

## Directive 4 of 2018

### Directive on the Calculation of Compliance Contribution

In exercise of the power conferred by article 7(2) of the Gaming Act, 2018 (Cap. 583 of the Laws of Malta), the Malta Gaming Authority is hereby issuing the following directive in order to clarify the manner in which applicable fees are calculated in terms of the Gaming Licence Fees Regulations.

#### Part I – Preliminary

1. The short title of this Directive is the Directive on the Calculation of Compliance Contribution 2018.
2. This Directive is applicable as of the date of entry into force of the Gaming Licence Fees Regulations.

#### Part II – Definitions

3. (1) In this Directive, save as provided in sub-article (2) of this article, all words and phrases shall have the same meaning as prescribed in the Gaming Definitions Regulations or the Gaming Licence Fees Regulations.

(2) In this Directive, unless the context otherwise requires:

“Shared progressive jackpot” means a prize pot shared across multiple licensees and operators, which prize pot increases by each additional contribution by players of the relevant licensees and operators.

#### Part III – Basis for the Calculation of Gaming Revenue

4. In calculating the compliance contribution due in terms of the Gaming Licence Fees Regulations, licensees shall refer to the definition of gaming revenue within the same regulations, and, for the avoidance of doubt, licensees shall refer to the below formula in calculating gaming revenue:

$$(A + B) - (C + B) = \text{Gaming Revenue}$$

**A** = totality of real money wagers<sup>1</sup>;

**B** = totality of bonus wagers and other player financial incentives, as per the definition in article 8 of this Directive; and

**C** = totality of withdrawable winnings, which for the avoidance of doubt excludes bonus winnings or other winnings that are not instantly redeemable.

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<sup>1</sup> This includes real money deposits or winnings held in the player’s account, but does not include any amounts falling within the definition of B. However, items falling under the definition in article 8(ii) shall still be included under A, if, after they’ve been received by a player (at which point they are required to be listed as B), they are subsequently wagered by the player.

5. In calculating the compliance contribution due in terms of the Gaming Licence Fees Regulations, licensees operating Type 3 and Type 4 gaming services shall refer to the definition of '*charge*' within the same regulations, and, for the avoidance of doubt, licensees shall calculate the '*charge*' as follows:
- a. If the licensee's revenue is derived as a part or percentage of the player's contribution, then the '*charge*' shall constitute that part or percentage of the totality of real money wagers by players playing in terms of the MGA licence after deducting any player financial incentives wagered which fall under the definition in article 8(ii) below;
- and/or
- b. If the licensee's revenue is derived in any way other than the above, then the '*charge*' shall constitute the gross portion of monies that are economically retained<sup>2</sup> by the licensee after only deducting any player financial incentives wagered which fall under the definition in article 8(ii) below.
6. The licensee shall, upon request by the Authority, provide data relating to:
- a. the totality of real money wagers;
  - b. the totality of player incentives, which include jackpot contributions and bonus wagers and other player financial incentives;
  - c. the totality of real money winnings, excluding bonus winnings or other winnings that are not instantly redeemable; and
  - d. jackpot winnings constituting a seeded amount, and/or jackpot contributions listed as player financial incentives.
7. Real money winnings also include winnings awarded other than in fiat currency denomination, such as movable or immovable property, trips, tournament entry fees, virtual goods and currency amongst other things, which prizes shall be valued according to the lower of the market value at the time of the winning and the price paid by the licensee to purchase said prize, and in the absence of a purchase price, the deemed value shall be the market price at the time of the winning:

Provided that the licensee may, at any time, be requested to provide a breakdown of all winnings not paid out in fiat currency and included as part of real money winnings, including a description of each item, and the appropriate value:

Provided further that incentives given to players which are not directly related to game winnings, such as prizes awarded as part of a marketing scheme, shall not be included as part of 'real money winnings' for any purposes of this Directive.

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<sup>2</sup> For the avoidance of doubt, the direct cost of tickets incurred in pursuit of the provision of lottery messenger services shall not be considered part of the monies economically retained by the licensee. This reasoning shall not extend to direct costs of tickets incurred as part of a risk hedging strategy for a secondary lottery offer.

8. For the purposes of this Directive the phrase '*bonus wagers and other player financial incentives*' is restricted to include player incentives (such as promotional gaming credits, free bets, bonus bets, bonus wagers and other forms of player credit or player credit equivalents) where:

(i) the use or consumption of the player incentive by the player is effectively equivalent to a real money wager by the player in that it may directly result in real money winnings that are instantly redeemable by the player<sup>3</sup>;

or

(ii) where the player financial incentive is, in the hands of the player, immediately equivalent to a real money winning which is instantly redeemable by the player,

at the time when they are used or consumed by the player (for items falling under (i) above) or received by the player (for items falling under (ii) above<sup>4</sup>) as the case may be, and the term '*bonus wagers*' and / or '*player financial incentives*' shall, wherever used in this Directive, be read and construed accordingly.

Provided that where a licensee offers jackpots containing a portion of the prize which is seeded capital, the portion of the jackpot prize that is seeded capital shall, if won, be included as part of the totality of real money winnings, and in the case of a shared progressive jackpot, if won, the licensee shall only deduct the portion of the seeded capital which it contributed directly itself, if any.

Provided further that any portion of real money wagers that is contributed towards a local jackpot or a shared progressive jackpot shall be excluded from real money wagers for the purposes of articles 4 and 5 of this Directive but shall be included as part of player financial incentives for all purposes of this Directive. Similarly, therefore any local jackpot and shared progressive jackpot winnings derived from the contribution referred to in the preceding sentence shall be excluded from real money winnings for the purposes of articles 4 and 5 of this Directive:

For the avoidance of any doubt the reference to '*any portion of real money wagers that is contributed towards a jackpot or a shared progressive jackpot*' above shall not be interpreted to refer to any amounts of the real money wagers which are payable by way of royalties or by way of any other fees due to any other person and shall only be interpreted to refer to any portion of the real money wagers contributed to the prize pot.

9. No portion of the real money wagers, or of the gaming revenue that is attributable to any portion due in terms of gaming tax, VAT, income tax, corporate tax and other taxes, shall be excluded from the calculation of the totality of real money wagers, or the totality of gaming revenue, as applicable.

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<sup>3</sup> For example, a bonus wager, a free spin or a free bet, whereby any winnings derived therefrom would be directly and immediately redeemable by the player.

<sup>4</sup> Following this, any use or consumption of the financial incentive by the player within the context of a wager, shall be equivalent to be a real money wager as per the definition of A in article 4 of this Directive.

10. There shall be no deductions allowed other than those specified in this Directive.

#### **Part IV – Minimum Compliance Contribution**

11. The minimum compliance contribution shall start accruing on the day when the relevant game type approval is issued, as applicable.
12. With respect to the payment of the minimum compliance contribution in terms of regulation 6(1)(a) of the Gaming Licence Fees Regulations, the minimum amount payable on the twentieth (20<sup>th</sup>) day of that month commencing immediately after the month in which the licence period commences shall be deemed to be the minimum stipulated in the provisos to regulations 3(2), 3(3), 3(4) and 3(5) of the Gaming Licence Fees Regulations, pro-rated accordingly for that specific month, and for the avoidance of doubt, the full minimum amount shall not be due until a full licence period elapses.
13. Without prejudice to the provisions of regulation 27(3) of the Gaming Authorisations Regulations, the compliance contribution shall continue accruing until the day that the licensee informs the Authority that following the applicable termination procedures, the gaming operations under the purview of the applicable licence or approval have halted, and that the Authority is able to confirm the same:

Provided that if the amount due is the minimum compliance contribution, it shall be pro-rated accordingly according to the number of days of that particular month during which the gaming activity was still operational.

14. Licensees approved by the Authority as being start-up undertakings shall refer to regulation 9 of the Gaming Licence Fees Regulations, and to the Directive on Start-Up Undertakings (Directive 1 of 2018) for the applicability of the compliance contribution towards the same.