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BDO Malta is an end-to-end Corporate Services Provider, with over 40 years of experience in advising organisations, including iGaming companies in accelerating business growth.

We have extensive knowledge in managing the remote gaming licence application process on behalf of our clients and assisting with the documentation required by the Malta Gaming Authority (MGA). We can also assist with Blockchain and FinTech Advisory.

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Contact us on (+356) 2131 3060 or email on info@bdo.com.mt

www.bdo.com.mt

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Introduction

Standing out

Malta has firmly established itself as the jurisdiction of choice for online gaming companies in recent years. And with contributions from Malta-based firms, this special report provides an update on the current egaming landscape of the central Mediterranean country, featuring commentary from industry experts focusing on what is being done to nurture its continued growth.

Technology is transforming the egaming industry like no other, with great leaps being made in the use of skins betting and artificial intelligence. Malta stands out as an important location for those egaming firms keen to utilise technology in a manner which makes a variety of processes easier for them.

Andrea Grungo of RSM reflects on the way AI can be used to fulfil the broad range of compliance obligations in the modern marketplace and what would be the ideal structure.

BDO highlights the ways in which the company differentiates its service provision.

Alan Craig of Mazars Malta focuses on the recent regulation that is giving the egaming industry greater legitimacy.
Andrea Grungo of RSM reflects on the way AI can be used to fulfil the broad range of compliance obligations in the modern marketplace and what would be the ideal structure.

**EGR Intel (EGR):** What are the key regulatory challenges for firms in 2019?

**Andrea Grungo (AG):** As regulations continue to be enforced, entities are being pushed towards more stringent compliance rules and standards, which when taken into consideration could be overwhelming for any entity regardless of its size and industry.

Over the past few years, anti-money laundering (AML) and general data protection regulations (GDPR) influence most industries and continue to change and develop as the industry develops. The 5th AML directive must be transposed by Member States on 20 January 2020, yet some entities are still struggling to catch up with the major changes that were brought about by the fourth directive as well as GDPR.

**EGR:** How can automation ease the manual process and reduce oversight?

**AG:** Customer acceptance requires a significant amount of manual processes as well as discipline to ensure that you meet your ongoing monitoring requirements. Generally, the first step involved in the acceptance process would be to communicate with the customer in order to commence with the requesting and gathering of due diligence. This process is not as simplified as it sounds as this involves a significant amount of time in dealing with the customer as well as resources to review the documents for adequacy when received.

Relying fully on manual intervention to onboard a client may result in several issues which impact the company from internal and external perspectives, such as: inconsistency with adhering to policies and procedures, human error, as well as customer retention which will impact the turnover of any entity.

Automation of the customer acceptance process may assist ‘subject persons’ (entities subject to AML obligations) in dealing with their approach towards the onboarding process as well as focusing on the added value of the know-your-client (KYC) procedure and spending more time on the review process.

The customer acceptance process is the tip of the iceberg within the due diligence process, as subject persons are obliged to perform ongoing monitoring, hence automation eases the manual burden of reviewing files on an annual basis (at minimum), to reset the due diligence cycle in the case of outdated documentation.

**EGR:** What role does AI have to play in meeting reporting obligations?

**AG:** Through the correct use of artificial intelligence, subject persons will have the ability to make their KYC and internal AML/CTF processes, such as transactions monitoring and financial sanctions or Politically Exposed Persons databases screening, more efficient while reaching their strategic objectives.

Artificial intelligence systems can mine and read a huge amount of data and information, and intelligently extract risk-relevant facts from them. Artificial intelligence (AI) is predominantly useful in the onboarding process, through intelligent document scanning and scrutiny of such documents by comparing to external data sources. A more efficient onboarding process would give competitive advantage to any business, however, onboarding the client is just the tip of the iceberg when dealing with AML.

**EGR:** How will AI help subject persons?

**AG:** Subject persons also have the obligation to carry out a risk assessment, identifying business,
customer, geographic, product and transactional risk. Therefore, AI may have the ability to ease the burden when identifying customer risk, specifically earmarking high-risk customers. AI can automate the process of client risk profile as per internal policies and procedures adopted.

As a result, the simplified and enhanced due diligence process can be clearly distinguished. This will draw compliance teams towards a more unified and efficient process, assisting them in focusing on AML screening and investigation process by scrutinising the risks and action where necessary to escalate any suspicious activity.

EGR: Compliance and accountability should function in harmony; how can an organisation ensure this is the case?
AG: All the above emanates from the mentality of the stakeholders as well as the understanding of accountability. Compliance and accountability naturally go hand in hand. Accountability and culture must adopt a top-down approach, however, if key personnel are not aware that they too are accountable for any shortcomings of the organisation, the embedding of a compliance culture is not possible.

Implementing an action plan and embedding compliance in the organisation’s culture is a slow and steady process.

EGR: What steps could organisations take to meet their compliance objectives?
AG: The following are some initial processes organisations could adopt to start reaching their compliance goals and objectives this year:
1) Implement an action plan;
2) Evaluate and assess your current compliance position;
3) Devise a strategy and methodology to mitigate the identified risks;
4) Seek assistance and support;
5) Implement a compliance programme.
6) Consider additional tools to assist in the efficiency of the due diligence process

EGR: Why is a proactive approach better than a reactive one?
AG: Within the wider spectrum of all industries, I believe that the generic approach is a reactive one, which is all due to certain processes not being updated to adapt to current regulations, lack of guidance and experience, as well as the tone at the top. By investing in additional tools, subject persons will adopt a dynamic and proactive approach towards changes in regulations, configuration to the AI tool towards the updated obligations would be imminent within those well-prepared organisations, and serve to relieve the compliance burdens in the current environment.

Conclusion
Entities may decide to implement an action plan to invest the relative tools, resources and seek support or choose to sail close to the periphery in order to ‘tick’ the minimum requirements box. Entities opting for short-term strategies would eventually come to a point whereby they will be left with no choice but to start investing in a stringent (yet practical) compliance programme alongside the use of tools or continue to struggle to catch up with the regulations as they are further enforced.
BDO Malta

BDO Malta is an end-to-end corporate services provider, with over 40 years of experience in advising gaming organisations, including egaming companies in accelerating business growth through exceptional client service. We have extensive knowledge in managing the remote gaming licence application process on behalf of our clients and assisting with the documentation required by the Malta Gaming Authority (MGA). We can also assist with blockchain and fintech advisory.

Featuring: BDO

Straight down the line

BDO highlights the ways in which the company differentiates its service provision

EGR Intel (EGR): What is BDO’s approach to the egaming industry – how do you differentiate your offering for your clients?

BDO: Our tried and tested process flow ensures that our clients can effectively apply for, and obtain a licence, within the shortest time frame.

At BDO Malta, clients interact directly with our remote gaming desk – a team of multi-disciplinary professionals equipped with the necessary technical knowledge to understand business models of both B2B and B2C gaming operators, and how to guide these operators through regulatory matters that apply to such activities. Companies operating within the egaming industry typically have complex cross-border structures. We excel in assisting clients navigate through tax laws and regulation changes related to operations within the gaming sphere.

Over the years, we have gained in-depth experience and knowledge in what is required to ensure that the process runs smoothly during the three main stages of a remote gaming business: pre-licensing, application period and post-licensing statutory obligations.

Being an active player within this industry, we are lucky to be able to draw feedback from our extensive client base, which in turn helps us to continuously refine our offering in line with our customers’ expectations.

In-house technical competencies range from corporate services, including taxation, accounting, audit, legal, risk & compliance, licensing and advisory; to complex advisory such as analysis and due diligence for acquisitions, debt restructurings, international tax planning, strategic planning, IT controls and environment reviews.

Managing different professionals – lawyers, tax advisers, auditors, IT advisers and others – may sometimes prove challenging in terms of time frames and coordination. So we built our own business process to provide a seamless and integrated workflow, focusing on a project team drawing on different professional skill sets available under one roof. Our clients are very satisfied with the benefits of the BDO integrated approach to relocating a business to Malta and the short time frames for obtaining the necessary licences.

To ensure even higher degrees of efficiency, we have dedicated remote gaming desk coordinators, whose sole objective is to deliver an exceptional service to our gaming clients.

EGR: What are the advantages of Malta’s legal framework for gaming companies, and what new legislative framework came into force in 2019?

BDO: Over the past decade, egaming in Malta has flourished. Apart from creating a global reputation as a jurisdiction of excellence, the industry also employs thousands of local and foreign workers while contributing to around 12% of Malta’s GDP. As a result, it has significantly incentivised the Maltese government to create an innovative regulatory framework that sustains the regulatory and compliance obligations while driving Malta’s competitive edge further ahead.

There are many reasons why Malta has been the jurisdiction of choice for hundreds of gaming operators and service providers, mainly its robust regulatory framework, a well-structured and highly responsive regulator, an attractive fiscal regime, fast company and bank account opening processes, highly skilled workforce, and the high value attached to the seal of approval from the Malta Gaming Authority is synonymous with compliance, legitimacy and trust.

This, combined with the fact that the new Malta Gaming Act officially came into force on 1 August means that not only is the country even more attractive for operators, but it offers an even better level of protection for both businesses and consumers.

The current gaming act provides for a simplified licensing procedure while still ensuring that the process is stringent and fully compliant with legal requirements; there are now just two licences available with the option of adding bolt-on licences for different game types. The taxation regulations regarding proceeds from gaming have also been altered to provide more flexibility for operators and this new struc-
ture is particularly attractive to B2Bs, who will benefit from significant fiscal incentives. A lot of effort has also been put into the clarification and categorisation of game types, as well as a shift away from a prescriptive approach to a more objective one. The MGA has also taken steps to tighten compliance and to bolster rules around responsible gaming and fair advertising; in short, all of the previous regulations have been improved, updated, tightened, and where needed, simplified and streamlined.

**EGR: How are you assisting clients in transferring to the new framework?**

**BDO:** New or existing businesses transitioning to the new licence regime in Malta will find the process very straightforward. Since the new Malta Gaming Act came into force, we have received considerable requests from new and existing operators seeking compliance with the new requirements. We advise prospective and current clients on what necessary steps need to be taken, we take care of all of the paperwork, and we deal with the necessary authorities to ensure that no stone is left unturned. From licensing and categorisation matters to tax, company law, accounting needs, and ongoing maintenance of the licence, our team of professionals are able to ensure that the process is as swift and effective as possible.

**EGR: What further services do you provide to your clients?**

**BDO:** With over 40 years of practice in Malta, we have learnt to take the time and make an effort to understand our clients’ business models as a first step. Our partners and staff are specialists in their fields and have a proactive, flexible approach to helping clients to overcome the challenges they face. Through our own professional expertise and by working directly with businesses, we’ve developed a unique insight into what makes a business successful. It’s this insight that makes us true business advisers, rather than mere financial consultants.

We offer specialist expertise in most aspects of company management, including corporate services, taxation, accounting, legal, auditing, administration and our recently set up service lines, blockchain and fintech advisory and technology advisory. Our clients are serviced by a multi-disciplinary team, organised into eight support units: audit and assurance, corporate services, legal, risk & compliance, business outsourcing and accounting, tax consultancy and compliance, client relationship management, technology advisory and fintech.

**EGR: Where is the gaming industry headed in 2019 and beyond?**

**BDO:** Evidently, the impact and growth of digital has bolstered the remote gaming industry and helped turn gambling into a casual past time. With the ever-increasing proliferation of mobile devices, online casinos and sportsbooks are now always at our fingertips or in our pockets. In the coming years, gaming companies will undoubtedly leverage this to continue maximising their profits. We are also witnessing developments in the social casino scene, where several start-up gaming companies have invested heavily to weave elements of social platforms and live TV into a casino environment.

We are really eager to see how the industry is going to develop over the next decade especially with the fintech, crypto and blockchain revolution knocking on our doors. Blockchain technology has been slowly but surely tiptoeing into our modern day lives, and today its presence can be felt like never before. Certain industries have connected very early with blockchain technology and cryptocurrencies on a deeper level than others, and gambling is one such industry. I think that the blockchain sector offers a lot of possibilities for evolution within the egaming sector and I am keen to see where collaborations between key players in each sector will take us. Even from a regulatory and legal standpoint, a lot remains unanswered and watching this innovative technology grow, in much the same way that the egaming industry did, is going to be something really special. Malta has done a fantastic job at becoming the world leader in providing a regulatory framework for DLT-related platforms and blockchain-enabled structures.

In terms of BDO, I expect to witness exponential growth as our portfolio of both local and international egaming and blockchain clients continues to expand. Through our dedication to excellence and our commitment to providing the best legal and corporate solutions, we anticipate that we will have the opportunity to assist with some truly ground-breaking projects and ventures.

These are exciting times for BDO in Malta and we look forward to assisting more clients in developing their success stories out of Malta.
Managing AML risk within the online gaming industry

Alan Craig of Mazars Malta focuses on the recent regulation that is giving the egaming industry greater legitimacy.

The introduction of the European Union Directive 2015/849 of 20 May 2015 (4th AML Directive) brought within its scope the online gaming industry. While anti-money laundering and combating the funding of terrorism (AML/CFT) was not a new concept to the industry, the inclusion of online gaming in the definition of a relevant activity brought with it additional obligations and responsibilities. Whereas one may argue that these changes placed additional burdens on online gaming operators, it is also true to say that, in the medium to long term, it will provide an opportunity for the industry to improve its perception and image with various stakeholders, including financial institutions.

The 4th AML Directive brought with it a mandatory risk-based approach, whereby subject persons must draw up AML/CFT policies and procedures commensurate to their risk appetite and to the risks that they are exposed to. The 4th AML Directive was transposed to Maltese law through the Prevention of Money Laundering and Funding of Terrorism Regulations (PMLFTR), with effect from 1 January 2018.

In determining the applicability to “relevant activity”, the PMLFTR provides a definition of a gaming licence and a gaming service. These definitions do not encapsulate B2B online gaming service providers. Consequently, B2B gaming service providers are not directly subject to AML/CFT regulations under Maltese law.

Businesses continuously face a balancing act between risk and reward. Online gaming operators are no exception to this. The level of risk that an entity is willing to accept is referred to as the risk appetite. An entity’s risk appetite varies between different operators, both as a result of their attitude towards acceptance of risk, and also as a result of differences in business models. The mandated risk-based approach allows subject persons the flexibility to draw up policies and procedures in light of the risk that they face. This is not a standard one-size-fits-all process. Operators are required to put into place a control framework that is commensurate with the inherent risk to which their entity is exposed. High levels of inherent risk require highly effective controls. A mismatch between inherent risk and controls will result in a high residual risk exposure that will expose the entity to elevated money laundering risk.

While certain operators may welcome the flexibility that a risk-based approach brings about, others may struggle in applying a risk-based framework, both due to their unfamiliarity with risk management models and a lack of resources.

The diagram (right) depicts a typical process flow that a licensed B2C online gaming operator may follow when setting a risk-based control framework. The definition of the entity’s risk appetite is generally the starting position. The risk appetite will strongly influence the entity’s business model and requires approval from the highest level (the board of directors).

The preparation of a business risk assessment (BRA) is a mandatory requirement emanating from the PMLFTR. The BRA must seek to assess the inherent risk (likelihood and impact) that an entity’s business model is exposed to. Inherent risk is the level of risk that an entity faces prior to taking into consideration the counter effect of the internal control framework. At a minimum, inherent risk should be assessed across the following areas:

- Client
- Product
- Interface
- Geographic location

Risk management does not seek to eliminate risk, but to manage it in line with the entity’s risk appetite.
Malta focus
Mazars

“Risk management does not seek to eliminate risk, but to manage it in line with the entity’s risk appetite, while taking into consideration legal and regulatory obligations.”

appetite, while taking into consideration legal and regulatory obligations. Entities should take measures to document and draw up policies (including a Customer Acceptance Policy) and procedures, and employ quality assurance measures to ensure that these are being adhered to. Furthermore, appropriate systems and tools need to be deployed. These would typically consist of IT solutions that can (continuously) profile customer risk, and monitor customer activity and behavioural patterns, including the identification of high risk/suspicious activity.

Sufficient and adequately trained members of staff are a fundamental element of the entity’s control framework. The Implementing Procedures Part II, published by the Financial Intelligence Analysis Unit (FIAU) in conjunction with the Malta Gaming Authority (MGA), provides operators with important guidance on the interpretation and implementation of the PMLFR within their entity.

Residual risk is the resultant risk after applying the internal control framework. Gaps between the risk appetite and the residual risk imply that the entity should revisit the measures and controls that it is applying to manage AML/CFT risk.

Malta carried out a risk assessment to identify and assess the national threats and vulnerabilities to AML/CFT. The National Risk Assessment was updated between 2017 and 2018, wherein it categorised the inherent risk faced by the online gaming industry as “high”. It also assessed that the level of controls put in place by the industry was “low”, resulting in a “high” residual risk exposure faced by the online gaming industry licensed in Malta. Without disputing the analysis arrived at by the National Risk Assessment, different business models adopted by operators may inherently expose the entity to significant different AML/CFT risk exposure.

The ‘Implementing Procedures Part II – Remote Gaming Sector’ published in July 2018 by the FIAU in conjunction with the MGA, depicts some useful examples of profiled inherent risks faced by the online gaming sector together with mitigating measures.

The EU and Malta have upped their game in combating financial crime over the past years. Licensed B2C online gaming operators are expected to follow suit with respect to money laundering, and invest in the necessary systems and human resources to ensure that AML/CFT risk is adequately managed. The FIAU, early in 2019, requested subject persons to complete and submit a sectorial-based risk evaluation questionnaire. The responses received will be used by the FIAU and the MGA to understand operators’ risk exposure to AML/CFT, and for the local competent authorities to devise their national compliance plan. Meanwhile, subject persons are to expect an increase in AML/CFT focused compliance visits from the competent authority. Subsequently, extensive weaknesses identified are expected to be met with severe retribution.
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