

**Directive 3 of 2018  
Gaming Authorisations and Compliance Directive**

In exercise of the powers 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 delineate in further detail the specific authorisations and compliance requirements to which authorised persons must adhere.

**Part I – Short Title and Definitions**

1. The short title of this directive is the Gaming Authorisations and Compliance Directive 2018.
2. This directive shall come into force on the 1<sup>st</sup> August 2018.
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.

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

“AML legislation” means the Prevention of Money Laundering Act (Cap. 273 of the Laws of Malta) and all regulations, implementing procedures, guidance, and any other instrument issued thereunder;

“B2C licensee” means a person licensed by the Authority to provide a gaming service;

“B2B licensee” means a person licensed by the Authority to provide a critical gaming supply;

“back-end service” means a critical gaming supply in terms of paragraph (b) of point 3 of the First Schedule to the Gaming Authorisations Regulations;

“bingo hall” means gaming premises in which the only gaming which is carried out consists in tombola games;

“casino licensee” means a B2C licensee offering gaming services within a gaming premises in possession of a concession in terms of article 11 of the Act;

“channel of delivery” means one of the following:

- (a) Online, including virtual reality and augmented reality, and including mobile;
- (b) Remote means other than online; and
- (c) Gaming premises.

“Directive” means this Gaming Authorisations and Compliance Directive;

“game engine” means the entirety of the mechanics, game logic and parameters of a game;

“existing licensee” means a person or entity that, on 1<sup>st</sup> August 2018, is already in possession of a valid licence issued by the Authority, and “existing licensees” shall be construed accordingly;

“game provider” means a B2B licensee that provides a critical gaming supply in terms of paragraph (a) of point 3 of the First Schedule to the Gaming Authorisations Regulations;

“gaming vertical” means a category of products that requires specific safeguards in order to ensure that it is offered in a manner which adheres to law and to the regulatory objectives, owing to its characteristics and the distinction between it and other categories of products. For the sake of clarity, the different verticals include:

- (a) Casino, including live casino;
- (b) Lotteries;
- (c) Secondary lotteries;
- (d) Fixed odds betting, including live betting;
- (e) Pool betting, including betting exchange;
- (f) Peer-to-peer poker;
- (g) Peer-to-peer bingo and other peer-to-peer games, but excluding pool betting, betting exchange, and poker;
- (h) Lottery messenger services;
- (i) Controlled skill games; and
- (j) Any other gaming vertical which is not comprised within the above.

“inactive account” means a player’s account which has not recorded any log in and, or log out and, or which has not recorded any wager, for a period determined by the B2C licensee as being sufficient for the account to be considered inactive:

Provided that such period shall in no case be less than three (3) calendar months;

“essential components” means

- (a) Components hosting Random Number Generators;
- (b) Components hosting jackpots;
- (c) Components hosting the games;
- (d) Gaming database;
- (e) Player database;
- (f) Financial database;
- (g) Control system; and
- (h) Any other component which the Authority may deem to be critical in the context of the set-up of the licensee’s operation, taking into account the risk which the failure of such component would present to the business integrity, safety, privacy or compliance aspects of the licensee’s operation.

“key technical setup” means the technical infrastructure of the licensee, including all the hardware and virtual machines in operation with the respective internal IP addresses, including all the geographic locations and addresses of premises where the essential components are located;

“key person” means the provider of a key function;

“land-based casino” means the gaming premises of a casino licensee;

“licensee” means a B2C licensee or a B2B licensee;

“means of distance communication” or “remote means” includes any means which may be used for the communication, transmission, conveyance and receipt of information (including information in the form of data, text, images, sound or speech) or for the conclusion of a contract between two or more persons;

“national lottery licence” means a licence issued by the Authority in favour of a person to operate the National Lottery and “national lottery licensee” shall be construed accordingly;

“outsourcing” means the use by an authorised person of a third party to perform activities or functions, and, or to provide products or services, or access thereto, which would otherwise form part of the authorised person’s business, and “outsourcing service provider” shall be construed accordingly;

“peer-to-peer games” means games in which the B2C licensee enables different players to play against each other, and derives revenue by way of Charge, and “peer-to-peer” shall be construed accordingly;

“player funds report” or “PFR” shall mean the report required to be submitted in terms of article 39 of this Directive;

“Regulations” means the Gaming Compliance and Enforcement Regulations; and

“remote gaming” and “remote gaming service” means any form of gaming by means of distance communications.

## **Part II – Key Functions**

**4.** (1) Key functions may only be provided by natural persons, and in this Part the term “person” shall be construed accordingly.

(2) In accordance with Part V of the Gaming Authorisations Regulations, persons who provide a key function to a licensee shall be required to hold a certificate of approval issued by the Authority:

Provided that where reasonably necessary due to extenuating circumstances whereby the key function holder cannot exercise his function/s, a person not holding the certificate approval but having the necessary competencies may exercise such function/s on a temporary basis without the prior written approval of the Authority:

Provided further that in any such case, the Authority shall be notified forthwith and in no case later than twenty-four (24) hours after such person is vested with the exercise of the key function/s, and without prejudice to the generality of its powers, the Authority may either approve such person to temporarily exercise such function/s, or may order the licensee to divest such person from exercising such function/s if the Authority does not deem such person suitable for the temporary exercise of such function or function/s:

Provided further that such temporary exercise of key function/s, as the case may be, shall not exceed one (1) calendar month, but may be renewed with the prior written approval of the Authority where the Authority, in its sole discretion, deems that there are justifiable reasons to do so.

5. Each licensee or applicant, as the case may be, shall notify the Authority, in the manner required by the Authority, the following:
- (a) At application stage, the key functions delineated in sub-paragraphs (a), (c) and where applicable, sub-paragraph (f) of article 6 (1);
  - (b) Within six (6) months of the licence being issued by the Authority, the remainder of the key functions applicable in terms of article 6 below; and
  - (c) Whenever a person exercising a key function resigns and, or is dismissed, by not later than three (3) working days after such resignation or dismissal, and of the appointment of the replacement by not later than fifteen (15) working days after such resignation and, or dismissal.

Provided that, for the sake of clarity, persons performing key functions are not required to be employees of the licensee but are required to have full knowledge, understanding and access to the licensee's practices, procedures and systems.

Provided further that the licensee or applicant, as the case may be, may notify persons who are not yet in possession of a certificate of approval to carry out a key function and in such cases, such persons must obtain a certificate of approval in accordance with article 4 (2).

- 5A. Without prejudice to the requirement for licencees to designate the persons responsible for carrying out functions in accordance with this Directive, where no person is approved by the Authority to fulfil a key function, whether temporarily or otherwise, the responsibility for such key function shall vest in the directors of the licencee.
6. (1) Further to the Fourth Schedule to the Gaming Authorisations Regulations, for a B2C licensee that provides remote gaming services and, or a B2C licensee that operates a controlled gaming premises, the key functions shall be the following:
- (a) The chief executive role, or equivalent;
  - (b) Management of the day-to-day gaming operations of the licensee, including but not limited to, the management of the financial obligations of the licensee, such as the payment of tax and fees due to the Authority, the processes of making payments to, and receiving payments from, players, the management of the risk strategies for the operation of the licensee, and the prevention of fraud to the detriment of the licensee;
  - (c) Compliance with the obligations of the licensee as may be applicable by virtue of the Act and any binding instrument issued thereunder, including but not limited to, obligations relating to responsible gaming, obligations relating to player support, obligations relating

- to the rules relating to marketing, advertising and promotional schemes, and where applicable, obligations relating to sports integrity;
- (d) The legal affairs of the licensee, including but not limited to matters relating to contractual arrangements and dispute resolution;
  - (e) The adherence to applicable legislation relating to data protection and privacy;
  - (f) The prevention of money laundering and the financing of terrorism;
  - (g) The technological affairs of the licensee, including but not limited to the management of the back-end and control system holding essential regulatory data, and the network and information security of the licensee; and
  - (h) Internal audit.

Provided that B2C licensees that operate a controlled gaming premises shall also be required to appoint the person responsible for carrying out the key function referred to in article 6 (2)(j).

(2) For a B2C licensee that operates a gaming premises which is not a controlled gaming premises, the key functions shall be the following:

- (a) The chief executive role, or equivalent;
- (b) The management of the day-to-day gaming operations of the licensee, including but not limited to, the management of the financial obligations of the licensee, such as the payment of tax and fees due to the Authority, the processes of making payments to, and receiving payments from, players, the management of the risk strategies for the operation of the licensee, and the prevention of fraud to the detriment of the licensee;
- (c) Compliance with the obligations of the licensee as may be applicable by virtue of the Act and any binding instrument issued thereunder, including but not limited to, obligations relating to responsible gaming, obligations relating to player support, obligations relating to the rules relating to marketing, advertising and promotional schemes, and where applicable, obligations relating to sports integrity;
- (d) The legal affairs of the licensee, including but not limited to, matters relating to contractual arrangements and dispute resolutions;
- (e) The adherence to applicable legislation relating to data protection and privacy;
- (f) The prevention of money laundering and the financing of terrorism;
- (g) Operation of the urn or any other gaming device which requires human intervention used to generate the result of the game in bingo halls:

Provided that where the operation of such urn or other device is supervised by an additional person who is not an officer of the Authority, it shall be sufficient for either the person operating the urn or other device or the person supervising to be approved to provide such key function;

- (h) Management of the pit, including the supervision of the croupiers and assistants and the management of their work, where applicable;
- (i) Management of the gaming area, including the supervision thereof to preclude fraud by customers, and the resolution of customer disputes
- (j) Management of the surveillance systems of the gaming premises, where applicable; and,
- (k) Internal audit.

(3) For a B2B licensee, the key functions shall be the following:

- (a) The chief executive role, or equivalent;
- (b) The management of the day-to-day gaming operations of the licensee, including but not limited to, the management of the financial obligations of the licensee, such as the payment of tax and fees due to the Authority, and the management of the risk strategies for the operation of the licensee;
- (c) Compliance with the obligations of the licensee as may be applicable by virtue of the Act and any binding instrument issued thereunder, including but not limited to obligations relating to sports integrity where these are applicable;
- (d) The legal affairs of the licensee, including but not limited to, matters relating to contractual arrangements and dispute resolution;
- (e) The adherence to applicable legislation relating to data protection and privacy, where applicable;
- (f) The technological affairs of the licensee, including but not limited to, the management of the back-end and control system holding essential regulatory data, and the network and information security of the licensee; and
- (g) Internal audit.

(4) For the National Lottery licensee, the persons performing key functions shall be the following:

- (a) The chief executive role, or equivalent;
- (b) The management of the day-to-day gaming operations of the licensee, including but not limited to, the management of the financial obligations of the licensee, such as the payment of tax and fees due to the Authority, the processes of making payments to, and receiving payments from, players, the management of the risk strategies for the operation of the licensee, and the prevention of fraud to the detriment of the licensee;
- (c) Compliance with the obligations of the licensee as may be applicable by virtue of the Act and any binding instrument issued thereunder, including but not limited to, obligations relating to responsible gaming, obligations relating to player support, obligations relating to the rules relating to marketing, advertising and promotional schemes, and where applicable, obligations relating to sports integrity;
- (d) The legal affairs of the licensee, including but not limited to, contractual arrangements and dispute resolution;
- (e) The adherence to applicable legislation relating to data protection and privacy;
- (f) The prevention of money laundering and the financing of terrorism; and
- (g) The persons who hold a permit to sell national lottery games.

**7.** Without prejudice to the provisos to article 4 of this Directive, it shall be an offence against the Act for a person to perform a key function to a licensee without a certificate of approval issued by the Authority.

**8.** (1) A person who desires to obtain a certificate of approval to perform a key function shall apply to the Authority by making use of the relevant prescribed forms published by the Authority and shall provide all information, documentation and assurances required, and shall pay any applicable fees due.

- (2) Without prejudice to the foregoing, the Authority may require from the applicant any information, documentation and assurances as may be necessary or relevant for the Authority to examine and determine the suitability of the applicant to hold a certificate of approval.
- (3) Without prejudice to any other requirements that may be imposed by the Authority by means of any other binding instrument, an applicant shall not be granted a certificate of approval unless the Authority is satisfied that the applicant:
- (a) satisfies the fitness and propriety criteria of the Authority;
  - (b) is *prima facie* competent to perform the key function; and
  - (c) is committed to be readily available to the Authority for any information which he may be required to submit.
- (4) An application for the renewal of a certificate of approval shall be filed no less than sixty (60) days before its expiry, in such manner as the Authority may require.
- 9.** A person may be granted a certificate of approval to perform more than one (1) key function, and the same key function may be performed by more than one person:
- Provided that no person may exercise key functions which are, in the Authority's sole discretion, deemed to be in conflict with each other.
- 10.** (1) A certificate of approval is valid for a period of three (3) years, unless previously surrendered or revoked.
- (2) A certificate of approval may be renewed if the person holding such approval applies to the Authority, in such manner and on such forms as the Authority may establish and accompanied by the applicable fee, not less than sixty (60) days before the expiry of the certificate of approval.
- 11.** A key person may voluntarily surrender such certificate by giving the Authority no less than twenty (20) days' notice, and the certificate shall be deemed to lapse on the twentieth (20<sup>th</sup>) day following the notice:
- Provided that such surrender shall be without prejudice to the responsibilities and liabilities which such person may incur prior to the date on which the certificate is deemed to lapse;
- Provided further that in exceptional circumstances that are beyond the control of the key person, the Authority may allow the key person to surrender such certificate with immediate effect, particularly if the Authority is satisfied that by maintaining his position the key person may be subject to suffer irreparable damage to his reputation, his fitness and propriety or that may result in financial loss.
- 12.** A key person shall notify the Authority forthwith, and in any case not later than three (3) working days from the date of the occurrence, if:

- (a) Any circumstance arises which may render him not fit and proper to carry out such key function, including but not limited to his conviction of an offence punishable by imprisonment for a period exceeding one year;
- (b) Any circumstance arises in relation to a licensee for which he performs a key function which the licensee is obliged to report to the Authority, and which relates to the function which the key person performs for that licensee;
- (c) Any circumstance arises in relation to a licensee for which he performs a key function which may render the licensee incapable of meeting one or more of its obligations related to the function which the key person performs for that licensee;
- (d) His resignation or dismissal from exercising a key function for a licensee; and
- (e) Any other circumstance which the key person in good faith believes that the Authority should be aware of.

**13.** (1) The Authority shall have the power to suspend a certificate of approval for the performance of a key function in the following instances:

- (a) One of the grounds for suspension envisaged in paragraphs (a), (b), (d), (e) or (f) or (h) of regulation 9 of the Regulations arises, insofar as applicable to the key person;
- (b) The key person fails to notify the Authority in terms of article 12 of this Directive; and, or
- (c) The Authority, in its sole discretion, has determined that there is material and sufficient reason for suspending the certificate of approval.

(2) Sub-regulation (2) of regulation 9 of the Regulations shall apply with respect to the procedure which is applicable for the suspension of a certificate of approval.

**14.** (1) The Authority shall have the power to revoke a certificate of approval for the performance of a key function in the following instances:

- (a) One of the grounds for suspension envisaged in article 13 of this Directive arises, and the Authority in its sole discretion retains that revocation of the certificate is the most appropriate course of action;
- (b) The Authority has suspended the certificate in terms of article 13, in the circumstances of the case, the Authority becomes satisfied that the matter which has led to the suspension cannot be rectified; and, or
- (c) The authorised person continues to perform a key function notwithstanding the suspension of the certificate by the Authority in terms of article 13:

Provided that in the circumstances envisaged in paragraph (c), the licensee making use of such key person shall also be deemed to be in breach of its obligations according to the regulatory instruments.

(2) Sub-regulation (2) of regulation 10 of the Regulations shall apply with respect to the procedure which is applicable for the revocation of a certificate of approval.

### Part III – Key technical setup and essential components

15. For the avoidance of doubt, where reference is made in this part to premises in which key technical setup is located, the same requirements shall insofar as applicable also extend to cloud service providers.
16. (1) The licensee shall at all times maintain updated documentation describing the key technical setup of its licensed operation, which documentation shall include:
- (a) The hardware equipment, including the make and model and other identifiers thereof and the location in which they are hosted;
  - (b) Any virtual machines availed of within the network, including identifiers thereof and the location in which they are hosted;
  - (c) The connections between the points in the network;
  - (d) The specifications of firewalls and routers protecting the setup;
  - (e) The applications installed on the hardware and, or virtual machines including a description and the specifications thereof.
- (2) Any changes to the key technical setup shall be notified to the Authority in terms of article 37.
- (3) Notwithstanding anything contained in any other law or regulatory instrument, any changes to essential components shall require the prior written approval of the Authority before being made:
- Provided that in cases of urgency where a change is required in order to avoid a significant interruption of the licensee's operations, the licensee may make such changes as are strictly necessary in order to avoid such interruption prior to obtaining the Authority's approval:
- Provided further that in any such case, the licensee shall notify the Authority forthwith, and in no case later than seventy-two (72) hours following the change, of such change and the nature of the urgency which required the change to be carried out prior to the Authority's approval:
- Provided further that in any case the decision as to whether the licensee's course of action was warranted shall lie solely with the Authority.
- (4) When a licensee intends to make changes to the essential components, such licensee shall file an application in the established form to the Authority accompanied by the documentation required thereby, which shall include:
- (a) A confirmation that the licensee has not changed or otherwise interfered with the essential components since its prior submission of the documentation mentioned in sub-article (1) hereof to the Authority;
  - (b) A detailed explanation of the changes that the licensee intends to make, and the reasons for such change; and
  - (c) Where applicable, an explanation as to the effect that the change has on the risk factors attributable to the essential components, if any, and any updates necessary to risk mitigation measures.

(5) When a licensee notifies changes to its key technical setup which are not changes to essential components, it shall do so in the manner established by the Authority and shall provide such information as may be necessary, including:

- (a) A confirmation that the licensee has not changed or otherwise interfered with the key technical setup, other than as duly notified to the Authority;
- (b) An explanation of the changes made; and
- (c) Where applicable, an explanation as to the effect that the change has on the risk factors attributable to the key technical setup, if any, and any updates necessary to risk mitigation measures.

(6) The licensee shall be obliged to retain audit logs of any changes which are made to the key technical setup for not less than two (2) years.

- 17.** (1) The key technical setup shall be located in Malta or in another Member State of the European Union or the European Economic Area:

Provided that the Authority may, on a case by case basis, allow the placement of the key technical setup in other geographical locations where it is reasonably satisfied that such other location, taking all the relevant circumstances into account, offers equivalent safeguards to those offered by locations in the European Economic Area:

Provided further that where the key technical setup is decentralised in a manner that makes geographical locations thereof irrelevant to the attainment of the regulatory objectives, the Authority may on a case by case basis allow for such key technical setup subject to such additional safeguards as it may, in its discretion, deem necessary.

(2) Hardware forming part of the key technical setup may only be located in premises which adhere to a high level of information security. Without prejudice to additional requirements which the Authority may deem fit to impose on a case by case basis and adopting a risk-based approach, the Authority considers that such premises should seek to conform to the latest industry standards.

(3) The licensee shall ensure that any service providers hosting key technical setup, or otherwise providing access thereto, are instructed to permit and assist the Authority in any checks which the Authority may deem fit to conduct.

(4) The licensee shall maintain a live or real-time mirror server for essential regulatory data, and which shall be, at all times, made readily accessible to the Authority, including by means of physical access where applicable.

- 18.** (1) Licensees shall ensure that essential components are subject to additional safeguards in order to minimise to the greatest possible extent the risk to such components. In conducting their risk assessment licensees shall take into account the risk factors listed in the First Schedule to this directive.

(2) Licensees shall file their risk assessment in relation to their essential components when submitting the documentation in terms of article 16(1) of this directive, and the risk assessment

shall be continuously updated and reviewed as necessary in order to ensure that risks of a dynamic nature are adequately addressed.

#### **Part IV – Games and Gaming Verticals**

**19.** (1) Without prejudice to articles 20 and 21, a B2C licensee that adds or wishes to add, as the case may be, one or more games to its offering shall:

(a) Where the game is related to a gaming vertical which it is already approved to offer:

(i) If the game uses a random number generator which has already been approved by the Authority, and is based on a game engine which has also already been approved by the Authority, notify the Authority forthwith and in no case later than five (5) days following the addition of such games to the product vertical:

Provided that if the games are provided to such B2C licensee by an authorised game provider which it has a pre-existing relationship with, this notification requirement shall not apply.

(ii) If the game uses a random number generator and, or is based on a game engine which has not already been approved by the Authority, the prior written approval of the Authority shall be required;

(b) Where the game is related to a gaming vertical which it is not already approved to offer, the prior written approval of the Authority shall be required, and the relevant administrative fee would also be due, in advance.

(2) The provisions of sub-article (1) hereof shall also apply to a B2B licensee that obtains games from one or more game providers to resell or otherwise provide to other licensees.

**20.** (1) A B2C licensee that obtains the services of one or more game providers in order for them to provide it with games for a gaming vertical which it is already approved to offer, shall notify the Authority forthwith and in no case later than five (5) days following the addition of such games.

(2) A B2C licensee that seeks to obtain the services of one or more game providers in order for them to provide it with games for a gaming vertical which it is not already approved to offer, shall require the prior written approval of the Authority, and the relevant administrative fee would also be due, in advance.

**21.** A game provider that wishes to add one or more games related to a gaming vertical which it is already approved to offer by the Authority shall:

(a) Where the game uses a random number generator which has already been approved by the Authority, and is based on a game engine which has also already been approved by the Authority, notify the Authority forthwith and in no case later than five (5) days following the addition of such games to the product vertical;

(b) Where the game uses a random number generator and, or is based on a game engine which have not already been approved by the Authority, the prior written approval of the Authority shall be required.

- 22.** Articles 19, 20, and 21 are without prejudice to the requirements imposed in terms of Part V hereof, *inter alia* the requirement of a licensee to ensure that any outsourcing service provider from which it obtains a critical gaming supply is duly authorised by the Authority:

Provided further that the above applies solely in relation to games which the relevant game provider is lawfully allowed to offer in terms of this Directive and other applicable regulatory instruments. Games which the relevant game provider is not allowed to offer in terms of this Directive and any other applicable regulatory instruments may not be availed of by any licensee.

- 23.** (1) Where the prior approval of the Authority is required for the addition of a new gaming vertical and, or for the addition of a new game that uses a random number generator and, or is based on a game engine that is not already approved by the Authority, an application for such approval shall be made in such manner and be accompanied by such documents and certification as the Authority may require.

(2) For the avoidance of doubt and without prejudice to the generality of its powers, the Authority reserves the right to require the licensee to undergo an audit in case of the addition of a new gaming vertical, or certification in case of a new random number generator and, or game engine.

- 24.** Where a licensee wishes to update or change critical elements of a game, including the random number generator and, or one or more parts of the game engine, the licensee shall seek prior approval from the Authority according to the process established by it, which may include the payment of an administrative fee, the filing of a form, and the provision of documents including re-certification of the random number generator and, or game engine should the Authority deem it necessary.

#### **Part V – Material Supplies**

- 25.** (1) Material supply providers may apply to the Authority for a certificate of approval, in such manner as the Authority may establish, and accompanied by such documentation as may be required and the payment of any applicable fee.

(2) B2B licensees that wish to provide material supplies may apply to the Authority for its approval of those material supplies as part of the B2B licence:

Provided that this shall be on a voluntary basis and B2B licensees may provide material supplies outside the scope of their B2B licence:

Provided further that in any such case, material supplies provided to B2B licensees shall be assessed on a case-by-case basis in terms of article 27(3) of this Directive.

## Part VI – Outsourcing

- 26.** A licensee shall take responsibility for third parties to whom it outsources any aspect of its business related to its licensed activities:

Provided that without prejudice to any other applicable law, when the outsourcing service provider is an authorised person, in case of any breach the Authority shall determine whether responsibility for such breach lies with the licensee, the outsourcing service provider, or both to the same or varying extents.

- 27.** (1) Licensees obtaining a critical gaming supply from an outsourcing service provider shall ensure that such provider is duly in possession of a B2B licence or a recognition notice to provide such critical gaming supply, in terms of the Gaming Authorisations Regulations and any applicable binding instruments.

(2) Licensees shall inform the Authority of any service provider offering or purporting to offer a critical gaming supply to a B2C licensee without the necessary licence in terms of the Act and all other regulatory instruments.

(3) Licensees obtaining a material gaming supply from an outsourcing service provider shall ensure that such provider is in possession of a material supply certificate issued by the Authority, or that the material gaming supply is duly approved by the Authority on a case-by-case basis in the context of evaluating the operation of such licensee in terms of the Authorisations Regulations and any applicable regulatory instruments.

(4) Where the outsourcing service provider provides a service which does not require a licence or approval by the Authority, licensees shall ensure that the terms on which they contract with such outsourcing service provider:

- (a) Require such outsourcing service provider to conduct itself, in carrying out activities on behalf of the licensee, as if the outsourcing service provider was bound by the same regulatory instruments as the licensee;
- (b) Oblige the outsourcing service provider to provide such information to the licensee as it may require to satisfy its obligations in terms of the regulatory instruments, or to provide such information directly to the Authority as may be required by law;
- (c) Enable the licensee to terminate the contract immediately for just cause where the outsourcing service provider is deemed by the licensee, without prejudice to the dispute resolution provisions in the contract, to have acted in contravention of the regulatory instruments;
- (d) Enable the licensee to terminate the contract immediately for just cause where the Authority has determined that the manner in which the outsourced activity, function, product or service is being offered or performed, as the case may be, is in breach of the regulatory instruments; and
- (e) Adhere to such other requirements as the Authority may, from time to time, establish.

- 28.** (1) Outsourcing service providers that manage one or more websites and, or gaming premises pertaining to a B2C licensee, as the case may be, shall be deemed to be acting for and on behalf

of the licensee who shall therefore be responsible for their actions insofar as the licence issued by the Authority is concerned.

(2) When such service provider enters into contractual agreements with players directly, and, or handles both player registration as well as player deposits and withdrawals, the service provider shall be deemed to require a licence to provide a gaming service unless the registration and payments are being processed solely to facilitate the gaming service provided by the B2C licensee to which it provides the service, in accordance with the B2C licensee's policies and procedures as notified to and approved by the Authority and the applicable Maltese laws:

Provided that in any such case, it shall be presumed that a licence to provide a gaming service is required unless and until the B2C licensee and, or the service provider prove that such functions are being carried solely to facilitate the provision of the B2C licensee's gaming service, for and on behalf of the licensee.

- 29.** When a licensee contracts an outsourcing service provider which is part of the same corporate group as the licensee, the above provisions apply equally:

Provided that where the licence has been obtained for the corporate group, that group as a whole shall be deemed to be the licensee and the provisions of this Part shall be construed accordingly. For the sake of clarity in any such case the provision of services from one entity in the corporate group to another would not be deemed to be outsourcing for the purposes of this Part as it would all be deemed to be carried out by the licensee. The provisions of this Part would apply to any activity, function, product or service which is provided by an outsourcing service provider which is not within the corporate group licence.

## **Part VII – Player Accounts**

### *Registration and ongoing Monitoring*

- 30.** (1) A B2C licensee shall not permit a person to engage in gaming unless that person is registered as a player and holds an account with the B2C licensee.

(2) When registering a player, a B2C licensee shall require such details as may be required in terms of AML legislation and any other regulatory instrument. Without prejudice to such requirements, the B2C licensee shall as a minimum require the following information:

- (a) Name and surname;
- (b) Date of birth; and
- (c) Permanent residential address:

Provided that at registration phase, gaming premises operators shall also collect and retain a copy of a valid identification document and a clear photograph of the player's face, head and neck:

Provided further that licensees providing their services by remote means shall also require an e-mail address or other means of contacting the player by remote means.

(3) The information supplied by the player shall be verified and due diligence performed as required in terms of applicable AML legislation and procedures:

Provided that if at any time the B2C licensee becomes aware, or reasonably suspects, that any or all of the information provided by the player is materially false, the B2C licensee shall cancel that player's registration and take such other steps as may be required in terms of AML legislation:

Provided further that in any such case, if in terms of AML legislation there are no impediments to the player being refunded any amount remaining in his account, such amount shall be refunded when the account is closed. The B2C licensee shall not be obliged to refund any amounts lost, and may not pay out any winnings made.

(4) The B2C licensee shall at all times keep, or have ready and unfettered access to, a secure list of all registered players and a copy of all documents obtained in the process of conducting verification and due diligence.

(5) B2C licensees shall have systems in place to detect identical or similar player details, as well as other mechanisms such as systems detecting the use of the same internet protocol address and, or device identifier and, or SIM card identifier by different players, or such other mechanisms as may be appropriate, and prior to activating an account, it must be reasonably satisfied that the applicant does not have an existing account registered with the licensee, and that the player is otherwise still eligible to participate in the games:

Provided that where the B2C licensee allows players to hold more than one account, the Authority must be reasonably satisfied at all times that the licensee is in a position to ensure that each account is duly identified as pertaining to that player and linked accordingly such that the following criteria are adhered to:

- (a) The player's holistic activity is taken into account for the purpose of conducting adequate ongoing supervision of the player;
- (b) Responsible gaming limits are to be implemented across all the player's accounts, unless the request for the limit relates only to specific games, or gaming verticals as provided for in the Player Protection Directive (Directive 2 of 2018);
- (c) If the player self-excludes, that player shall be effectively excluded from all the games offered by the licensee, unless the request for self-exclusion related only to specific games or gaming verticals as provided for in the Player Protection Directive;
- (d) Anti-collusion measures are sufficiently robust to ensure that the multiple accounts system is not abused; and
- (e) All the accounts are monitored and decisions that trigger customer interaction, including but not limited to proactive assistance to players that are identified as being at risk of problem gaming issues, are based on the observed behaviour and transactions across all the accounts:

Provided further that the above is a non-exhaustive list and the licensee shall ensure that no other obligations stemming from any regulatory instrument or any other applicable law is prejudiced.

- 31.** B2C licensees shall conduct ongoing monitoring of their players to prevent fraud, money laundering and funding of terrorism, in such manner as may be required by AML legislation and in accordance with their risk management policies.

*Inactive Accounts*

- 32.** (1) A B2C licensee shall make amply clear in its terms and conditions the circumstances in which a player's account shall be deemed to be inactive, and the consequences thereof.

(2) A B2C licensee shall, no less than thirty (30) days before the player's account is due to become inactive, notify the player that his account is due to become inactive, and remind the player of the consequences thereof, including any fees that may be charged in connection therewith. Such notification shall include the option to withdraw the funds in order not to incur any fees associated with inactivity, without prejudice to the B2C licensee's procedures for allowing withdrawals and any obligations in respect thereof in terms of any other applicable law. For the sake of clarity, where the player is not eligible to conduct a withdrawal in terms of law or in terms of the B2C licensee's procedures, the fact that his account is due to become inactive does not in any way change that player's ineligibility to conduct the withdrawal.

(3) Fees may only be charged to an inactive account as long as that account does not go into a negative balance.

(4) Fees may not be charged to an account which is deemed to be inactive following a self-exclusion requested by the player throughout the period of self-exclusion:

Provided that after the period of self-exclusion lapses, inactivity fees may be charged if the player remains inactive after the lapse of the self-exclusion, for such period as the licensee may determine in its terms and conditions, which period shall not be less than one (1) month:

Provided further that the operator may, in cases where this does not infringe on applicable AML legislation, close the player's account and refund the remaining balance to the player that self-excludes for a period greater than six (6) months:

Provided further, for the sake of clarity, that the operator's responsible gaming and AML legislation obligations trump commercial considerations.

(5) Fees may not be charged to an account which has been excluded from playing by the operator itself, unless there were clear and justifiable reasons for that exclusion.

- 33.** Subsequent to the initiation of the charging procedure or mechanism, the player may request reimbursement of any fees paid and the B2C licensee is to reimburse such fees when the player could not access his account due to health-related impediments:

Provided that in any such case, the onus shall be on the player to provide adequate proof of such justification, in the absence of which the B2C licensee shall not be obliged to reimburse the fees.

- 34.** (1) Without prejudice to AML legislation, a B2C licensee may elect to close an inactive account rather than impose, or continue imposing, a fee for inactivity.
- (2) In such cases, the B2C licensee shall endeavour to refund any remaining balance to the player, whether by remitting the balance directly to the player or otherwise by contacting the player based on information available to the B2C licensee.
- (3) If the B2C licensee is unsuccessful in remitting the balance to the player, then it may:
- (a) Refrain from closing the player account; or
  - (b) Close the account and appropriate the remaining balance in its favour solely in accordance with sub-article (4) hereof.
- (4) Notwithstanding the fact that the player funds constitute a separate patrimony, in the case envisaged in sub-paragraph (b) of sub-article (3) hereof, the B2C licensee may appropriate the remaining balance and acquisitive prescription shall prevail in its favour if the following conditions are satisfied:
- (a) After failing to remit the funds to the inactive player, the B2C licensee shall send a final notice to the player informing him that the funds shall be appropriated by the B2C licensee if the player does not provide a means for the funds to be remitted to him;
  - (b) Such notice shall be sent to the player through every means of communication available to the B2C licensee, including by post;
  - (c) The B2C licensee may prescribe the remaining funds in its favour after the lapse of such time, after the final notice has been sent to the player in terms of the immediately preceding paragraphs, as may be laid out in a clear manner in its terms and conditions, which terms shall be reproduced in the notice sent to the player:
- Provided that such time shall in no case be less than five (5) years from the date of final notice to the player.
- (5) Any player funds appropriated by the B2C licensee in terms of this article shall be used to fund responsible gaming endeavours, whether of the B2C licensee itself or of third parties.

#### **Part VIII – Limited Duration Licence**

- 35.** (1) Applications for a limited duration licence shall be made in the manner prescribed by the Authority.
- (2) Only a gaming service or a gaming supply that is by its very nature temporary and cannot continue beyond the prescribed timeframe, and consists of a singular event, or a number of game instances linked to the same event, shall be eligible to apply for a limited duration licence:
- Provided that only lotteries and lottery-style games, including progressive lotteries and scratch cards, are eligible to be provided in virtue of a limited duration licence.

(3) The Authority shall not issue a limited duration licence that exceeds two (2) months in duration, and any one person, whether the person is the operator, organiser or the person or entity on behalf of whom such gaming activity has been organised, or is being organised shall not be awarded limited duration licences which in aggregate duration, exceed six (6) months in a single calendar year.

### **Part IX – Corporate Group Licence**

**36.** (1) Applications for a corporate group licence shall be made in the manner prescribed by the Authority, and shall *inter alia* include the following:

- (a) A corporate structure indicating which companies within the group shall be covered by the corporate group licence;
- (b) The gaming services and, or gaming supplies provided within and outside the group by the companies covered by the corporate group licence;
- (c) The company that shall be designated as the nominal holder of the corporate group licence;
- (d) The company that, without prejudice to the joint and several liability of the companies covered by the corporate group licence to satisfy regulatory obligations towards the Authority, shall be vested with primary responsibility to satisfy information and reporting requirements in terms of applicable regulatory instruments; and
- (e) The company that, without prejudice to the joint and several liability of the companies covered by the corporate group licence to satisfy regulatory obligations towards the Authority, shall be vested with primary responsibility to pay the relevant dues to the Authority in terms of applicable regulatory instruments.

(2) Where, within a B2C corporate group licence, there are entities that provide a critical gaming supply solely to other entities within the corporate group licence, no B2B licence shall be required.

(3) Where entities within a corporate group licence provide critical gaming supplies in or from Malta, or through a Maltese legal entity, to entities outside of the corporate group licence, a B2B licence shall be required.

### **Part X – Information and Reporting Requirements**

#### *Notification Requirements*

**37.** (1) Licensees shall notify the Authority forthwith, and in any case no later than thirty (30) days after, the following:

- (a) Any investment in the licensee other than by a subscription for shares;
- (b) The taking of any loan by the licensee, where such loan is not from a credit institution licensed in the EU or EEA;
- (c) Matters which significantly affect the financial standing of the licensee in an adverse manner, including but not limited to:

- (i) In the case of licensees which are companies, a petition being presented for their winding up, or the winding up of a company forming part of the same corporate group, or they or any company forming part of the same corporate group being placed in administration or receivership or their directors proposing to creditors a composition in satisfaction of its debts or a scheme of arrangement of its affairs:

Provided that for the purpose of this sub-paragraph, “corporate group” shall have the same meaning assigned to it in the Companies Act (Cap. 386 of the Laws of Malta);

- (ii) In the case of a licensee which is a body corporate other than a company, any event substantially equivalent to those listed in sub-paragraph (i) hereof;
- (iii) In the case of a licensee that is a natural person, or a general partner in a licensee which is a partnership, their being presented with a petition for their bankruptcy or sequestration or their entering into an individual voluntary arrangement;

- (d) Any default by the licensee or, where the licensee is a body corporate, by a group company in making the repayment of the whole or part of a loan in a timely manner;
- (e) Reduction of one or more payment methods offered to players and, or payment service providers;
- (f) Addition of one or more payment methods;
- (g) Changes to the key technical setup which are not changes to essential components;
- (h) Any criminal investigation or prosecution by a competent authority which relates to the licensee, whether as an investigated party or as an alleged victim of crime;
- (i) Application by the licensee or a group company as defined in the Companies Act (Cap. 386 of the Laws of Malta) for a gaming licence from a foreign jurisdiction;
- (j) Attainment by the licensee or a group company as defined in the Companies Act (Cap. 386 of the Laws of Malta) of a gaming licence from a foreign jurisdiction;
- (k) Changes to any information submitted to the Authority; and
- (l) Any other matters that can materially affect the authorised gaming service or supply and, or the licensee’s compliance with the applicable regulatory instruments.

(2) Licensees shall notify the Authority forthwith, and in any case no later than three (3) working days after, the following:

- (a) Any change in direct or indirect qualifying shareholding within the licensee:

Provided that all the documentation required by the Authority as part of the notification process shall be submitted to the Authority by no later than thirty (30) days after the change:

Provided further that without prejudice to the generality of its powers, the Authority may order the licensee to revert to the *status quo ante* within a timeframe specified by the Authority where it is satisfied that the change in direct or indirect shareholding prejudices the fitness and propriety of the licensee, or otherwise hinders its suitability for a licence;

- (b) The commencement, in whatever jurisdiction, of material litigation against the licensee, and the outcome thereof when known;
- (c) Any breach of the licensee's information security that adversely affects the confidentiality of information relating to players;
- (d) Any breach of the licensee's information security that precludes players from accessing their accounts for a period exceeding twelve (12) hours;
- (e) Refusal by a foreign jurisdiction to issue a gaming licence to the licensee or a group company as defined in the Companies Act (Cap. 386 of the Laws of Malta);
- (f) Suspension or cancellation by a foreign jurisdiction of a gaming licence to the licensee or a group company as defined in the Companies Act (Cap. 386 of the Laws of Malta);
- (g) The removal of a channel of delivery;
- (h) The removal of a gaming vertical;
- (i) Resignation or dismissal of a person exercising one or more key functions; and
- (j) Changes to persons performing one or more key functions.

(3) B2C licensees shall also submit a monthly report detailing any player complaints that have been escalated to third party entities other than the Authority, and the outcome of such complaints when known.

(4) B2B licensees shall also submit a monthly report detailing the persons and entities to whom they have started providing their gaming supply within such month.

#### *Prior Approval Requirements*

- 38.** (1) Licensees shall be required to obtain the prior written approval of the Authority prior to making any of the following changes:
- (a) Any changes to the player funds accounts or any other measure affecting the protection of player funds;
  - (b) The addition of a new channel of delivery;
  - (c) The addition of a new gaming vertical;
  - (d) The addition of new gaming premises;
  - (e) The addition of a new studio to record live casino services;
  - (f) Changes to the essential components; and
  - (g) Changes to the directors or persons holding an equivalent position in another entity.

(2) B2B licensees shall also be required to obtain the prior written approval of the Authority:

- (a) In the case of a game provider, if it wishes to provide back-end services as well; and
- (b) In the case of a provider of back-end services, if it wishes to act as a game provider as well.

#### *Reporting Requirements*

- 39.** (1) B2C licensees shall provide the Authority with a monthly report on the player funds relating to their operation, in the format established by the Authority:

Provided that the Authority may extend this obligation to B2B licensees where such B2B licensees hold player funds, whether in connection with a pooled jackpot or otherwise.

- (2) The player funds report must be submitted to the Authority no later than twenty (20) days following the end of the reporting month to which it refers.
- (3) The Authority in all cases reserves the right to ask for further information as it may, in its discretion, deem necessary.
- 40.** Licensees shall file the returns required in terms of Part V of the Gaming Licence Fees Regulations and Part V of the Gaming Tax Regulations in such manner as required therein and in such form as the Authority may from time to time require.
- 41.** (1) Licensees shall, for the first six (6) months of their financial year, submit management accounts signed by the key person responsible for the licensee's finances, by not later than the last day of the eighth (8<sup>th</sup>) month of their financial year.
- (2) Licensees shall:
- (a) Within one hundred and eighty (180) days from the end of their financial year, file with the Authority an audited set of financial statements prepared and audited in accordance with international financial reporting standards; and
- (b) Ensure that the audited financial statements shall, in addition to containing the information required in terms of such international financial reporting standards:
- (i) For B2C licensees providing gaming services by remote means, illustrate Player Funds Account Balance separately under the Cash and Cash Equivalents Note to the audited financial statements as well as illustrate player funds under the Trade and Other Payables Notes to the audited financial statements;
- (ii) Contain a reasonable assurance by the auditor that the licensee is compliant with its obligations in terms of the Gaming Tax Regulations and the Gaming Licence Fees Regulations; and
- (iii) For B2C licensees providing gaming services by remote means, be accompanied by a signed declaration from the auditors confirming the player funds, the jackpot funds, as well as the portion of Player Funds Account balance which fall under the Maltese licence.
- Provided that, the assurance and declaration provided in terms of sub-paragraphs (ii) and (iii) above shall be provided in the form of separate letters of comfort which are, in turn, also distinct from the auditor's report submitted in terms of international financial reporting standards.
- 42.** Licensees shall submit to the Authority, at such frequency and on such forms as the Authority may from time to time issue, such other information as the Authority may require for the fulfilment of the regulatory objectives.

### *Suspicious Betting Reporting Requirements*

- 43.** (1) Licensees that offer a gaming service and, or a critical gaming supply relating to betting on sport and, or sporting events shall notify the Authority of any instance relating to suspicious betting.
- (2) Licensees that offer a gaming service and, or a critical gaming supply relating to betting on sport and, or sporting events shall notify the Authority of any circumstances which may lead to one or more bets being voided owing to a suspicion of the manipulation of the sport event to which they relate.
- (3) This article shall come into force on 1<sup>st</sup> January 2021 for all licensees that offer a gaming service.
- (4) This article shall come into force on 20<sup>th</sup> October 2021 for all licensees that offer a critical gaming supply relating to betting on sports events.
- (5) Any notification requirement relating to suspicious betting shall be without prejudice to the applicability of any guidance, policy or any other instrument issued by the Authority relating to sport integrity.

### *Low Risk Game Permit Holders*

- 44.** (1) The holder of a Low Risk Game permit shall, with regards to such low risk game, not be required to comply with the requirements of this Directive other than this Sub-Part, unless the Authority specifically deems otherwise by means of a binding instrument.
- (2) The holder of a Low Risk Game permit shall only be obliged to report to the Authority:
- (a) In case of a non-profit game, after every singular event:
- (i) The total number of participants;
  - (ii) The gross amount of stakes wagered or otherwise contributed by the players;
  - (iii) The value in monetary terms of the prize or prizes paid out, if any;
  - (iv) Proof that no less than ninety percent (90%) of the net proceeds were paid out to the non-profit entity:

Provided that for the purpose of this sub-paragraph, “net proceeds” means gross wagers less the aggregate sum of prizes paid out and expenses incurred directly in the organisation of the non-profit game:

Provided further that the Authority may, where it deems necessary, request proof of the expenses incurred, and any expenses which are not proved to the Authority’s satisfaction shall be disregarded for the purpose of calculating the net proceeds of the non-profit game;

- (v) Proof that any other requirements established by any other law have also been adhered to; and

(vi) The measures which were taken to ensure that no minors participated in the game or were otherwise exposed thereto.

(b) In case of a commercial communication game, after every singular event:

- (i) The total number of participants;
- (ii) The value in monetary terms of the prize or prizes paid out, if any;
- (iii) Proof that the game was conducted in a fair and honest manner;
- (iv) Proof that any other requirements established by any other law have also been adhered to; and
- (v) The measures which were taken to ensure that no minors participated in the game or were otherwise exposed thereto:

Provided that, in case of a series of commercial communication games, a report containing the information required in terms of this sub-article shall be filed on a monthly basis rather than after every singular event.

(c) In case of a limited commercial communication game, after every singular event:

- (i) The total number of participants;
- (ii) The gross amount of stakes wagered or otherwise contributed by the players;
- (iii) The value in monetary terms of the prize or prizes paid out, if any;
- (iv) Proof that the game was conducted in a fair and honest manner;
- (v) Proof that any other requirements established by any other law have also been adhered to; and
- (vi) The measures which were taken to ensure that no minors participated in the game or were otherwise exposed thereto.

(3) Notwithstanding the above, the Authority reserves the right to request any other information and supporting documentation it may deem necessary.

(4) An applicant for a low-risk permit shall apply in the form established by the Authority, and shall provide all information and documentation required thereby, including but not limited to:

- (a) The person or entity for the benefit of which the low-risk game shall be held;
- (b) The statutory documentation of such entity, where applicable;
- (c) The game or games envisaged to be carried out; and
- (d) The steps which will be taken to ensure that the reporting requirements envisaged in sub-article (1) hereof shall be satisfied.

## **Part XI – Payments**

**45.** (1) Licensees may only accept payments from players and make payments to players through payment providers notified to the Authority in terms of this Directive and which the Authority has not instructed the licensee to refrain from using.

(2) Licensees must implement safeguards accordingly depending on the risk presented by the particular payment method which is being allowed. The risk rating of the payment methods used

by each player shall also be taken into account for the purpose of rating the risk presented by the player himself.

### **Part XII – Sharing of Liquidity**

- 46.** (1) B2C licensees that offer pool betting, betting exchange, peer-to-peer poker, peer-to-peer bingo, and, or other peer-to-peer games or jackpots may share liquidity with operators licensed in other jurisdictions, whether or not through a separate network.
- (2) In any such case, the B2C licensee shall ensure that it has at least the following information on players which participate in games with players from operators licensed in other jurisdictions, without prejudice to the other requirements envisaged in the applicable regulatory instruments:
- (a) The amounts deposited and wagered by its players in such games; and
  - (b) The amounts won or lost by its players in such games.
- (3) The B2C licensee shall also ensure that in any agreement which it enters into with operators licensed in other jurisdictions and, or the operator of a network allowing for the sharing of liquidity, it retains the right to request a copy of the game transactions in order to ensure compliance with its regulatory responsibilities should the need for such transactions arise.
- (4) Without prejudice to any clause in the relevant commercial agreements, the B2C licensee shall remain at all times responsible for the payment of any dues to its players notwithstanding the practical arrangements resulting for an arrangement for the sharing of player liquidity.

### **Part XIII – Automated Reporting**

- 47.** (1) The Authority may, at any time, subject to a reasonable period of transition, require a licensee, a specific category of licensees or all licensees to connect any of its systems to a system operated by the Authority, and to maintain such connection at all times.
- (2) In the event that the Authority imposes the requirement referred to in sub-article (1), the Authority may specify the specifications necessary for it to be able to, and the manner in which it shall operate the monitoring system in a binding instrument, and licensees shall modify or upgrade their systems as necessary to ensure their compatibility with the system and the requirements of the Authority.
- 48.** (1) The Authority may use an automated reporting system for:
- (a) receiving reports or statements which licensees are obliged to submit to the Authority in terms of applicable regulatory instruments;
  - (b) monitoring and receiving information relating to the games and the gaming operation, including player, game and financial data as may be required by the Authority to fulfil its regulatory objectives;
  - (c) investigating the compliance by the licensee with the regulatory instruments and any other applicable legislation, including any laws or regulations at any time in force for the prevention of money laundering;

- (d) the compilation of statistics and analytics in an aggregated format and research; and
- (e) any other purpose required by the Authority in fulfilling its regulatory objectives, or as may be specified in binding instruments issued by the Authority from time to time.

(2) Any information collected by the Authority in terms of sub-article (1)(d) may be made available to the public.

(3) The Authority shall not be liable for any compensation to any person for loss or damage due to a fault in the monitoring system, or in the telecommunications system used to operate the automated reporting system.

- 49.** Where the obligations referred to in article 47 have been imposed, a licensee shall ensure that its systems, and the means of distance communications through which its systems are connected to the automated reporting system, comply with any standards or requirements established by the Authority, and remain so compliant throughout the duration of the licence, and shall not be modified, tampered with, or re-programmed by any person without the prior written approval of the Authority.

#### **Part XIV – General**

- 50.** For the sake of clarity and notwithstanding anything contained in this Directive, the Authority in all cases reserves the right to require any authorised person to submit further information, documentation, surveillance footage and, or any other thing which it may, in its discretion, deem necessary for the achievement of the regulatory objectives, on a regular or *ad hoc* basis.

#### **Part XV – Transitory**

- 51.** (1) In relation to the obligations envisaged in Part II, the following provisions apply to existing licensees:
- (a) They shall inform the Authority of all persons that shall be responsible for a key function at the earliest opportunity, and in no case later than the 30<sup>th</sup> September 2018;
  - (b) Where such persons have not already undergone the Authority's vetting and approval process, the relevant forms and accompanying documentation shall also be completed by not later than 30<sup>th</sup> September 2018; and
  - (c) Until such time as all key persons are notified to, and assessed by, the Authority, the responsibility for the vacant key functions shall vest temporarily in the Key Official appointed under the Remote Gaming Regulations (S.L. 438.04) or, in the absence thereof, in the legal representatives of the licensee.

Provided that as of 20 October 2021, without prejudice to any instance prior to such date where the Authority required the directors of the licensee to temporarily assume responsibility for any vacant key function, the provisions of article 5A shall prevail.

(2) Existing licensees shall inform the Authority of all material gaming suppliers whose services they make use of, and shall provide any documentation in relation thereto which the Authority may require, by not later than 30<sup>th</sup> September 2018.

(3) Existing licensees shall complete the risk assessment referred to in article 18 of this Directive and submit it to the Authority by not later than the 31<sup>st</sup> March 2019.

(4) Existing licensees shall ensure that all contracts with outsourcing service providers adhere to the requirements envisaged in article 27(4) by not later than the 31<sup>st</sup> December 2018:

Provided that this is without prejudice to the Authority's right and powers to demand any information or documentation from the licensee in terms of the applicable regulatory instruments.

(5) In relation to the provisions relating to inactive accounts envisaged in Part VI of this Directive, the following provisions shall apply to existing licensees:

- (a) Players that are already inactive on 1<sup>st</sup> August 2018 shall continue to be treated on the basis of the terms and conditions which they had accepted. No changes may be applied in relation thereto unless the player logs in and accepts such changes in accordance with the Player Protection Directive;
- (b) Players that are already inactive on 1<sup>st</sup> August 2018 shall be deemed to be dormant accounts when no transaction has been recorded on such player's account for thirty (30) calendar months. In such a case, the licensee shall remit the player's balance to the player or, if the player cannot be satisfactorily located, to the Authority:

Provided that no claim shall lie by the player against a licensee who has remitted the balance in the player's account to the Authority, in relation to such balance.

(6) For the sake of clarity, any change to the conditions relating to inactive accounts shall be deemed to be a material change to the terms and conditions as envisaged in the Player Protection Directive. If the relevant player logs in and accepts the changes, the provisions of this sub-article shall not apply and shall be superseded by the terms and conditions as accepted by the player.

**52.** (1) Persons and entities that provide a back-end service from Malta, to any person or entity in Malta, or through a Maltese legal entity, that do not, on 1<sup>st</sup> August 2018, hold a licence issued by the Authority in virtue of the fact that they also act as game providers, shall apply for the relevant licence or recognition notice, as the case may be, and provide the necessary information and documentation, by not later than 31<sup>st</sup> December 2018.

(2) Persons and entities that provide a gaming service or critical gaming supply from Malta, to any person or entity in Malta, or through a Maltese legal entity, in virtue of a licence issued by the competent authority in another EU or EEA jurisdiction, shall notify the Authority in terms of the recognition notice procedure, and provide the necessary information and documentation, by not later than 31<sup>st</sup> December 2018.

## FIRST SCHEDULE

### Risks concerning essential components (article 18(2))

1. In establishing the necessary safeguards for their essential components, licensees shall take into account *inter alia* the following risks, in particular where the operational aspect is outsourced to a third party service provider:
  - (a) Loss of governance – this risk also takes into consideration the changes to the terms and conditions of any service provider whilst a licensee is making use of its services;
  - (b) Inadequate maintenance of the systems and underlying infrastructure;
  - (c) In the case of use of a cloud service provider, leakage of data during transfer within the cloud, between the operator and the cloud, or between player and the cloud;
  - (d) Insecure data storage;
  - (e) Information not being erased thoroughly or in a timely manner upon instructions being issued by the licensee;
  - (f) Unauthorised access to data through the management interface or any other system interfacing with the essential components;
  - (g) Unreliable service engine and, or APIs (Application Programming Interface) and, or isolation failure; and
  - (h) Denial of service.