element of the entity's control framework. The Implementing Procedures Part II, published by the Financial Intelligence Analysis Unit (FIAU) in conjunction with the Malta Gaming Authority (MGA), provides operators with important guidance on the interpretation and implementation of the PMLFTR within their entity.

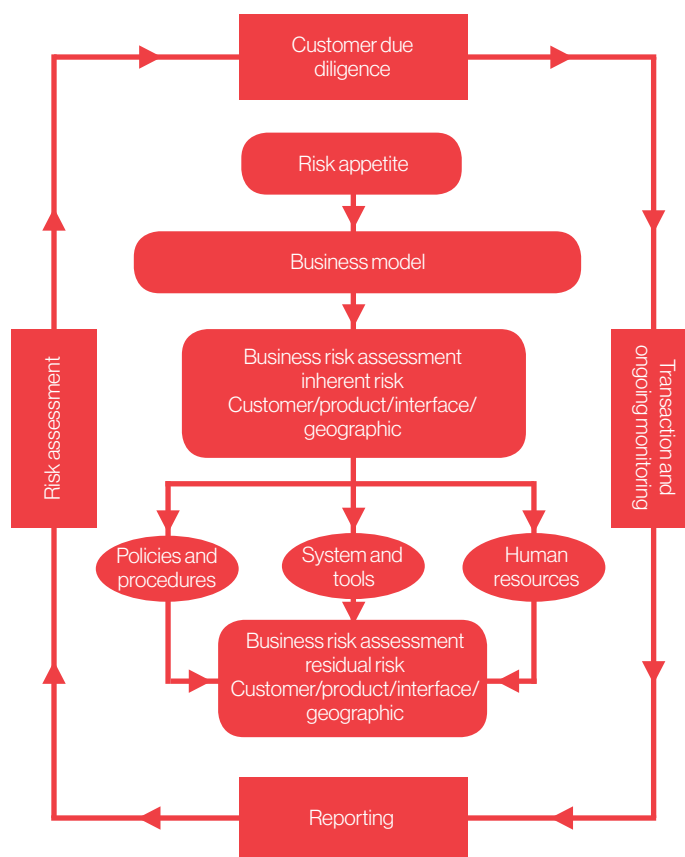
Residual risk is the resultant risk after applying the internal control framework. Gaps between the risk appetite and the residual risk imply that the entity should revisit the measures and controls that it is applying to manage AML/CFT risk.

Malta carried out a risk assessment to identify and assess the national threats and vulnerabilities to AML/CFT. The National Risk Assessment was updated between 2017 and 2018, wherein it categorised the inherent risk faced by the online gaming

*“Risk management does not seek to eliminate risk, but to manage it in line with the entity's risk appetite, while taking into consideration legal and regulatory obligations”*

industry as “high”. It also assessed that the level of controls put in place by the industry was “low”, resulting in a “high” residual risk exposure faced by the online gaming industry licensed in Malta. Without disputing the analysis arrived at by the National Risk Assessment, different business models adopted by operators may inherently expose the entity to significant different AML/CFT risk exposure.

The ‘Implementing Procedures Part II – Remote Gaming Sector’ published in July 2018 by the FIAU in conjunction with the MGA, depicts some useful examples of profiled inherent risks faced by the online gaming sector together with mitigating measures.



The EU and Malta have upped their game in combating financial crime over the past years. Licensed B2C online gaming operators are expected to follow suit with respect to money laundering, and invest in the necessary systems and human resources to ensure that AML/CFT risk is adequately managed. The FIAU, early in 2019, requested subject persons to complete and submit a sectorial-based risk evaluation questionnaire. The responses received will be used by the FIAU and the MGA to understand operators' risk exposure to AML/CFT, and for the local competent authorities to devise their national compliance plan. Meanwhile, subject persons are to expect an increase in AML/CFT focused compliance visits from the competent authority. Subsequently, extensive weaknesses identified are expected to be met with severe retribution. ♦