ALBER & GEIGER
Advocacy in Legislation

Gambling halls in the Revised 4th EU Directive on Money Laundering

1. The European Commission's proposal for a new Directive on Money Laundering aims to extend the scope of the current Directive beyond "casinos" to all "providers of gambling services."

2. Making privately owned gambling halls part of the Directive is disproportionate and misses the Directive's targets:

a) The Directive's goal is to only include such sectors that impose a high risk of money laundry, starting at cash payments of € 7.500 and more, such as banking, real estate and trade in precious stones and metals (see International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation, FATF Recommendations, Feb. 2012, para. 22; FATF report, High Level Principles and Procedures, June 2007, point 3.7).

b) The monetary limits for gambling machines in privately owned gambling halls are far too low to make them attractive for money laundry. The maximum deployable amount of money in privately owned gambling halls each day is € 2.796. Therefore, they do not pose a risk of money laundry.

c) The Financial Action Task Force's recommendations do not see any necessity to include privately owned gambling halls in the scope of their recommendations to combat money laundering (see FATF Recommendations, Feb. 2012)

d) The European E-Money Association and the ECB have both emphasized that excluding low risk operations from the scope of the Directive is crucial. At the same time, they have indicated on a number of occasions that the "measures should be carefully weighed against the expected public benefits" (see Matrix Insight, EU Commission DG MARKT, Additional research to assess the impact of potentially changing the scope (Art. 3) of the Regulation on information accompanying transfers of funds, 28.02.2013, Page 15; ECB, Opinion of the ECB, 17.05.2013, CON/2013/31, point 3.1).

3. Past experience of inclusion in the scope of the Directive of low risk sectors, like the retail industry, has not led to a significant improvement in combating money laundering. It only caused high costs for individual business owners and numerous close-downs (DIHK statement on the report of the Commission on the application of the 3rd Money Laundry Directive, 13.06.2012).

4. The inclusion of privately owned gambling halls in the scope of the Directive leads to high costs for business owners, unnecessary bureaucracy with no significant improvements and no results in combating money laundry.

5. Better solution: The new German Gaming Regulation requests machine-specific recordings for gambling machines in privately owned gambling halls. Those records are made during game operations on the gambling machines and stored in a machine-readable manner. This is an adequate, proportionate and sufficient means to prevent money laundry with gambling machines. This model should have been adopted by the 4th EU Directive on Money Laundering as well.

Amendments to the report drafted by MEP Kariņš and MEP Sargentini for the ECON and LIBE Committees

1. The Recital of the Directive should be amended to take into account the inherent differences between casinos, online gambling and other providers of gambling services (including privately-owned gambling halls). The latter cannot be said to present a high risk of money laundering and should therefore not face the same costly due diligence requirements. In this regard, AM **128** (MEP Gauzès and MEP Auconie) justly differentiates between these types of operations, paving the way to a more reasonable set of obligations for privately-owned gambling halls.

2. For Article 2, concerning the general scope of the Directive, we are in favour of an approach whereby Member States would be allowed to exempt certain low-risk sectors from their national laws implementing the Directive. AM **191** (MEP Watson, MEP Torvalds, MEP Newton Dunn) ensures this course of action, and AM 192 (MEP Terho) and AM 195 (MEP Kirkhope) are rather similar.

However, in view of the restrictive actions already taken against privately-owned gambling halls by some Member States, any amendments offering leverage to Member States should be accompanied by a threshold ensuring that some low-risk sectors are not abusively kept out of the exemption list.

3. In this sense, we would like to bring to your attention AM **295** (MEP Gauzès and MEP Auconie). It focuses on other gambling providers besides casinos and online gambling, and stipulates that such low-risk providers should be obliged to apply customer due diligence measures only when paying out winnings above the threshold of 3.000 EUR.

We therefore strongly support a combined approach, where Member States are allowed to exempt gambling sectors they consider to be low-risk (via Article 2), and where providers of these low-risk activities in all Member States are, in any case, obliged to apply customer due diligence measures *only* when paying out winnings above the threshold of 3.000 EUR (via Article 10(d)). Slot machines and other low-payout games can hardly be used as a tool for money laundering; it is unreasonable to ask the providers of these services to apply costly due diligence measures in all situations.