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EU's proposed AML and payments  
Regulations: what is coming and how  
will it affect the gambling industry



# EU's proposed AML and payments Regulations: what is coming and how will it affect the gambling industry



# About European Gaming and Betting Association EGBA

- €10,7b online gross gaming revenue (GGR) = 33% of EU+UK online market.
- 267 online licenses across 22 European countries.
- 31.6 million customer accounts.
- Six member companies, 22 national partners.
- First payment service provider to become an EGBA affiliate member : Aircash



bet365

betsson group

Entain

Flutter™

kindred

888 | William HILL



# The AML Regulation and package I

## EU AML law and changes

- Gambling is covered by the EU's AML Legislation:
  - 4th Anti-Money Laundering Directive, an example of horizontal EU legislation that has a big effect on gambling
- The EU feels that a Directive has not worked.
- EC, EP and the Council called for change, which will move forward by:
  1. Continued enforcement of the 4<sup>th</sup> AMLD and 5<sup>th</sup> AMLD via infringement cases
  2. The European Commission has proposed a new legislative package consisting of:
    - **2.1 Regulation establishing the Authority for Anti-Money Laundering and Countering the Financing of Terrorism (AMLA)**;
      - already adopted;
      - contents: direct supervision of big banks; issuing AML Guidance, coordination between FIUs
    - **2.2 Regulation on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing** (see next slides)



# The AML Regulation and package II

## EU AML law and changes

- **2.3 Sixth Directive on the mechanism to be put in place by the Member States to prevent money laundering and terrorist financing**
  - In addition to the Regulation outlined above, the 6th AMLD will contain provisions that need to be transposed by the Member States in order to keep the necessary flexibility of the national AML/CFT systems. The 6th Directive primarily concerns and is addressed to national supervisory authorities and FIUs, detailing and coordinating their tasks and ensuring enhanced cooperation.
- **2.4 Revision of the Regulation on information accompanying transfers of funds**
  - For the first time cryptocurrencies are going to be included in the scope of AML legislation. Examples: Anonymous crypto-asset wallets will be prohibited in the EU. EU rules will now align with FATF standards on crypto assets.



# The AML Regulation and package III Revision of the EU AML Directives I

- Change from a Directive to a directly applicable Regulation, removing the need for implementation and ensuring full harmonization and prevent gold-plating.
- A Regulation will strengthen the fight against money laundering as many Member States have not implemented or incorrectly implemented the Directives.
- There are still ongoing infringement cases against MS for failure to correctly transpose the AMLD.
- A Regulation would solve issues with gold plating in several Member States.
- The wide divergence in AML rules across MS brings huge compliance and administrative costs for international gambling operators.



# The AML Regulation and package III

## Revision of the EU AML Directives II

### the example of Italy

- Legislative gaps occurring in one Member State have an impact on the EU as a whole. That is why EU rules should be implemented and supervised efficiently to combat crime and protect the financial system.
- To illustrate the above the case of Italy is a good example.
- The [legislative decree](#), of 4 October 2019, n. 125, implemented the 5th AML directive.
- Several years of discussion between the European Commission and Italy followed regarding the implementation.
- In April 2023 the EC sent a letter to Italy because the 5th AML directive was incorrectly transposed starting an [infringement procedure](#) by sending a letter of formal notice ([INFR\(2023\)2029](#)), .
- The Commission has identified instances of incorrect transposition (non-conformity) of the Directive into national law, which affect, among others, fundamental aspects like the obligation to register, license or regulate services providers.
- If measures are not taken to remedy the situation, the Commission may decide to refer these cases to the Court of Justice of the European Union.
- In the case of Italy the situation was remedied and the EC closed the case last month (October 2023)



# The AML Regulation and package III

## Revision of the EU AML Directives III

### the example of Italy: AMLA

- Italy is also in the running to host the new EU AML agency: **AMLA**
- The competition to host the newest EU decentralised agency which will act "as a supervisor at the centre of an EU integrated supervisory system and enhance cooperation among financial intelligence units in relation to illicit flows" is intense.
- [Rome](#) is a strong candidate and is one of 10 cities that have applied
- A few criteria will be taken into consideration when selecting the location, including the capacity of recruitment, the date on which AMLA can become operational, accessibility, training opportunities and, more importantly, whether money laundering/terrorist financing risks are "adequately addressed in the member state".
- [Italy](#) is one of the countries with the most "mature and sophisticated AML/CTF regime" and a "well-developed legal and institutional framework", as reported in the Financial Action Task Force's (FATF) latest Mutual Evaluation Report from 2016.
- The now standard approach of AML, follow the money, is famously an Italian invention.





# The AML Regulation and package IV

## The upcoming Regulation I

- Relevant provisions on online gambling in the European Commission proposal:
  - The European Commission has proposed to keep the existing approach and thresholds
  - For online gambling this means retaining the obligation to conduct customer due diligence upon the collection of winnings, the wagering of a stake, or both, when carrying out transactions amounting to at least EUR 2 000
- The specific rules on gambling: under negotiations between the EC, EP and Council at trialogues
  - How will the EC proposal be modified?
  - Discussions on CDD thresholds, reporting, etc.
  - The now deleted Article 22a on payments and gambling
  - Attempts to regulate gambling in the EU via AML



# The AML Regulation and package V

## The upcoming Regulation II



Changes to many **horizontal rules** are being proposed as well as detailed and strengthened.

Examples:

- The list of obliged entities is expanded to include new sectors such as crypto-asset service providers, crowdfunding platforms, investment migration operators and others
- The harmonisation of Customer Due Diligence (CDD) measures such as internal policies and procedures for risk management
- More specific and detailed provisions are laid down on the identification of the customer and on the verification of the customer's identity
- Rules on simplified and enhanced due diligence measures are detailed
- Clearer rules on the identification of suspicious transactions
- Requirements on customer risk analysis
- Stronger rules on beneficial ownership are implemented so transparency is ensured
- The interconnection between data protection rules and AML rules relationship will be clarified
- Large cash transactions will be capped at €10,000
- What is a politically exposed person or PEP is detailed, who is a PEP will be determined by nationally drawn lists and how former PEPS will be treated is also clarified



# The AML Regulation and package VI

## The upcoming Regulation III

- The European Commission, European Council and the European Parliament are discussing the text in the so called trialogues
- Compromise texts are currently being prepared and negotiations are taking place.
- Many changes are being made to the text and there is an intense process of lobbying.
- Final text and publication expected Q1 2024



# EGBA AML Guidelines

- In addition to legislation, self-regulation is very important to show commitment.
- To prove our commitment to fighting money-laundering, EGBA has developed a set of Guidelines for online gambling operators on conducting money-laundering. Provisions on payments such as payment risks and relations with payment providers are also covered.
- The Guidelines are based on the risk-based approach as adopted by the EU and the FATF
- The Guidelines cover the whole customer journey and will include, amongst others, practical guidance on:
  - How to conduct customer and business risk assessments.
  - Customer Due Diligence and improving cooperation during the process.
  - Suspicious Transaction Reporting requirements.
  - The relationship between AML and safer gambling and sports integrity.
  - The relationship between AML and sports integrity
  - Record-keeping requirements
  - Third-party reliance and outsourcing



# EU Payments Regulation and Package

## The current regime

- The European Commission saw a need to regulate the EU retail payment market to allow for innovation and allow competition to thrive.
- The PSD2 Entered into force January 2016.
- Transposed into national law of each member state and became effective by January 2018.
- Similarly to the AMLD, there were issues with transposition across the EU.



# EU Payments Regulation and Package

## The new proposal on 28 June 2023

- Why is there a need to update the payment services legislation?
  - Consumers are at risk of fraud and lack confidence in payments;
  - The Open Banking framework functions imperfectly;
  - EU supervisors have inconsistent powers and obligations;
  - There is an unlevel playing field between banks and non-bank PSPs;
- The current proposal may change significantly while going through the legislative process in the European Parliament and the European Council. Amendments will be suggested during this process and eventually trilogues will be held.
- Entry into force at the end of 2024 at the earliest.



# EU Payments Regulation and Package

## The new proposal on 28 June 2023

- A package of four proposals was developed:
  - Proposal for a Regulation on Payment Services (PSR).\*
  - Proposal for a Directive on Payment Services and Electronic Money Services (PSD3).
  - Proposal on Open Finance.
  - Proposal on Digital Euro.

PSD3 will be an evolution of both PSD2 and the E-Money Directive.

‘PSD3’ will in fact be a Regulation (known as the Payment Services Regulation or PSR) with an accompanying Directive ( PSD3).



# EU Payments Regulation and Package

## Important changes in the proposals

### Article 35 - Dedicated data access interfaces

*Account servicing payment service providers that offer to a payer a payment account that is accessible online shall have in place at least one dedicated interface for the purpose of data exchange with account information and payment initiation service providers.*





# EU Payments Regulation and Package

## Important changes in the proposals

Article 36 (4) a – Brought into scope are direct debits and standing orders

The EBA will be required to write technical specifications for how DD's can be administered within the confines of the interface.

4. *Account servicing payment service providers shall ensure that the dedicated interface allows payment initiation service providers, at a minimum, to:*
  - (a) *place and revoke a standing payment order or a direct debit;*



# EU Payments Regulation and Package

## Important changes in the proposals

### Article 36 (2) d – Very important in the case of gambling operators when fulfilling their AML obligations

PISPs must be able to get full name and IBAN on the payer before payment execution

*(d) see, prior to initiation of the payment in the case of payment initiation service providers, the unique identifier of the account, the associated names of the account holder and the currencies as available to the payment service user.*



# EU Payments Regulation and Package

## What does it mean for gambling operators

- PSR will bring important and needed new changes
- Expected improvements over the current situation:
  - Regulation (versus a Directive) means uniform application across EU Member States with less room for national divergence and gold-plating
  - Will improve the user journey
    - Prohibiting obstacles such as unnecessary steps, registrations and authentication requirements
    - Allows for the handling of user credentials and removes the possibility to force a redirection user journey
    - Mandates accommodation of one-SCA journeys
    - Initiate and revoke direct debits, single payments and future dated payments
  - Will improve merchant experience and data points
    - Higher certainty of settlement/mitigation of non-settlement
      - Irrevocability of payment order by payer itself
      - Better status updates (status of payment execution)
  - Mandates provision of payer name prior to payment initiation



# Thank you!

Questions?

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