

# Alderney Gambling Control Commission

## The Alderney eGambling (Money Laundering Amendments) Regulations, 2008

<i>Made</i>	<i>17<sup>th</sup> March, 2008</i>
<i>Coming into operation</i>	<i>1<sup>st</sup> May, 2008</i>
<i>Laid before the States</i>	<i>2008</i>

**THE ALDERNEY GAMBLING CONTROL COMMISSION**, in exercise of the powers conferred on it by sections 4(2), 10(2), 14(3) and (4), 18, 20 and 25 of the Alderney eGambling Ordinance, 2006<sup>a</sup>, hereby makes the following Regulations:-

### **Further requirements for internal control system.**

1. (1) Immediately after regulation 251(2) of the 2006 Regulations insert the following paragraphs-

“(3) Without prejudice to the generality of the foregoing, an internal control system shall describe the programmes developed by the eGambling licensee, having regard to its business risk assessment, to ensure that it has such policies, procedures and controls as are appropriate and effective for the purposes of forestalling, preventing and detecting money laundering and terrorist financing, including information about the eGambling licensee’s-

(a) applicable internal policies, procedures and controls, including its policy for reviewing at

appropriate intervals its compliance with the requirements of Part VI of Schedule 6 and the regulations in Chapter V of Part VI associated therewith;

- (b) arrangements to manage compliance;
- (c) screening practices when recruiting relevant employees;
- (d) ongoing employee training programme; and
- (e) audit function to test its systems.

(4) For the purposes of paragraph (3)(a), in considering what is an appropriate interval, the eGambling licensee shall have regard to the risk taking into account-

- (a) the size, nature and complexity of the eGambling it conducts;
- (b) its registered customers and services; and
- (c) the ways in which it provides those services.”.

(2) Immediately before regulation 266 in Chapter II of Part VI of the 2006 Regulations insert the following regulation-

**“Regular review of approved internal control system.**

**265A.** (1) An eGambling licensee shall keep its approved internal control system under regular review so as to ensure that it accurately reflects

the manner in which it is conducting eGambling under its eGambling licence and, when appropriate, it shall make an application in accordance with regulation 269.

(2) Without prejudice to the generality of paragraph (1), an eGambling licensee shall-

- (a) regularly review its business risk assessment so as to keep it up to date and where, as a result of that review, any change to the business risk assessment is required, it shall seek approval to make any corresponding change to its approved internal control system; and
- (b) ensure that a review of its compliance with the requirements of Part VI of Schedule 6 and regulations in Chapter V of Part VI relating thereto is discussed and minuted at a meeting of its board of directors held pursuant to the policy included in its approved internal control system by virtue of regulation 251(3)(a).”.

(3) In paragraph 2 of Part I of Schedule 6 to the 2006 Regulations, for the entry in the list of contents therein numbered “4.13” substitute the following entry-

“4.13 Money laundering and terrorist financing”.

**Further requirements in respect of customers.**

2. (1) Immediately after regulation 332(1) of the 2006 Regulations insert the following paragraph-

“(1A) Prior to registering a customer, or as soon as reasonably practicable thereafter, an eGambling licensee, or, when applicable, an associate on the licensee’s behalf, shall undertake a risk assessment in respect of that person in accordance with the terms of the eGambling licensee’s approved internal control system.”.

(2) At the end of regulation 332(3) of the 2006 Regulations immediately after “system” insert “and the money laundering and terrorist financing provisions set out in Part VI of Schedule 6”.

(3) Immediately after regulation 332 of the 2006 Regulations insert the following regulations-

**“Customer accounts.**

332A. (1) An eGambling licensee, or, when applicable, an associate on the licensee’s behalf, shall not set up anonymous customer accounts or accounts in names which it knows, or has reasonable cause to suspect, to be fictitious.

(2) An eGambling licensee, or, when applicable, an associate on the licensee’s behalf, shall maintain customer accounts in a manner which facilitates the meeting of the requirements of this Chapter and Part VI of Schedule 6.

(3) For the purposes of section 22(5) of the Ordinance, paragraphs (1) and (2) are specified as a “money laundering offence”.

**Regular review of customer relationship.**

332B. An eGambling licensee, or, when applicable, an associate on the licensee’s behalf, shall, in accordance with the terms of the eGambling

licensee's approved internal control system, regularly review any risk assessment carried out under regulation 332(1A) so as to keep it up to date and, where changes to that risk assessment are required, it shall make those changes."

(4) In regulation 333 of the 2006 Regulations, for "control system" substitute "internal control system and in accordance with the money laundering and terrorist financing provisions set out in Part VI of Schedule 6".

(5) In regulation 334(3) of the 2006 Regulations, for the words from "customer in accordance with" to the end substitute the following words-

"customer-

- (a) to an account with a financial institution in his name;
- (b) to an account with an associate of the licensee in his name; or
- (c) by providing a non-negotiable instrument marked "account payee" made out in his name and forwarded to his address as recorded in accordance with regulation 332,

pursuant to the terms and conditions governing the customer relationship and as set out in the licensee's approved internal control system."

(6) For regulation 336 of the 2006 Regulations substitute the following regulation-

**“Compliance with money laundering and terrorist financing provisions.**

336. (1) An eGambling licensee and, to the extent applicable, an associate shall comply with the money laundering and terrorist financing provisions set out in Part VI of Schedule 6.

(2) For the purposes of section 22(5) of the Ordinance, any requirement set out in Part VI of Schedule 6 is specified as a “money laundering offence”.

(7) For Part VI of Schedule 6 to the 2006 Regulations substitute the Part set out in the Schedule to these Regulations.

**Further and modified definitions.**

3. (1) In regulation 401(1) of the 2006 Regulations, insert the following definitions at the appropriate alphabetical places-

“**business risk assessment**” means an assessment which documents the exposure of the business of an eGambling licensee to money laundering and terrorist financing risks, and vulnerabilities, including those that may arise from new or developing technologies that might favour anonymity, taking into account its-

(a) size, nature and complexity; and

(b) customers and services and the ways in which it provides those services;”;

“**customer relationship**” means a continuing relationship between an eGambling licensee and a registered customer to enable the effecting of gambling transactions;”;

“**employee**” means an individual working, including on a temporary basis, for an eGambling licensee whether under a contract of employment, a contract for services or otherwise;”;

“**money laundering**” is any act which-

- (a) constitutes an offence under section 38, 39 or 40 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999<sup>b</sup>;
- (b) constitutes an offence under section 57, 58 or 59 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000<sup>c</sup>;
- (c) constitutes an attempt, conspiracy or incitement to commit an offence specified in subparagraph (a) or (b);
- (d) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a) or (b); or
- (e) would constitute an offence specified in paragraph (a), (b), (c) or (d) if done in the Bailiwick of Guernsey,

irrespective of the value of the property involved and, for the purposes of this definition, having possession of any property shall be taken to be doing an act in relation to it;”;

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<sup>b</sup> Order in Council No. VIII of 1999; No. II of 2005; No. XV of 2007; Guernsey Ordinance Nos. XXVIII and XXXIII of 1999; No. XII of 2002; No. XXXIII of 2003; No. XLVII of 2007; GSI No. 27 of 2002; and No. 33 of 2007.

<sup>c</sup> Order in Council No. VII of 2000; No. II of 2005; Nos. XVI and XVII of 2007; and Guernsey Ordinance No. XXXIII of 2003.

“**relevant employee**” means any-

- (a) member of the eGambling licensee’s board of directors;
- (b) member of the management of the eGambling licensee;  
and
- (c) employees whose duties relate to the effecting of gambling transactions, including arranging payments in respect of such transactions,

whether or not they hold a key individual certificate;”;

“**risk**” means a risk of money laundering or terrorist financing occurring and “**risk assessment**” shall be construed accordingly;”;

“**Terrorism Law**” means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002<sup>d</sup>;”;

“**terrorist financing**” means doing any act which-

- (a) constitutes an offence under section 8, 9, 10 or 11 of the Terrorism Law and, for the purposes of this definition, the “**purposes of terrorism**” shall include, to the extent that they do not already do so-
  - (i) any attempt, conspiracy or incitement to carry

<sup>d</sup>

Order in Council No. XVI of 2002; No. XIII of 2006; Guernsey Ordinance No. XXXIII of 2003; and No. XLVI of 2007.



out terrorism within the meaning of section 1 of the Terrorism Law, or

- (ii) aiding, abetting, counselling or procuring the carrying out of such terrorism;
- (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in subparagraph (a);
- (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in subparagraph (a);  
or
- (d) would, in the case of an act done otherwise than in the Bailiwick of Guernsey, constitute an offence specified in subparagraph (a), (b) or (c) if done in the Bailiwick of Guernsey,

irrespective of the value of the property involved and, for the purposes of this definition, having possession of any property shall be taken to be doing an act in relation to it;”.

(2) In regulation 401(1) of the 2006 Regulations-

- (a) in paragraph (b) of the definition of “**appropriate resources**”, for “illegality; and” substitute “illegality, including, for the avoidance of doubt, whether those resources may have been derived from money laundering or terrorist financing;”; and
- (b) in the definition of “**appropriate services**”, for

“eGambling.” substitute “eGambling and who have satisfied applicable screening processes relating to money laundering or terrorist financing on recruitment;”.

**Consequential amendments.**

4. In the “ARRANGEMENT OF REGULATIONS” of the 2006 Regulations-

- (a) immediately before the entry relating to regulation 266 in Chapter II of Part VI insert the following entry-

“265A. Regular review of approved internal control system.”;

- (b) immediately after the entry relating to regulation 332 insert the following entries-

“332A. Customer accounts.

332B. Regular review of customer relationship.”; and

- (c) for the entry relating to regulation 336 substitute the following entry-

“336. Compliance with money laundering and terrorist financing provisions.”.

**Interpretation.**

5. (1) In these Regulations, “the 2006 Regulations” means the Alderney eGambling Regulations, 2006, as amended by the Alderney eGambling

(Amendment) Regulations, 2006, the Alderney eGambling (Amendment) (No. 2) Regulations, 2006 and the Alderney eGambling (Amendment) Regulations, 2007.

(2) The Interpretation (Guernsey) Law, 1948<sup>e</sup> applies to the interpretation of these Regulations as it applies to the interpretation of an enactment in force in the Island of Guernsey.

### **Transitional provisions.**

6. (1) The introduction by regulations 1 and 2 of requirements to supplement or modify the content required in an eGambling licensee's internal control system shall be deemed to constitute a control change notice as if it were given in accordance with regulation 266 of the 2006 Regulations to all eGambling licensees whose internal control systems have, or will have, been approved on or before 30<sup>th</sup> April, 2008 and requires such an eGambling licensee to apply for approval from the Commission for the necessary changes to a revised internal control system by 30<sup>th</sup> May, 2008.

(2) In respect of an eGambling licensee whose internal control system has, or will have been, approved on or before 30<sup>th</sup> April, 2008, paragraph 1 of Part VI of Schedule 6 (as substituted by these Regulations) shall apply as if it required the licensee to carry out a suitable and sufficient business risk assessment as soon as reasonably practicable and in any event by 30<sup>th</sup> May, 2008.

(3) In relation to a customer relationship established prior to 1<sup>st</sup> May, 2008 in respect of which there is maintained an anonymous customer account or a customer account which the eGambling licensee, or, when applicable, an associate on the licensee's behalf, knows, or has reasonable cause to suspect, is in a fictitious name, it shall as soon as possible thereafter and in any event before such account is used again in any way ensure that the measures required by paragraph 2 of Part VI of

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<sup>e</sup> Ordres en Conseil Vol. XIII, p. 355.

Schedule 6 (as substituted by these Regulations) are taken as if subparagraph (d) thereof applied and either amend the registered customer's account accordingly or take the steps required by paragraph 5 thereof.

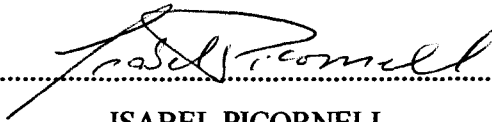
**Citation.**

8. These Regulations may be cited as the Alderney eGambling (Money Laundering Amendments) Regulations, 2008.

**Commencement.**

9. These Regulations shall come into force on the 1<sup>st</sup> May, 2008.

Dated this 17<sup>th</sup> day of March, 2008.



ISABEL PICORNELL

Member of the Alderney Gambling Control Commission  
for and on behalf of the Commission.

Regulation 3(6)

SCHEDULE  
SUBSTITUTED PART VI OF SCHEDULE 6

“Regulation 336

PART VI  
MONEY LAUNDERING AND TERRORIST FINANCING PROVISIONS

*Risk assessment*

**Business risk assessment.**

1. An eGambling licensee shall carry out a suitable and sufficient business risk assessment before submitting its application for approval of its internal

control system in accordance with regulation 252.

*Customer due diligence, etc.*

**Customer due diligence.**

2. An eGambling licensee shall undertake customer due diligence measures-

- (a) subject to paragraph 4, before registering a customer in accordance with regulation 332;
- (b) immediately after a registered customer, in accordance with regulation 333, makes a deposit-
  - (i) of €3,000 or more, or
  - (ii) that results in the total value of his deposits in the course of any period of 24 hours reaching or exceeding €3,000;
- (c) when it knows or suspects or has reasonable grounds for knowing or suspecting that a person is engaged in money laundering or terrorist financing; or
- (d) when it doubts the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification of a registered customer.

**Additional customer due diligence.**

3. (1) Where an eGambling licensee is required to carry out customer due diligence in accordance with paragraph 2, it shall also carry out enhanced

customer due diligence in relation to the following customer relationships-

- (a) a relationship in which the customer or any beneficial owner or underlying principal is a politically exposed person;
- (b) a relationship where the customer is established or situated in a country or territory that does not apply or insufficiently applies the FATF Recommendations;
- (c) a relationship which has been assessed as a high risk relationship pursuant to regulation 332(1A) or 332B.

(2) Where a customer relationship falls within subparagraph (1)(a), an eGambling licensee shall-

- (a) ensure that senior management approval is obtained for registering the customer, or, in the case of an existing registered customer, continuing that relationship;
- (b) take reasonable measures to establish the source of any funds and of the wealth of the customer and beneficial owner and underlying principal.

(3) Where the customer was not physically present when an activity set out in paragraph 2(a) or (b) takes place, the eGambling licensee shall take adequate measures on a risk-sensitive basis to compensate for the specific risk arising as a result-

- (a) when carrying out customer due diligence measures; and

- (b) when carrying out monitoring of that relationship pursuant to paragraph 6.

**Timing of identification and verification.**

4. Verification of the identity of the customer and of any beneficial owner and underlying principal may be completed following the registration of the customer provided that-

- (a) it is completed as soon as reasonably practicable thereafter;
- (b) the need to do so is essential not to interrupt the normal conduct of the eGambling licensee's business; and
- (c) appropriate and effective policies, procedures and controls are set out in the licensee's approved internal control system so as to manage risk.

**Non-compliance with customer due diligence measures, etc.**

5. Where an eGambling licensee is unable to comply with paragraph 2 and, where applicable, paragraph 3, it shall-

- (a) in the case of a person wishing to become a registered customer, not register that person as a customer;
- (b) in the case of an existing registered customer, terminate that customer relationship; and
- (c) consider whether making a disclosure is required pursuant to Part I of the Disclosure Law or section 12 of

the Terrorism Law.

*Ensuring compliance and record keeping*

**Monitoring transactions and other activity.**

6. (1) An eGambling licensee shall perform ongoing and effective monitoring of any existing customer relationship, which shall include-

- (a) reviewing identification data to ensure they are kept up to date and relevant in particular for registered customers in respect of whom there is a high risk;
- (b) ensuring that the way in which identification data are recorded and stored is such as to facilitate the ongoing monitoring of each customer relationship; and
- (c) without prejudice to the eGambling licensee's obligations under regulation 339, scrutiny of any transactions or other activity (including, where necessary, the source of funds) to ensure that the transactions are consistent with the licensee's knowledge of the registered customer and his risk profile, paying particular attention to all-
  - (i) complex transactions,
  - (ii) transactions which are both large and unusual, and
  - (iii) unusual patterns of transactions,



which have no apparent economic purpose or no apparent lawful purpose and recording its findings thereon in writing.

(2) The extent of any monitoring carried out under this paragraph and the frequency at which it is carried out shall be determined on a risk-sensitive basis including whether or not the customer relationship is a high risk relationship.

**Reporting suspicion.**

7. (1) An eGambling licensee shall-
  - (a) provide the name and title of the officer appointed as its money laundering reporting officer in accordance with regulation 21(d) (its “**MLRO**”) to the Commission and the Financial Intelligence Service as soon as is reasonably practicable and, in any event, within fourteen days starting from the date of that person’s appointment;
  - (b) nominate another person (a “**nominated officer**”) to carry out the functions of the MLRO in his absence and ensure that any relevant employee is aware of the name of that nominated officer;
  - (c) ensure that where a relevant employee, other than the MLRO, is required to make a disclosure under Part I of the Disclosure Law or section 12 of the Terrorism Law, that this is done by way of a report to the MLRO, or, in his absence, to a nominated officer;
  - (d) ensure that the MLRO, or, in his absence, a nominated

officer, in determining whether or not he is required to make a disclosure under Part I of the Disclosure Law or section 12 of the Terrorism Law, takes into account all relevant information;

- (e) ensure that the MLRO, or, in his absence, a nominated officer, is given prompt access to any other information which may be of assistance to him in considering any report; and
- (f) ensure that it establishes and maintains such other appropriate and effective procedures and controls as are necessary to ensure compliance with requirements to make disclosures under Part I of the Disclosure Law and section 12 of the Terrorism Law.

(2) Where an eGambling licensee makes a disclosure under Part I of the Disclosure Law or section 12 of the Terrorism Law, a copy of that disclosure shall be provided to the Commission at the same time or as soon as practicable thereafter.

**Employee screening and training.**

8. (1) An eGambling licensee shall maintain appropriate and effective procedures, when hiring employees, for the purpose of ensuring high standards of employee probity and competence.

(2) An eGambling licensee shall ensure that relevant employees receive comprehensive ongoing training in-

- (a) the relevant enactments, the Law, the Ordinance and these Regulations;

- (b) the personal obligations of employees and their potential criminal liability under the relevant enactments and the Ordinance;
- (c) the implications of non-compliance by employees with any guidance issued by the Commission in accordance with section 20(3)(b) of the Ordinance; and
- (d) its policies, procedures and controls for the purposes of forestalling, preventing and detecting money laundering and terrorist financing.

(3) An eGambling licensee shall identify relevant employees who, in view of their particular responsibilities, should receive additional and ongoing training, appropriate to their rôles, in the matters set out in subparagraph (2) and shall provide such training.

**Record-keeping.**

9. (1) An eGambling licensee shall keep-
- (a) a transaction document or a copy thereof for five years starting from the date that both the transaction and any related transaction were completed; and
  - (b) any customer due diligence information or a copy thereof for five years starting from the date the person concerned ceased to be a registered customer,

or, in either case, for such other longer period as the Commission may direct.

(2) Where an eGambling licensee is required by any enactment, rule of law or court order to provide a transaction document or any customer due diligence information to any person before the end of the period set out in subparagraph (1), the licensee shall-

- (a) keep a copy of the transaction document or customer due diligence information until the period has ended or the original is returned, whichever occurs first; and
- (b) maintain a register of transaction documents and customer due diligence information so provided.

(3) An eGambling licensee shall also keep records of-

- (a) any findings made under paragraph 6(1)(c) for five years from the date the record was created;
- (b) any reports made to its MLRO as referred to in paragraph 7 and of any disclosure made under Part I of the Disclosure Law or section 12 of the Terrorism Law made other than by way of a report to the MLRO for five years starting from the date the person concerned ceased to be a registered customer;
- (c) any training carried out under paragraph 8 for five years starting from the date the training was carried out;
- (d) any minutes or other documents prepared pursuant to regulation 265A(2) until-
  - (i) the expiry of five years starting from the date

that they were finalised, or

- (ii) they are superseded by later minutes or other documents prepared under that regulation,

whichever occurs later; and

- (e) its policies, procedures and controls which it is required to establish and maintain pursuant to these Regulations, including previous iterations of the relevant sections of its approved internal control system, for five years starting from the date that they ceased to be operative.

(4) Documents and customer due diligence information, including any copies thereof, kept under this paragraph-

- (a) may be kept in any manner or form, provided that they are readily retrievable; and
- (b) shall be made available on a timely basis to the Financial Intelligence Service, the Commission or any other person where such documents or customer due diligence information are requested pursuant to these Regulations or any relevant enactment.

### *Miscellaneous*

#### **Interpretation.**

10. (1) In this Part, unless the context otherwise requires-

“**beneficial owner**” means, in relation to a customer relationship-

- (a) the natural person who ultimately owns or controls the customer, and
- (b) a person on whose behalf the customer relationship is to be or is being conducted and, in the case of a trust or other legal arrangement, this shall mean-
  - (i) any beneficiary in whom an interest has vested, and
  - (ii) any other person who appears likely to benefit from that trust or other legal arrangement;

**“customer due diligence information” means-**

- (a) identification data, and
- (b) any other files and correspondence relating to the customer relationship;

**“customer due diligence measures” means-**

- (a) identifying the customer and verifying the customer’s identity on the basis of identification data,
- (b) identifying, where there is a beneficial owner or underlying principal who is not the customer, the beneficial owner or underlying principal and taking adequate measures, on a risk-sensitive basis, to verify his identity so that the eGambling licensee is satisfied

that it knows who the beneficial owner or underlying principal is, including, in the case of a legal person, trust or other legal arrangement, measures to understand the ownership and control structure of the person, trust or arrangement,

- (c) identifying any person purporting to act on behalf of a customer and verifying that identity on the basis of identification data and the authority of the person so acting; and
- (d) obtaining information on the purpose and intended nature of the customer relationship;

**“Disclosure Law”** means the Disclosure (Bailiwick of Guernsey) Law, 2007<sup>f</sup>;

**“document”** includes information recorded in any form (including, without limitation, in electronic form);

**“enactment”** includes a Law, an Ordinance or any subordinate legislation and any provision or portion of a Law, an Ordinance or any subordinate legislation and, for the purposes of this definition, **“subordinate legislation”** means any statutory instrument, regulation, rule, order, notice, rule of court, resolution, scheme, warrant, byelaw or other instrument made under any enactment and having legislative effect;

**“enhanced customer due diligence”** means steps in relation to identification and verification in addition to customer due diligence measures,

including taking the following steps-

- (a) considering whether additional identification data need to be obtained and, where the eGambling licensee considers such data need to be obtained, obtaining them,
- (b) considering whether additional aspects of the customer's identity need to be verified and, where the eGambling licensee considers such aspects need to be verified, verifying them,
- (c) considering whether it is appropriate to take reasonable measures to establish the source of any funds and of the wealth of the customer and any beneficial owner and underlying principal, and, where the eGambling licensee considers that it is so appropriate, taking such measures, and
- (d) carrying out more frequent and more extensive ongoing monitoring in accordance with paragraph 6;

**“FATF Recommendations”** means the Financial Action Task Force Recommendations on Money Laundering and the Financial Action Task Force Special Recommendations on Terrorist Financing as revised or reissued from time to time;

**“Financial Intelligence Service”** means the service, known by that title, comprising those officers of police and customs officers assigned to the service for the purpose of the receipt, analysis and dissemination within the Bailiwick of Guernsey, and elsewhere, of disclosures which are more commonly known, or referred to, as suspicious transaction reports and, for the



purposes of this definition, **“customs officer”** means an officer within the meaning of section 1(1) of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972<sup>g</sup>;

**“high risk relationship”** means a customer relationship which has a high risk of involving money laundering or terrorist financing and related terms shall be construed accordingly;

**“identification data”** means documents, data or information relating to identification which are from a reliable and independent source;

**“legal arrangement”** means an express trust or any other vehicle whatsoever which has a similar legal effect;

**“MLRO”** shall be construed in accordance with paragraph 7(1)(a);

**“nominated officer”** shall be construed in accordance with paragraph 7(1)(b);

**“politically exposed person”** means-

- (a) a person who has, or has had at any time, a prominent public function or who has been elected or appointed to such a function in a country or territory other than the Bailiwick of Guernsey including, without limitation-
  - (i) heads of state or heads of government,

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<sup>g</sup> Ordres en Conseil Vol. XXIII, p. 573; Vol. XXIV, p. 87; Order in Council No. XIII of 1991; and No. X of 2004.

- (ii) senior politicians and other important officials of political parties,
  - (iii) senior government officials,
  - (iv) senior members of the judiciary,
  - (v) senior military officers, and
  - (vi) senior executives of state owned body corporates,
- (b) an immediate family member of such a person including, without limitation, a spouse, partner, child, sibling, parent-in-law or grandchild of such a person and, for the purposes of this definition, “partner” means a person who is considered by the law of the country or territory in which the relevant public function is held as being equivalent to a spouse, or
- (c) a close associate of such a person, including, without limitation-
- (i) a person who is widely known to maintain a close business or professional relationship with such a person, or
  - (ii) a person who is in a position to conduct substantial financial transactions on behalf of such a person;

**“relevant enactments” means-**

- (a) the Money Laundering (Disclosure of Information) (Alderney) Law, 1998<sup>h</sup>,
- (b) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (c) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (d) the Terrorism (United Nations Measures) (Channel Islands) Order 2001<sup>i</sup>,
- (e) the Al-Qaida and Taliban (United Nations Measures) (Channel Islands) Order 2002<sup>j</sup>,
- (f) the Terrorism Law,
- (g) the Disclosure Law,
- (h) the Transfer of Funds (Alderney) Ordinance, 2007<sup>k</sup>,

and such enactments relating to money laundering and terrorist financing as

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<sup>h</sup> Order in Council No. VII of 1998.

<sup>i</sup> S.I. 2001/3363 (registered on 11<sup>th</sup> October, 2001) as amended by S.I. 2002/258 and the British Overseas Territories Act 2002, s. 2(3) (an Act of Parliament).

<sup>j</sup> S.I. 2002/258 (registered on 18<sup>th</sup> February, 2002) as amended by the British Overseas Territories Act 2002, s. 2(3) (an Act of Parliament).

<sup>k</sup> Ordinance No. VI of 2007.

may be enacted from time to time in, or in respect of, the Island of Alderney;

**“transaction document”** means a document which is a record of a transaction carried out by an eGambling licensee with a registered customer and which, as a minimum, identifies the customer, the nature and date of the transaction and the type and amount of the currency involved;

**“underlying principal”** means, in relation to a customer relationship, any person who is not a beneficial owner but who-

- (a) is a settlor, trustee or protector of a trust which is the customer or the beneficiaries of which are the beneficial owners, or
- (b) exercises ultimate effective control over the customer or exercises or is to exercise such control over the customer relationship,

and, for the purposes of this definition, **“protector”** means a person other than a trustee who, as the holder of an office created by the terms of the trust, is authorised or required to participate in the administration of the trust.

(2) A reference to an enactment is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.

### **Application to associates.**

11. (1) Where an eGambling licensee has arranged for the performance of any activity required to be carried out in accordance with this Part to be undertaken on its behalf by an associate, a reference to an eGambling licensee in this Part shall include a reference to such an associate.

(2) An eGambling licensee shall ensure that an associate in a country or territory outside the Island of Alderney to which subparagraph (1) applies complies with-

- (a) the applicable requirements of this Part and the regulations in Chapter V of Part VI associated therewith; and
- (b) the requirements under the law in that country or territory which are consistent with the FATF Recommendations,

to the extent that the law of that country or territory allows and if the law of that country or territory does not so allow in relation to any requirement of the Regulations, the licensee shall notify the Commission accordingly.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by the Alderney Gambling Control Commission under the Alderney eGambling Ordinance, 2006, as amended, and introduce a range of revised and updated provisions for the purpose of strengthening the regulatory requirements imposed on eGambling licensees and their associates to forestall, prevent and detect money laundering and terrorist financing so as to reflect revised international recommendations relating thereto.

Regulation 1 introduces amendments to the 2006 Regulations that impose further requirements in relation to the content of an eGambling licensee's internal control system so that it covers more comprehensively particular aspects of its internal policies, procedures and controls relating to combating money laundering and terrorist financing and the requirement to keep these elements under review and up to date.

Under regulation 2, further provisions are inserted into the 2006 Regulations requiring eGambling licensees or their associates to carry out risk assessments in relation to customers and to review those assessments regularly. Amendments to the 2006 Regulations prohibit licensees or associates setting up anonymous customer accounts or accounts in apparently fictitious names, specifying that any contravention is a "money laundering offence" for the purposes of section 22(5) of the Alderney eGambling Ordinance, 2006, as amended, and prescribe the acceptable methods for remitting customer funds. Finally, the regulation substitutes regulation 336 of and Part VI of Schedule 6 to the 2006 Regulations so that compliance with the money laundering and terrorist financing provisions set out in the substituted Part VI is mandatory and any contravention of a requirement therein is a "money laundering offence" for the purposes of section 22(5) of the 2006 Ordinance.

Regulations 3 and 4 make various consequential amendments, inserting a number of further definitions into the 2006 Regulations, amending two definitions therein to make explicit reference to money laundering and terrorist financing and adding new and replacement entries into the Arrangement of Regulations. Regulation 5 is the interpretation provision. Regulation 6 sets out transitional provisions directing the eGambling licensees to which they apply: to seek approval of a changed internal control system incorporating the new requirements relating to money laundering and terrorist financing; to carry out a business risk assessment; and to review any anonymous customer accounts and those in apparently fictitious names. Regulations 7 and 8 contain the citation and commencement provisions.

The Schedule to the Regulations contains the substituted Part VI of Schedule 6 to the 2006 Regulations, setting out the revised mandatory money laundering and terrorist financing provisions. In future, an eGambling licensee must carry out a business risk assessment before applying for approval of its internal control system. Licensees or their associates are obliged to carry out customer due diligence before registering a customer (or as soon as reasonably practicable thereafter), immediately after a customer makes deposits above the stated threshold of €3,000 within a 24-hour period and in other specified situations. In higher risk cases, the licensee or associate must carry out enhanced customer due diligence. If the licensee or associate cannot comply with these requirements, the person cannot be registered as a customer or, where he is already a customer, the customer relationship must be terminated and, in either case, consideration must be given to making a disclosure report. An eGambling licensee or its associate must perform ongoing and effective monitoring of the customer relationship. The reporting requirements for the money laundering reporting officer and those who act in his absence are set out. Provision is made relating to requirements for screening of employees during recruitment and delivering appropriate training to personnel. Finally, various requirements are imposed about keeping records relating to transactions, customer due diligence and other matters for five years or more.