

FAQs related to Agreed Upon Procedures Reports on Player Funds and Gaming Revenue

Malta Gaming Authority

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Acronyms

AUP	Agreed Upon Procedures
B2B	Business to Business
B2C	Business to Consumer
LRMS	Licensee Relationship Management System
MGA	Malta Gaming Authority

1 Context

Further to the communication issued by the MGA on 25 November 2021 ([click here](#)), licensees are now required to fulfil their obligations stemming from Article 41(2)(b)(ii) and (iii) of the Gaming Authorisations and Compliance Directive (Directive 3 of 2018) which stipulates that in the case of B2C licensees:

- an AUP report drawn up in accordance with ISRS 4400 (Revised) *Agreed-Upon Procedures Engagements* in relation to the Gaming Tax and the Gaming Licence Fees applicable to the licensees which fall under the Maltese licence is submitted to the MGA (hereinafter “Gaming Revenue Declaration”); and
- an AUP report drawn up in accordance with ISRS 4400 (Revised) *Agreed-Upon Procedures Engagements* in relation to the player funds, the jackpot funds, as well as the portion of Player Funds Account balance held by the licensees which fall under the Maltese licence, is submitted to the MGA (hereinafter “Player Funds Declaration”).

The AUP reports, which shall be provided in the form of separate reports signed by an audit practitioner, are distinct from the statutory auditor’s report and are thus subject to separate terms of engagement.

In order to provide clarity on the professional requirements in the carrying out of the engagements intended to procure the AUP reports and to provide guidance on the AUPs to be performed in accordance with the International Standard on Related Services (ISRS) 4400 (Revised), the Malta Institute of Accountants Gaming Committee in collaboration with the MGA issued the below Technical Releases, laying down the professional requirements for the carrying out of these engagements:

[Technical Release Audit O2/21 – Gaming Tax Payable and Levy on Gaming Devices](#)

[Technical Release Audit O2/21 – Player Funds and Jackpot Funds](#)

Moreover, the MGA is hereby publishing this document which is aiming to answer the frequently asked questions received with regards to these AUPs.

2 FAQs

2.1 Are the AUPs only to be prepared by B2C licence holders?

Yes.

2.2 Shall the AUPs be prepared by Recognition Notice holders?

No.

2.3 Which licensees are required to submit the AUPs?

The requirement to submit the AUPs applies to all companies licensed by the MGA, except for:

- B2B licensees;
- Companies which were granted a licence during the period covered by the Audited Financial Statements for the financial year ending during 2021 (such companies shall then be required to submit the respective declarations for the financial years ending during 2022 onwards);
- Companies covered by a Corporate Group Licence, other than the main licensee which shall still be required to submit the declarations.

2.4 In the case of a corporate group licence, would it be correct to say that the scope of testing carried out for both gaming tax and player funds reporting would be solely restricted to the main licence holder?

Correct. For the financial year 2021 only the main licence holder of a corporate group licence shall be obliged to prepare the AUPs. This shall however be reassessed by the MGA for future financial years and any changes to this policy shall be communicated to the industry.

2.5 Are B2B licence holders offering shared pooled jackpots obliged to prepare the AUPs?

All B2B licensees, whether or not they are offering a shared pooled jackpot, fall out of scope and are thus not required to prepare the AUPs.

2.6 Given that B2B licence holders fall outside the scope of the AUPs, would this also apply in terms of Article 41(2)(b)(ii) and (iii) of the Gaming Authorisations and Compliance Directive?

All B2B licence holders are exempted from reporting the AUPs in terms of Article 41(2)(b)(ii) and (iii) of the Gaming Authorisations and Compliance Directive.

2.7 Would a B2C licence holder be required to prepare the AUPs for the first year of being granted a licence?

No. If for example, a B2C licence holder would have obtained its licence in April 2021, it shall not be required to prepare the AuPs for financial year 2021. Notwithstanding this exemption, preparation of the AUPs shall still be required for subsequent years.

2.8 If a B2C licence holder has not gone live yet, would the preparation of the AUPs still be required?

Yes, in such case, it would still be required. The MGA is already allowing an exemption from the requirement to prepare the AUPs for the first financial year during which a licence is granted, hence, no further exemptions shall be permitted from the second financial year onwards, should a licensee still remain non-operational until that time.

2.9 If a B2C licence holder has been suspended voluntarily at some point during the year, would the respective licensee be exempted from preparing the AUPs?

A B2C licence holder which would have had its licence suspended voluntarily for some time during the year is still obliged to prepare the AUPs.

2.10 What is the deadline for submission of the AUPs to the MGA?

The AUPs are to be submitted **annually** to the MGA not later than 6 months from the licensee's financial year end. A 4-month extension until 30 October 2022 shall only be granted for financial year 2021.

2.11 How shall the AUPs be submitted to the MGA and who shall be submitting them?

The AUPs shall be submitted to the MGA by the licensee through the MGA's LRMS which can be accessed through <https://portal.mga.org.mt>. The AUPs shall be uploaded through the draft record entitled 'Auditor Player Funds & Gaming Revenue' which shall be visible on the licensee's respective timeline as at its financial year end date.

2.12 Which auditors are permitted to prepare the AUPs?

Auditors in possession of a certificate to practise in the field of auditing under the Accountancy Profession Act (Chapter 281 of the Laws of Malta) and/or system and compliance auditors approved by the MGA.

2.13 Can the practitioner access the MGA's online portal to check whether its client is obliged to prepare these AUPs?

The compliance obligation to submit the AUPs rests with the licence holder. To the extent that the practitioner is submitting on the licensee's behalf, they could request access. In this regard,

the practitioner would have access to the MGA's LRMS/online portal only in the event that such access has been granted by the licensee's Power User through the LRMS itself.

2.14 Will the MGA be notifying all gaming companies of their requirements in relation to these AUPs?

All B2C licensees required to prepare the AUPs shall be able to view the draft record entitled 'Auditor Player Funds & Gaming Revenue' on the MGA's LRMS. In the event that a B2C licensee concludes that they fall within the scope of the AUPs, and are however unable to locate the draft record on their LRMS timeline, then they are kindly requested to notify the MGA by sending an email to pfr.mga@mga.org.mt.

2.15 The *Technical Release Audit 02/21 – Player Funds and Jackpot Funds* requires certain procedures to be followed with regards to specified figures. Do these figures relate only to the financial year end figures or month end figures?

These relate to the financial year end figures.

2.16 The *Technical Release Audit 02/21 – Player Funds and Jackpot Funds* requires certain checks to be performed in relation to jackpots. Do these apply to all types of jackpots?

No. The AUPs apply only to local jackpots. Local jackpots are in turn deemed to be the jackpots which are managed by the B2C licensee and which it would be liable to pay itself to a winning player.

2.17 The *Technical Release Audit 02/21 – Player Funds and Jackpot Funds* refers to a number of appendices. Are these appendices to be submitted to the MGA?

Yes, however Appendix A4 which refers to a report listing the player account identification number and balances from the back office for all brands, should not be submitted. Notwithstanding this, the MGA reserves the right to request this from the licensee should the need arise.

2.18 The *Technical Release Audit 02/21 – Player Funds and Jackpot Funds* refers to letters sent by the respective financial institutions to the MGA acknowledging that certain accounts are deemed Player Funds Account Balances in terms of Regulations 6 and 7 of the Gaming Player Protection Regulations 2018 (S.L. 583.08). Are these declarations required to accompany the submission of the AUPs to the MGA?

No. In the event that the licensee has not notified the MGA of any such declarations, then the licensee shall be required to submit a separate 'New/Change in Payment Methods' application form through the LRMS.

2.19 The Technical Release Audit 02/21 – Player Funds and Jackpot Funds refers to Player Funds as well as Player Funds Account Balance. What is the difference?

Player Funds means player's money and money's worth held by an operator under an arrangement made between an operator and the player for the provision of a gaming service and includes, but is not limited to, funds that the player has the right to withdraw and funds committed directly by players to games, pending determination of the outcome of such games. *Player Funds Account Balance*, on the other hand, refers to the balance on the accounts held by or for or on behalf of an operator (e.g. with banks, financial institutions etc) which are held for the coverage of player funds and, where applicable, prize float.

2.20 The Technical Release Audit 02/21 – Player Funds and Jackpot Funds refers to the total amount of player funds included in the report. Would this also have to include that part of the player funds balance pertaining to other jurisdictions?

Yes, both the total player funds and the player funds account balance shall be split by the Maltese licence vs a foreign licence. This applies when multiple licences are held by the same company, hence the split would be imperative in order for a reconciliation to be performed between the back office system, the Player Funds Report and the Audited Financial Statements.

2.21 Within Technical Release Audit 02/21 – Gaming Tax Payable and Levy on Gaming Devices, there are some procedures which are not applicable to our company such as:

- **Gaming Services to Maltese Players.**
- **Gaming Devices.**

Could this be the case?

Correct. There may be specific procedures which are not applicable for all the licensees, such as:

- If the licensee does not generate any gaming revenue from Maltese players;
- If the company does not operate within the Maltese land-based sector, then the second part of the procedures related to Levy on Gaming Devices is not applicable.

In this regard, the AUP report shall state the reason why the respective procedures are not applicable.

2.22 Within the *Technical Release Audit 02/21 – Gaming Tax Payable and Levy on Gaming Devices* there are two sets of similar procedures. Which one shall we use?

Two options were provided in the guidance with respect to the extraction of data, i.e. Procedure A vi.:

- Use of a data query: expected to be used when the report is issued by way of a script in a reporting database/tool of the licence holder;
- Use of code: expected to be used when the report is issued directly from the backend, i.e. the code of the back-end needs to be reviewed.

Due consideration needs to be applied by the practitioner as to the need to involve IT specialists in performing Procedure A vi.

3 Concluding remarks

This document will be continuously updated, as the MGA is mindful that new and diverse queries will continue to arise in the future.

For any clarification or additional guidance, licensees are kindly requested to contact the MGA in accordance with the below:

For queries related to the Player Funds Declaration

Send an email to

pfr.mga@mga.org.mt

For queries related to the Gaming Revenue Declaration

Send an email to

taxcompliance.mga@mga.org.mt

