

## Translation of Liechtenstein Law

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**Ordinance**

of 31 May 2011

**on Online Gambling (Online  
Gambling Ordinance; OGV)**

Pursuant to Articles 6, 7(2), 10(2), 11(2), 13(6), 19, 20(2), 21(3), 27(5), 28(3), 31(2), 34(2), 36(5), 38(3), 60(2), 62(2), 63(2), 64(1)(a), 68(2), 69(5), 70(4), 73(4), 74(5), and 98 of the Gambling Act (GSG) of 30 June 2010, LGBl. 2010 No. 235,<sup>1</sup> the Government issues the following Ordinance:

**I. General provisions**

## Article 1

*Object*

This Ordinance sets out the details governing the authorisation and operation of online gambling games, in particular:

- a) the granting of concessions for organisers of online gambling games;
- b) the granting of special licences for services relating to online gambling games;
- c) the organisation of organisers of online gambling games;
- d) the security provisions governing online gambling games;
- e) the games offered and gaming operations;
- f) accounting and auditing;

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<sup>1</sup> LR 935.51

- g) the gambling tax;
- h) supervision and the consultation of experts;
- i) due diligence obligations to combat money laundering, organised crime, and terrorist financing.

#### Article 2

##### *Terminology*

The terms used in this Ordinance to denote persons, professions, and functions include persons of male and female gender alike.

## **II. Concessions**

### **A. Conditions**

#### Article 3

##### *Basic principle*

- 1) The applicant must provide evidence that it meets the concession conditions set out in the Act and the implementing provisions thereof.
- 2) If no evidence can be provided of the fulfilment of individual concession conditions, or if such evidence can be provided only on the basis of plans or preliminary documents, this must be justified in the application.

#### Article 4

##### *Evidence of own funds*

- 1) If an applicant forms an economic unit with one or more undertakings or if it can be assumed based on other circumstances that it is factually or legally obliged to provide financial support to said undertaking, it must provide consolidated evidence of own funds.
- 2) This consolidation obligation under paragraph 1 shall also apply if the applicant has a direct or indirect holding in an undertaking amounting to more than half of the capital or votes or otherwise exercises a controlling influence.

3) The Office of Economic Affairs may waive this consolidation obligation for an applicant if the size and business activity of the undertaking as referred to in paragraphs 1 and 2 are immaterial for the assessment of the applicant's equity structure.

#### Article 5

##### *Business partners*

1) The following persons in particular shall be deemed main business partners:

- a) persons whose business relationships with the applicant are directly related to gaming operations;
- b) persons who have an economic interest in the applicant or have a significant contractual relationship with the applicant;
- c) persons who might influence gaming operations.

2) The applicant must provide a list of the main business partners including a relationship chart.

3) The Office of Economic Affairs may request from the applicant a list of all suppliers, including contractual links and a relationship chart, if this is deemed necessary as evidence of the applicant's good repute and the independence of the general management in relation to external parties.

#### Article 6

##### *Beneficial owners of the applicant*

1) The following persons shall be deemed beneficial owners of the applicant:

- a) persons whose direct or indirect holding in the applicant's share capital is or exceeds 5%;
- b) persons or jointly voting groups of persons whose holding is or exceeds 5% of all voting rights.

2) Persons with a holding as referred to in paragraph 1 must submit a declaration to the Office of Economic Affairs stating whether they hold the stake for themselves or on a fiduciary basis for a third party and whether they have granted options or similar rights for this holding.

## Article 7

*Evidence of good repute*

1) As evidence of good repute, the applicant must provide in particular the following documents about itself, the members of its governing bodies, its managing employees, its main business partners, and the beneficial owners thereof and/or of the members of the governing bodies of those beneficial owners:

- a) extract from the Criminal Register;
- b) extract from the Commercial Register and the share register;<sup>2</sup>
- c) extract from the last five years of the Garnishment Register;
- d) copy of the tax declarations for the last five years together with the corresponding tax assessments;
- e) curriculum vitae including all domestic and international business commitments, including all board memberships;
- f) overview of the income and asset situation for the last five years;
- g) overview of domestic and international financial interests for the last five years, including all real estate transactions;
- h) list of all domestic and international criminal investigations and criminal and civil proceedings for the last five years;
- i) list of all domestic and international proceedings and decisions relating to operating and professional licences for the last five years;
- k) list of all domestic and international execution and bankruptcy proceedings for the last five years;
- l) written authorisation for the Office of Economic Affairs to inspect the registers of the courts and other authorities.

2) The evidence provided under paragraph 1(a) and (b) may not be older than three months when presented.

3) Where it deems necessary, the Office of Economic Affairs may request these documents from persons who have a direct or indirect holding in the share capital or voting rights of the applicant of less than 5%.

4) The Office of Economic Affairs shall determine which categories of employees must present which documents.

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<sup>2</sup> Article 7(1)(b) amended by LGBl. 2013 No. 12.

5) If any of the persons referred to in paragraphs 1, 3, and 4 has had a registered office or place of residence abroad in the last five years, equivalent foreign documents must be provided.

#### Article 8

##### *Place of business*

1) As evidence of a suitable place of business in Liechtenstein, including technical infrastructure in Liechtenstein, the applicant must in particular submit the following documents:

- a) extract from the Land Register including a land registry plan;
- b) floor plan of the operating premises;
- c) purchase, rental, lease, or other usage contract for the operating premises;
- d) purchase, rental, or other usage contract for the electronic platforms used to conduct and control online gambling games, including an electronic control system (ECS);
- e) list of the employees involved in conducting and controlling the online gambling games, with details of their role, level of employment, working hours, and commencement of employment.

#### Article 9

##### *Game offerings*

Any applicant for a concession must indicate which gambling games, free games, and jackpot systems the applicant intends to operate.

#### Article 10

##### *Operational conditions*

- 1) The applicant must in particular provide evidence that:
  - a) the general management and managerial staff of the gaming operation possess the required specialist knowledge and sufficient experience in online gambling games;
  - b) the applicant employs an effective quality management system (Article 31);

- c) the applicant maintains an electronic control system (ECS) (Article 32 et seq.);
  - d) the applicant maintains suitable security and due diligence concepts (Articles 42 and 137).
- 2) The applicant must further submit the following documents:
- a) a business plan;
  - b) plans for the operating premises, indicating in particular the locations of the DNS server, the firewall server, and the ECS;
  - c) the rules of the organiser of online gambling games as set out in this Ordinance;
  - d) employment contracts or other arrangements with persons entrusted with general management or members of the managerial staff;
  - e) confirmation that the employees are of good repute;
  - f) contracts governing the delegation of the duties and activities of the organiser of online gambling games to third parties.

#### Article 11

##### *Business plan*

The business plan must include the following information and documents:

- a) documents providing reliable information on the financing and financial structure of the applicant;
- b) a programme of operations and financial plan for the next five years;
- c) profitability calculations that credibly demonstrate that the organiser of online gambling games is economically viable;
- d) information on the countries in which the online gambling games are to be offered.

#### Article 12

##### *Applicability*

Articles 3 to 11 shall apply *mutatis mutandis* to the holder of the concession.

## **B. Procedure, granting and amendment of the concession**

### Article 13

#### *Application*

1) Applications for the granting of a concession must be submitted in writing and in German to the Office of Economic Affairs for the attention of the Government.

2) The Office of Economic Affairs shall present the applications to the Financial Market Authority (FMA) for comments by an appropriate deadline.

### Article 14

#### *Review of application*

1) The Office of Economic Affairs shall review whether the application meets the concession conditions.

2) If an application is incomplete or if the Office of Economic Affairs deems that further documents or information are necessary, the Office of Economic Affairs may demand that the application be amended or supplemented by a given deadline. Upon a well-founded request, this deadline may be extended once by up to 14 days. If the deadline passes without action, the application shall be dismissed as moot.

3) If documents required to assess the application are subject to a right of refusal of disclosure or if the persons or authorities requested to provide information by the Office of Economic Affairs are subject to professional or official secrecy in relation to that office, the applicant is responsible for ensuring that these persons or authorities are released from professional or official secrecy to the extent permitted by law. This provision is subject to the legislative provisions governing the right of the person in possession of confidential information not to give evidence even when released by the owner of the information.

4) Upon conclusion of the review, the Office of Economic Affairs shall forward the application to the Government with a proposal to grant or deny the concession.



## Article 15

*Granting of concession*

The Government shall decide on the granting of the concession.

## Article 16

*Publication of concession*

1) The Office of Economic Affairs shall publish on the internet the key elements of the concession document, while preserving the legitimate economic and business interests of the concession holder.

2) The following in particular shall be considered key elements:

- a) the legal form of the concession holder;
- b) the ownership structure;
- c) the main business partners;
- d) the games offered.

## Article 17

*Commencement of operations*

1) If, at the time of the application to the Office of Economic Affairs, the fulfilment of individual concession conditions cannot, on objective grounds, be demonstrated to the Government or only on the basis of plans or preliminary documents, the organiser of online gambling games may commence operations only once it meets all concession conditions and the Office of Economic Affairs has granted it approval to commence operations.

2) The organiser of online gambling games shall submit the outstanding documents to the Office of Economic Affairs as soon as possible. It shall notify the Office of Economic Affairs of the point in time from which it meets all concession conditions.

3) The Office of Economic Affairs shall review the notification and grant approval for commencement of operations if the concession conditions are met.

## Article 18

*Change of situation*

1) At the latest three weeks before the following become legally effective, the organiser of online gambling games is required to:

- a) notify the Office of Economic Affairs of transactions referred to in Article 16(b) of the Act and of changes to the employment contracts or other arrangements with persons entrusted with general management or members of the managerial staff;
- b) submit all amendments to contracts governing the delegation of game-related responsibilities and activities of the organiser of online gambling games to the Office of Economic Affairs for approval in accordance with Article 41.

2) In the event of changes to the factual or legal situation, the Government may impose additional terms and conditions on the concession.

**C. Withdrawal of concession**

## Article 19

*Basic principle*

The Government shall withdraw a concession in particular if the organiser of online gambling games performs or tolerates the following acts in a serious or repeated manner:

- a) money laundering within the meaning of the Criminal Code (StGB);
- b) failure to observe the due diligence obligations to combat money laundering, organised crime, and terrorist financing under the Due Diligence Act (SPG) and this Ordinance incumbent upon organisers of online gambling games;
- c) an attempt to prevent the proper assessment or collection of the gambling tax by providing false information, interfering with the ECS, or otherwise;
- d) violation of the notification requirement under Article 16 of the Act and Article 18 of this Ordinance;
- e) operation of gambling games, free games, jackpot systems, or an ECS which do not meet the technical gaming requirements;
- f) operation of games in a manner contrary to the rules and requirements.

### III. Special licences

#### A. Licensing requirement and conditions

##### Article 20

###### *Basic principle*

A special licence issued by the Government is required by any person who, in accordance with Article 60 of the Act, performs any of the following services for an organiser of online gambling games holding a concession:

- a) operates server hosting, i.e. provides the organiser of online gambling games with the technical infrastructure for hosting parts of the organiser's electronic platform;
- b) operates player referral on a commercial basis, i.e. refers players using affiliates (affiliate programmes) or via a gambling website operated in the referrer's own name (skin providing);
- c) carries out marketing and promotion.

##### Article 21

###### *Licensing conditions*

The licence shall be granted if:

- a) the applicant is a legal person with its registered office in the Principality of Liechtenstein, Switzerland, or an EEA Member State;
- b) the applicant, the main business partners, and the shareholders as well as any beneficial owners thereof are of good repute and offer guarantee of sound and proper business conduct;
- c) the applicant and the shareholders have provided evidence of the lawful origin of the available financial resources;
- d) the applicant – to the extent the applicant's registered office is in a foreign country or the applicant is part of a foreign group operating in the gambling business – is subject to supervision abroad that is comparable to Liechtenstein supervision and notifies the Office of Economic Affairs of a member of the general management as the responsible contact who, as needed, will be available for a personal meeting at the Office of Economic Affairs within seven days after first being requested to do so;

- e) the general management and managerial staff possess the required specialist knowledge and sufficient experience in the performance of the activities subject to a licence;
- f) the operational requirements are met;
- g) the contract with the organiser of online gambling games holding a concession allows the Office of Economic Affairs to obtain a comprehensive picture of the cooperation and the division of tasks and responsibilities between the organiser of online gambling games and the applicant as well as of the financial settlements between the contracting parties;
- h) the contract as referred to in point (g) does not exceed a price/performance ratio customary for the market.

#### Article 22

##### *Business partners*

1) The following persons in particular shall be deemed main business partners of the applicant:

- a) persons who have an economic interest in the applicant or have a significant contractual relationship with the applicant;
- b) persons who might influence the gaming operations of the organiser of online gambling games holding a concession.

2) The applicant must provide a list of the main business partners including a relationship chart.

3) The Office of Economic Affairs may request from the applicant a list of all suppliers, including contractual links and a relationship chart, if this is deemed necessary as evidence of the applicant's good repute.

#### Article 23

##### *Beneficial owners of the applicant*

1) The following persons shall be deemed beneficial owners of the applicant:

- a) persons whose direct or indirect holding in the applicant's share capital is or exceeds 10%;
- b) persons or jointly voting groups of persons whose holding is or exceeds 10% of all voting rights.

2) Persons with a holding as referred to in paragraph 1 must submit a declaration to the Office of Economic Affairs stating whether they hold the stake for themselves or on a fiduciary basis for a third party and whether they have granted options or similar rights for this holding.

#### Article 24

##### *Evidence of good repute*

1) As evidence of good repute, the applicant must provide in particular the following documents about itself, the members of its governing bodies, its managing employees, its main business partners, and the beneficial owners thereof and/or of the members of the governing bodies of those beneficial owners:

- a) extract from the Criminal Register;
- b) extract from the Commercial Register and the share register;<sup>3</sup>
- c) extract from the last five years of the Garnishment Register;
- d) curriculum vitae including all domestic and international business commitments, including all board memberships;
- e) list of all domestic and international criminal investigations and criminal and civil proceedings for the last five years;
- f) list of all domestic and international proceedings and decisions relating to operating and professional licences for the last five years;
- g) list of all domestic and international execution and bankruptcy proceedings for the last five years;
- h) written authorisation for the Office of Economic Affairs to inspect the registers of the courts and other authorities.

2) The evidence provided under paragraph 1(a) and (b) may not be older than three months when presented.

3) Where it deems necessary, the Office of Economic Affairs may request these documents from persons who have a direct or indirect holding in the share capital or voting rights of the applicant of less than 10%.

4) If any of the persons referred to in paragraphs 1 or 3 has had a registered office or place of residence abroad in the last five years, equivalent foreign documents must be provided.

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<sup>3</sup> Article 24(1)(b) amended by LGBl. 2013 No. 12.

*Operational requirements*

## Article 25

*a) Server hosting*

1) The applicant must in particular provide evidence of:

- a) suitable and secure premises and electronic platforms for the operation of server hosting services which satisfy the applicable international standards (e.g. ISO/IEC 17799, BS 15000:2);
- b) an adequate and uninterrupted supply of electricity, air conditioning, and data streams (bandwidth), including in the event of fire, water damage, lightning, and earthquakes;
- c) suitable technologies and procedures for the recovery of operations following an accident or natural disaster (disaster recovery);
- d) a suitable external backup system to mirror all relevant data.

2) The applicant must furthermore submit the following documents:

- a) the contract with the organiser of online gambling games holding a concession;
- b) a description of the premises and electronic platforms;
- c) a description of the access control system, alarm system, and video surveillance;
- d) the list of employees involved in server hosting for online gambling games, with details of their role.

## Article 26

*b) Commercial referral of players*

1) The applicant must in particular provide evidence of:

- a) suitable and secure electronic platforms for the commercial referral of players (affiliate programmes);
- b) in the case of affiliate programmes, suitable technologies and procedures for the accurate and prompt calculation and payment of commissions to the affiliates involved (affiliate marketers) and a suitable system for the correct allocation of the affiliates involved to the players;
- c) in the case of skin providing, suitable technologies and procedures for verifying identity and gathering data before the start of the game in accordance with Article 45 and for handling gambling bans and suspensions in accordance with Articles 53 to 57;

d) disclosure to the Office of Economic Affairs of the flows of funds relating to player referral that take place between the applicant, the organiser of online gambling games holding a concession, and any affiliates involved.

2) The applicant must furthermore submit the following documents:

- a) the contract with the organiser of online gambling games holding a concession;
- b) in the case of affiliate programmes, the current terms of business for the referral of gambling contracts;
- c) in the case of skin providing:
  1. the list of gambling games offered including the corresponding game rules as published on the gambling website of the skin provider;
  2. the concept for the acquisition of players;
  3. the concept for the exclusion of players from blocked countries in accordance with Article 59.

3) The skin provider is prohibited from performing the following activities reserved to the organisers of online gambling games holding a concession:

- a) certification of winnings in accordance with Article 47;
- b) payment transactions with the player in accordance with Article 58;
- c) financial transactions in accordance with Articles 67 to 70.

4) The skin provider is permitted to publish the player information in regard to the activities referred to in paragraph 3 on its own website, where such information is provided by the organiser of online gambling games holding a concession.

#### Article 27

##### *c) Marketing and promotion*

1) The applicant must in particular provide evidence of:

- a) suitable infrastructure for performing marketing and promotion activities in the service of the organiser of online gambling games holding a concession;
- b) a suitable control system for preventing offensive or misleading advertising for the offers of the organiser of online gambling games holding a concession;

- c) disclosure to the Office of Economic Affairs of the flows of funds relating to the applicant's activities that take place between the applicant and the organiser of online gambling games holding a concession.
- 2) The applicant must furthermore submit the following documents:
- a) the contract with the organiser of online gambling games holding a concession;
  - b) a description of the applicant's marketing and promotion activities in the service of the organiser of online gambling games holding a concession.

#### Article 28

##### *Applicability*

Articles 21 to 27 shall apply *mutatis mutandis* to the holder of the licence.

### **B. Procedure, granting, amendment, and withdrawal of the licence**

#### Article 29

##### *Applicability*

Article 13(1) and (2) and Articles 14 to 19 shall apply *mutatis mutandis*.

## **IV. Organisers of online gambling games**

### **A. Own funds requirements**

#### Article 30

##### *Amount of own funds*

- 1) During the entire term of the concession:
- a) liquid assets must exceed the receivables of the players;
  - b) short-term current assets must exceed short-term liabilities;
  - c) total assets must exceed total liabilities by at least 25%.



2) The Government may demand higher own funds if special operational risks or other special circumstances exist.

## **B. Organisation**

### **1. Quality management system**

#### Article 31

##### *Basic principle*

1) The organiser of online gambling games shall maintain an effective quality management system that corresponds to the nature and scope of its activities.

2) The organiser of online gambling games shall set out its organisational structures, operational workflows, procedures, processes, and resources in writing and document them; the organiser shall define and describe the tasks and responsibilities of the managing employees, including those responsible for combating money laundering, organised crime, and terrorist financing.

3) The quality management system shall also cover data processing and risk management with rules governing responsibility and the procedure for extremely risky transactions which could jeopardise the liquidity and reputation of the organiser of online gambling games.

### **2. Electronic control system (ECS)**

#### Article 32

##### *Basic principle*

1) The organiser of online gambling games must maintain an ECS inspected in accordance with Article 33 which includes all servers involved in gaming operations, in particular for:

- a) customer services;
- b) game development;
- c) databases;
- d) electronic payments;
- e) storage area networks (SANs);

- f) network attached storage (NAS);
- g) backups.
  - 2) All gambling games and jackpot systems must be connected to the ECS.
  - 3) The ECS must record all data for gambling games and jackpot systems in accordance with the provisions of Articles 35 to 40.

### Article 33

#### *Inspection*

- 1) Articles 73 to 74 shall apply *mutatis mutandis* to the inspection of the ECS.
- 2) The declaration of conformity for the ECS must be submitted with an inspection report including a separate certification of conformity from:
  - a) a domestic or international body accredited by the Office of Economic Affairs based on international standard ISO/IEC 17020 specifically for the scope of this Ordinance; or
  - b) a foreign body which has equivalent foreign accreditation and applies inspection and conformity evaluation procedures which meet the requirements defined by the Office of Economic Affairs.
- 3) The Office of Economic Affairs shall publish a list of accredited bodies.

### Article 34

#### *Documentation*

The Office of Economic Affairs may demand the following information and documents in particular:

- a) name and address of the distributor and of the manufacturer, where they are not the same;
- b) type, model, or serial number (identification number);
- c) type and number of connected games;
- d) description of the employed hardware and software, including the system architecture, diagrams, flowcharts, and complete documentation for the hardware and software;
- e) the program;

- f) a certification as well as the inspection result and inspection report of a body referred to in Article 33(2) which demonstrate that secure communication between the ECS and the connected gambling games as well as the recording of data are guaranteed.

#### Article 35

##### *Requirements for the ECS for gambling games*

1) The ECS must be capable of calculating the gross gambling revenue and, where feasible in terms of the technical gaming requirements, the payout ratio of each connected gambling game.

2) The ECS must be capable of correctly identifying each connected gambling game and automatically allocating all game-related player transaction data to the gambling game, in particular:

- a) the gaming credits used in all games played (turnover) with date and time;
- b) the commission, participation fees, and the like (e.g. *droits de table* or rakes for baccarat or poker) levied for certain virtual table games or tournaments with the date and time;
- c) the gaming credits won in all games played (total wins) including bonuses and similar payments;
- d) the date and time of the downtimes and service interruptions of games;
- e) the date, time, and a description or a reference for error messages generated by the internal diagnostics system of a game.

3) If different bets can be played, the ECS must be capable of correctly recording the monetary or credit value of all gaming credits used.

4) It must be possible to aggregate the data referred to in paragraphs 1, 2(a) to (c), and 3 per day, month, and year.

#### Article 36

##### *Requirements for the ECS for jackpots*

1) For each jackpot offered online, the ECS must record the following data:

- a) the type of systems;

- b) the contributions of each gambling game to the jackpot (increments) with date and time;
- c) the jackpot winnings, with date and time of the jackpot win;
- d) if the jackpot is triggered, the identification (number or other identifying feature) of the triggering gambling game and, depending on the type of the jackpot, a win notification from the connected gambling game or a corresponding report from the jackpot controller, each with date and time.

2) It must be possible to aggregate the data referred to in paragraph 1(b) and (c) per day, month, and year.

#### Article 37

##### *Connection*

1) Gambling games and jackpots must be connected permanently to the ECS.

2) If the connection is interrupted, the gambling games affected must be taken out of service immediately, provided that the data cannot be saved or backed up in a buffer or otherwise and transferred without data loss to the ECS.

3) The ECS must regularly check the connection to the gambling games. The ECS must display any interruption to the connection and create a log to that effect.

#### Article 38

##### *Data retention*

1) The data referred to in Articles 35 and 36 must be transferred from the connected gambling games and saved (raw data). It must not be possible to modify this data; suitable protective measures must be provided.

2) The ECS must provide this data on request in a clear manner.

3) Data calculated by the ECS that gives rise to changes or adjustments must be clearly identified. This procedure must be justified in writing.

4) The data must be saved in a suitable form and retained in a secure location for at least five years following the transfer of the gambling tax.

## Article 39

*Access log and access privileges*

The ECS shall keep a log of all access to the system and of each edit that has an impact on the data.

## Article 40

*Extraordinary incidents*

Extraordinary incidents involving any of the connected games, any breakdown, and any significant malfunction of the ECS must be reported immediately to the Office of Economic Affairs. The Office of Economic Affairs shall then decide on the next steps to be taken and the further use of the data. Prior to that decision, no data may be deleted or destroyed.

**3. Delegation of the responsibilities and tasks of the organiser of online gambling games to third parties**

## Article 41

*Basic principle*

1) Contracts under which the organiser of online gambling games delegates game-related responsibilities to third parties shall be valid only if approved in advance by the Office of Economic Affairs. A responsibility of the organiser of online gambling games is deemed game-related in particular if it:

- a) requires a special licence in accordance with Article 20;
- b) concerns the processing and monitoring of gambling games and flows of funds, including payment transactions between the organiser and the player.

2) The Office of Economic Affairs shall deny approval in particular if the contract:

- a) would concern one of the core responsibilities of the organiser of online gambling games as set out in paragraph 3;
- b) could adversely affect the independence of the organiser of online gambling games in relation to external parties;
- c) would exceed a price/performance ratio customary for the market;

d) does not allow the Office of Economic Affairs to obtain a comprehensive picture of the cooperation and the division of tasks and responsibilities between the organiser of online gambling games and the contracting party as well as of the financial settlements between the contracting parties.

3) Subject to Article 20 et seq., the core responsibilities of gaming operations are in particular considered to be measures:

- a) with a direct impact on the gross gambling revenue;
- b) implementing the security concept;
- c) implementing the due diligence concept, subject to express provisions concerning the delegation of individual due diligence obligations in accordance with Article 14 SPG.

## **C. Security**

### **1. General provisions**

#### Article 42

##### *Security concept*

The organiser of online gambling games shall maintain a security concept which ensures that:

- a) the necessary risk management and control systems are operated effectively;
- b) unauthorised gambling is prevented;
- c) unauthorised persons have no access to monitoring, control, IT, and gaming systems or any assets;
- d) gaming operations run correctly;
- e) impermissible actions and incidents are identified early on and game processes are monitored;
- f) the flow of funds is orderly, in particular to prevent offences against property;
- g) damage to persons, property, and data is prevented to the extent possible;
- h) disputes between players and the organiser are settled quickly and fairly.

## Article 43

*Protection from unauthorised access*

1) All facilities or systems containing sensitive data or data that is important for determining gross gambling revenue, in particular the ECS, the camera surveillance system, and the jackpot systems (jackpot controllers), must be protected against unauthorised operations.

2) All persons who have access to these systems must have their own individual password. At the request of the organiser of online gambling games, the Office of Economic Affairs may approve other precautions that are at least equivalent; it is not permitted to set up fictitious usernames that are used by several persons.

3) If the IT system at the premises of the organiser of online gambling games is to be connected with an external system, the organiser of online gambling games must have security measures at its disposal guaranteeing that only persons determined in advance have external access to the internal system of the organiser of online gambling games. The organiser of online gambling games shall prepare a list with applications that those persons may use.

4) Third parties shall have access to the facilities and systems referred to in paragraph 1 for remote maintenance only if the person performing remote maintenance has an individual password.

5) Access by third parties from within or outside the premises of the organiser of online gambling games to the internal system of the organiser of online gambling games must be recorded in a log with the following information:

- a) the name of the person responsible who permitted the operation;
- b) the name of the party who carried out the operation;
- c) the time, date, and duration of the operation;
- d) the reason for the operation;
- e) a description of the work carried out.

## Article 44

*Control room*

1) The organiser of online gambling games shall have one or more control rooms at its disposal, where the data and information of the ECS and the data of the camera surveillance system come together.

2) If physical game tables are used for online operations, at least one employee entrusted with monitoring the camera recordings must be present in the control room and must monitor gaming operations from the time the tables open until they close using the camera surveillance.

#### Article 45

##### *Identity verification before the start of the game*

1) The organiser of online gambling games may grant a person access to a gambling game or set up a customer account for a person only after receiving and verifying the credibility of the information received from the customer in accordance with Article 67(1) of the Act.

2) The organiser of online gambling games must establish whether or not a gambling ban is in effect against that person.

#### Article 46

##### *Documentation requirement*

1) The organiser of online gambling games shall keep logs that allow reliable conclusions to be drawn regarding the internal flow of funds between accounts of all types and regarding actions relating to gambling games, jackpot systems, physical game tables, and the ECS as well as operations carried out on them.

2) The following actions must also be logged:

- a) handover of keys and badges;
- b) programming of gambling games;
- c) relevant maintenance work, as well as software and hardware support relating to physical game tables, gambling games, jackpot systems, camera surveillance systems, and the ECS. All work shall be deemed relevant that serves to maintain quality or that can modify the properties of the facilities.

3) The organiser of online gambling games shall draw up rules governing the rights of access to data as referred to in paragraphs 1 and 2.



## Article 47

*Certification of game winnings*

1) The organiser of online gambling games may, at the request of the player, certify game winnings in writing by providing a statement from the customer account, if for the entire duration of the customer relationship the account statement contains the following information:

- a) all payment transactions between the organiser of online gambling games and the player;
- b) all debits from the customer account for bets, commissions, participation fees, and the like;
- c) all credits to the customer account for winnings, bonuses, and the like.

2) Certifications that reflect only individual winnings, including jackpot winnings, are prohibited.

## Article 48

*Retention period*

1) The logs and documents that are used to determine and inspect the gross gambling revenue and the logs of the jackpot system programming must be retained in a secure location for a period of five years following the transfer of the gambling tax. All other logs and records must be retained for a period of at least twelve months.

2) The Office of Economic Affairs may specify other time periods for individual logs.

3) This article is subject to longer time periods required by law.

**2. Camera surveillance system**

## Article 49

*Basic principle*

1) The organiser of online gambling games shall maintain a camera surveillance system which continuously monitors, 24 hours a day, the rooms in which physical table games, the ECS, and the jackpot system (jackpot controller) are located.

2) The employees of the organiser of online gambling games must be made aware in an appropriate manner of this camera surveillance.

3) The organiser of online gambling games shall ensure that only persons be granted access to the camera recordings who require them to perform their responsibilities.

4) If a malfunction of the camera system is discovered, this must be reported immediately to the Office of Economic Affairs.

5) Any criminal offences observed and recorded must be set out in a log. The log shall be sent without delay to the Office of Economic Affairs.

6) The organiser of online gambling games shall draw up rules regulating the use of the camera recordings and the rights of access.

#### Article 50

##### *Documentation*

The Office of Economic Affairs may demand the following information and documents:

- a) name and address of the distributor and of the manufacturer, where they are not the same;
- b) type, model, or serial number (identification number);
- c) number and locations of the cameras;
- d) location of the video surveillance room;
- e) floor plan of the camera surveillance system;
- f) detailed technical description of the functioning of the system.

#### Article 51

##### *Camera surveillance for physical game tables*

1) Each physical game table must be monitored by the camera surveillance system. The cameras in the table game area must be capable of recording game actions, game events, and game results as well as the value of any cards played, dice, and other game paraphernalia such that they can be easily identified.

2) If a breakdown of the camera surveillance system is identified before the start of a game which requires an interruption in the monitoring or the recording of images, and the storage of images cannot be ensured in any other way, the table games affected must not be used.

3) In the event of a breakdown of the camera surveillance system during ongoing operations, operations at the tables in question must be interrupted at the end of the current game, if the breakdown results in an interruption of surveillance.

#### Article 52

##### *Recording and retention*

The images from the camera surveillance system must be recorded and retained in a secure location for a period of three months.

### **D. Social protection**

#### Article 53

##### *Gambling bans and suspensions*

1) To implement the gambling bans in accordance with Article 22(1)(c) and (d) and Article 22(2)(a) and (b) of the Act, the organiser of online gambling games must electronically register the surname, first name, and address of the person and the person's function giving rise to the gambling ban.

2) The organiser of online gambling games shall define the procedure to be used for imposed and self-imposed gambling suspensions.

3) In the case of gambling suspensions as referred to in Article 23 of the Act, the organiser of online gambling games shall electronically register:

- a) the surname, first name, date of birth, and address of the suspended person;
- b) the type of suspension;
- c) the date of imposition and the duration of the suspension;
- d) the transfer, betting, or loss limits within a given period in the event that participation in gaming operations is limited;
- e) the reason for the suspension.

4) Where possible, the following shall also be registered in the event of gambling suspensions:

- a) the professional and family situation of the players;
- b) the game conduct that resulted in the gambling suspension;
- c) notifications and information from third parties;

- d) measures taken prior to the gambling suspension;
- e) measures taken following the gambling suspension such as personal meetings, recommendations, referrals to counselling and support programmes, and the outcome of those measures.

5) The organiser of online gambling games shall register the persons affected by a gambling suspension and make their identity available to other organisers of online gambling games and casinos holding concessions. The organiser can make the identity of the persons in question available to foreign organisers of online gambling games, to the extent reciprocity is granted.

6) The organiser of online gambling games shall ensure that suspended persons are excluded from all marketing and promotion measures of the organiser of online gambling games.

#### Article 54

##### *Lifting of suspensions*

1) The player may at any time ask the organiser of online gambling games to lift a self-imposed gambling suspension. Such a request must be transmitted in writing or electronically and shall not require any justification.

2) To the extent that the organiser of online gambling games has imposed the gambling suspension, the organiser shall decide on whether and when to lift it; the organiser shall first clarify whether or not the reason for the suspensions still applies.

3) The organiser of online gambling games shall define the procedure for lifting the gambling suspensions it imposes, taking the following into account:

- a) The organiser shall notify the person concerned of the procedure.
- b) The organiser shall invite the person concerned in writing to a meeting in person or by telephone and shall request suitable documents from that person, such as an extract from the Garnishment Register or payroll statements, in order to assess the person's financial situation.
- c) The organiser shall keep minutes of the meetings, which must be signed by the person concerned.

4) As soon as the suspension is lifted, data about the person concerned as referred to in Articles 53 to 54 shall no longer be available to other organisers of online gambling games and casinos.

## Article 55

*Report*

1) Each year, the organiser of online gambling games shall submit to the Office of Economic Affairs a detailed report containing information about the data on gambling suspensions and the monthly imposition of gambling suspensions and the lifting thereof.

2) The data contained in the report must not allow any conclusions to be drawn regarding the identity of the players concerned.

## Article 56

*Rights of access*

1) Only persons entrusted with implementation of the gambling bans and suspensions shall have access to data as referred to in Article 53(3) and (4) and Article 54(1) and (2). The organisers of online gambling games shall draw up rules to this effect.

2) Only the data referred to in Article 53(3)(a) and (b) shall be made available to other organisers of online gambling games and casinos.

3) Only anonymous data may be used for research and continuing training purposes and for statistics.

## Article 57

*Retention period*

1) The files established in accordance with Article 53(3) and (4) and Article 54(2)(c) must be retained in a secure location for a period of five years following the lifting of the gambling suspension, to the extent no longer time periods are required by law.

2) The Office of Economic Affairs may reduce the retention periods or extend them up to ten years for individual logs.

## Article 58

*Means of payment*

1) Payments made by the player by debit and credit card shall be credited without delay to the player's customer account. Such payments may be

released for participation in games only once the card issuer has approved the transaction.

2) The organiser of online gambling games may accept payments made by the player by debit and credit card, bank and postal account, e-wallet, and the like only if the cards or the accounts are held in the name of the player. Payments by card, account, and the like that are held in the name of a legal person must not be accepted.

3) The organiser of online gambling games is prohibited from granting loans, credits, and advances to players. The organiser shall not refer players to third parties that could grant loans, credits, or advances to the player.

## **E. Games offered**

### **1. Legal peace with foreign countries**

#### Article 59

##### *Basic principle*

The organiser of online gambling games may offer games abroad only to the extent that the organiser provides evidence that:

- a) the organiser holds the required licences; or
- b) the gambling games do not require a licence in the country concerned.

### **2. Physical table games, other gambling games, and jackpot systems**

#### Article 60

##### *Physical table games*

1) Organisers of online gambling games may use an unlimited number of all table games customary for the market in physical form for the purposes of online gambling, provided that:

- a) the game is purely a game of chance without any skill involved in the outcome of the game;
- b) participation in the game is possible only via electronic communication;
- c) the table game is connected to the ECS;
- d) no cash or physical chips and gaming tokens are used;

- e) the game paraphernalia and the game accessories such as tables, balls, dice, roulette cylinders, and card shufflers are procured so that they are suitable for the game concerned and guarantee a fair game based on chance;
- f) the games rules are approved by the Office of Economic Affairs;
- g) the game results are recorded and documented electronically or in another suitable manner for statistical purposes; and
- h) for roulette and similar games, the wheel speed is monitored constantly.

2) For physical table games, the betting amount is not restricted. Organisers of online gambling games may, however, limit the betting amount in their game rules.

3) The maximum bets shall be defined for each winning opportunity offered in accordance with the game rules.

4) If the maximum bet is exceeded, the bet shall be reduced to the defined maximum value.

5) Any commission retained by organisers of online gambling games for the operation of a jackpot at a game table may not exceed 10% of the increments.

6) The Office of Economic Affairs may prohibit the organiser of online gambling games from operating certain table games, if the organiser offers no guarantee of the proper operation of the games concerned.

#### Article 61

##### *Other gambling games*

1) Organisers of online gambling games may operate an unlimited number of gambling games.

2) Bets are not restricted.

3) Maximum winnings per game are not restricted.

4) The Office of Economic Affairs may prohibit the organiser of online gambling games from operating certain gambling games, if the organiser offers no guarantee of the proper operation of the games concerned.

5) The Office of Economic Affairs may impose appropriate restrictions on bets or winnings, if the operator's liquid assets could fall below the amount required for operations after the winnings are paid out.

6) The operation of betting exchanges is prohibited. Gambling game platforms on which the players bet against one another in return for payment of a commission or other compensation to the operator of the platform are deemed to be betting exchanges.

#### Article 62

##### *Jackpot systems*

1) Organisers of online gambling games may operate one or more jackpot systems and network these with other domestic organisers.

2) Networking of games to form jackpots between domestic and international online gambling games is permitted, if the organiser of online gambling games:

- a) provides evidence that the foreign business partner is subject to supervision comparable to Liechtenstein supervision;
- b) provides evidence that the foreign business partner maintains an ECS for the operation of the jackpot, the essential features of which conform to the technical and security requirements of the Act and this Ordinance;
- c) is able to meet the obligations under the Act and this Ordinance without restriction.

### **3. Gaming tournaments**

#### Article 63

##### *Basic principle*

1) Organisers of online gambling games may offer gaming tournaments.

2) If an organiser of online gambling games organises a gaming tournament, the difference between the participation fee (rake and the like) and the prizes awarded in the event of a surplus shall be deemed the gross gambling revenue.

3) Networking of platforms with foreign networks (e.g. for poker) for the purpose of creating an internationally competitive pool of players is permitted, if the organiser of online gambling games:

- a) provides evidence that the foreign business partner is subject to supervision comparable to Liechtenstein supervision;



- b) provides evidence that the foreign business partner maintains an ECS for the operation of the jackpot, the essential features of which conform to the technical and security requirements of the Act and this Ordinance;
- c) is able to meet the obligations under the Act and this Ordinance without restriction.

#### Article 64

##### *Definition and rules*

1) Any event at which the participants compete while playing gambling games shall be deemed a gaming tournament. At the start of the tournament, each participant shall receive the same number of gaming credits. Prospective prizes may be offered.

2) Before announcing a tournament, the organiser of online gambling games must submit the tournament rules to the Office of Economic Affairs for approval. The tournament rules shall contain at least the following information:

- a) the gambling games played;
  - b) how the game is run and how the winner is determined;
  - c) the level of the participation fees (rake and the like);
  - d) the prospective winnings.
- 3) The tournament rules shall be disclosed to the participants.

4) The organiser of online gambling games shall keep statements of accounts for each individual tournament.

#### Article 65

##### *Permitted gambling games*

1) Gaming tournaments may be organised only with gambling games that meet the technical requirements of gambling legislation.

2) The organiser of online gambling games must report the data gathered during the tournament separately from the data of the other gambling games offered.

3) The Office of Economic Affairs may allow exceptions, provided that secure gaming operations are guaranteed.

## F. Operations

### Article 66

#### *Game rules*

1) The organiser of online gambling games shall issue the game rules for the gambling games, jackpots, and gaming tournaments offered and shall submit these to the Office of Economic Affairs for approval.

2) Gambling games, jackpot systems, and gaming tournaments may be operated only in accordance with the game rules issued by the organiser of online gambling games and approved by the Office of Economic Affairs.

3) The organiser of online gambling games shall prepare an abridged version of the game rules of each individual game in language that is easy to understand and shall:

- a) submit that abridged version to the Office of Economic Affairs for approval;
- b) publish the abridged version on its website;
- c) ensure that the participants have quick and easy access to the applicable game rules during the game.

4) The game rules shall contain at least the following information:

- a) the instructions;
- b) the manner in which bets are to be placed;
- c) the minimum and maximum bets;
- d) the winning options;
- e) the payout conditions of the organiser of online gambling games, in particular in the event of a malfunction of the gambling game.

5) For poker tournaments and similar gambling tournaments, the organiser may not use any automated gaming programmes (bots and the like) in order to simulate a higher frequency or popularity of the games offered.

### Article 67

#### *Customer account*

1) The organiser of online gambling games is prohibited from maintaining anonymous customer accounts or customer accounts with fictitious account holders.

- 2) Before the organiser of online gambling games opens a customer account for a player, the organiser must provide the player with a copy of the general terms and conditions (GTC) and must obtain the player's written or electronic approval of the GTC.
- 3) The organiser may allow the holder of a customer account to play only to the extent that the required funds are available on the customer account.
- 4) The organiser must back up all data relating to the customer accounts on a daily basis.

#### Article 68

##### *Protection of customer assets*

- 1) The organiser of online gambling games must ensure that all customer credits are covered by liquid assets at all times.
- 2) The organiser must present the Office of Economic Affairs with an irrevocable declaration from the organiser's bank stating that the assets on the customer accounts are not offset with own receivables against the organiser or otherwise encumbered.
- 3) The organiser must ensure that unauthorised access to customer accounts is prevented. The holders of the customer accounts may access their accounts only using secure connections protected by a password or similar technical means.
- 4) If a game is suspended as a result of an interruption to the online connection between a server of the organiser and that of the player, the organiser of online gambling games must ensure that the game can be continued without delay as soon as the connection has been re-established, without amending the parameters. If the server of the organiser is unable to do this, the game must be terminated and the organiser must credit the bet placed by the player to the player's customer account.
- 5) If a customer account is cancelled, the organiser of online gambling games must transfer all customer credits to the account (bank, postal, credit card company, and the like) from which the player made the last deposit to the customer account. If this is not possible, the organiser shall transfer the credit to the player using a method approved by the Office of Economic Affairs. If this is also not possible, the organiser shall keep the credit available to the player for a period of five years from cancellation of the account.

## Article 69

*Payouts from customer accounts*

1) The organiser of online gambling games must ensure that the player can withdraw the credit on the player's customer account at any time in a single transaction and without any deductions and other charges.

2) The organiser may make transfers to the player exceeding 5 000 Swiss francs only once it has identified and verified the identity of the player and the beneficial owner in accordance with Articles 124 et seq.

3) The organiser may postpone a transfer to the player until the organiser has verified, without delay, the process of the winning game and the player's claim.

4) If the player augmented the account with a means of payment that does not allow a reverse transfer (e.g. certain credit cards), the organiser of online gambling games shall make the transfer to the account from which the player made the last payment to the customer account and which permits reverse transfers.

5) If the player augmented the account with various means of payments that allow reverse transfers (e.g. debit and credit cards, bank and postal accounts, e-wallets), the organiser of online gambling games shall make the transfer as follows:

- a) Subject to subparagraphs (b) and (c), the organiser shall transfer the player's credit to the account or means of payment from which the player made the last payment to the customer account.
- b) To the extent that the player's credit exceeds the total of the player's payments to the customer account which the player made from the last used account or means of payment, the organiser shall transfer the excess amount to the account or means of payment from which the player made the penultimate payment to the customer account.
- c) To the extent that the player's credit exceeds the total of the player's payments to the customer account from the accounts or means of payment referred to in subparagraphs (a) and (b), the organiser shall proceed in accordance with subparagraph (b) *mutatis mutandis* until all payments by the player to the customer account have been compensated. To the extent that the player's credit still exceeds the payments made to the customer account that have been compensated in that way, the organiser shall transfer the total remaining credit to the account or means of payment from which the player made the last payment to the customer account.

## Article 70

*Non-negotiable cheques*

If the organiser of online gambling games issues or receives non-negotiable cheques, the organiser shall register:

- a) the surname, first name, date of birth, and address of the issuer or the person to whom the organiser issued a non-negotiable cheque;
- b) the type and number of the identity document;
- c) the date and time;
- d) the number of the non-negotiable cheque and, where applicable, the account number and bank of the issuer.

## Article 71

*Player information*

The organiser of online gambling games must ensure that the player can easily and quickly obtain information online at any time concerning:

- a) the current balance of the player's customer account;
- b) all credits, debits, and other transactions on the player's customer account since it was opened;
- c) all bets and winnings by day, week, month, and year individually and as a total, broken down by the individual gambling games in which the player has participated;
- d) all net game winnings and net game losses by day, week, month, and year, broken down by the individual gambling games in which the player has participated;
- e) the daily duration of play by week, month, and year;
- f) the possible bets and winnings for the game concerned including pay tables and the like;
- g) all conditions and restrictions on participation;
- h) all conditions and restrictions on payment transactions between the organiser and/or any financial intermediaries involved by the organiser and the player;
- i) any differences between the payments demanded by the player and the payments executed by the organiser and/or any of the financial intermediaries involved by the organiser from the customer account to the player;

- k) the procedure if the online connection between a server of the organiser and that of the player is interrupted;
- l) the procedure for disputes between the player and the organiser and/or any financial intermediaries involved by the organiser.

## **V. Requirements for gambling games and jackpot systems**

### **A. General provisions**

#### Article 72

##### *Basic principle*

1) The organiser of online gambling games may operate gambling games and jackpot systems only if they meet the requirements set out in this Chapter.

2) To the extent not otherwise set out in the provisions of this Chapter, the technical gaming requirements of the Act applicable to physical gambling games shall apply *mutatis mutandis*.

3) A secure encrypted connection must be maintained between the central server and the connected gambling games and jackpots at all times, which in particular also guarantees that:

- a) erroneous data or signals do not impair the proper operation of the gambling games and jackpots;
- b) no external connection has direct access to the system's internal components, software, or data.

4) The online counterparts of gambling machines, video poker, and instant lottery games, including scratch cards, keno, and the like shall be deemed casino games for the purposes of this Chapter.

## Article 73

*Declaration of conformity, inspection report, and certificate*

1) The organiser of online gambling games establishing an electronic platform for the online implementation of physical table games, other gambling games, or jackpot systems (gaming systems) must submit a declaration of conformity to the Office of Economic Affairs confirming that the electronic platform meets the technical gaming requirements.

2) The declaration of conformity for the electronic platform must be submitted with an inspection report in accordance with Article 74 including a separate certification of conformity (certificate) from an inspection body as referred to in Article 33(2).

## Article 74

*Procedure for certification of the electronic platform*

1) The electronic platform requires inspection in advance in accordance with Article 33 in an inspection laboratory as well as in the domestic place of business of the organiser of online gambling games. For this purpose, the Office of Economic Affairs must be provided with the following information and documents in particular:

- a) a network diagram showing all system components;
- b) a description of all security elements including firewall rules and settings;
- c) a description of all access rules including names, functions, and privileges of authorised persons;
- d) floor and ceiling plans with an illustration of the locations of all system-related security facilities;
- e) all internal guidelines, rules, and manuals of the organiser of online gambling games governing the operation of the platform.

2) The inspection body as referred to in Article 33(2) shall verify the compliance of the electronic platform with the technical gaming requirements of the Act and this Ordinance.

3) It shall prepare an inspection report containing at least the following:

- a) name and address of the manufacturer;
- b) name and address of the applicant, where not the same as the manufacturer;
- c) name and address of the inspection body;
- d) designation of type or model or other identifying features;

- e) type, model, or serial number (identification number) if any;
- f) description of the employed hardware and software, including the exact designation and specification of the storage media;
- g) detailed description and information on gameplay;
- h) description of the components to be inspected and inspected components;
- i) for each component verified, the method and result of the verification (compliance/non-compliance/not applicable);
- k) description of the inspection procedures applied;
- l) list of the protocols used for the inspection and further documents with version information;
- m) the byte checksums (CKS) and the CRC32 checksums of all relevant program files verified by the inspection laboratory and EPROMS which are used in the game, in all interface programs (particularly from and to the ECS), and in all hardware components (including peripheral devices);
- n) summary of inspection results.

4) The Office of Economic Affairs can supply the inspection bodies with the template for a certification protocol.

5) The inspection body shall send its inspection report, including separate certification of conformity, to the Office of Economic Affairs, the manufacturer, and the applicant, where the applicant and manufacturer are not the same.

6) The Office of Economic Affairs may demand further documents and, in particular, have additional fee-based test games performed.

#### Article 75

##### *Documentation requirement*

1) Before an electronic platform and an individual gambling game or jackpot system is activated, the organiser of online gambling games shall submit to the Office of Economic Affairs information and documents in German or English allowing the Office of Economic Affairs to examine compliance with the technical gaming requirements.

2) The information and documents do not have to be submitted if the organiser of online gambling games provides evidence that they have previously been submitted.



## Article 76

*Activation and operation of the gambling games and jackpot systems*

1) Before the activation of physical table games, the Office of Economic Affairs may demand the following information and documents:

- a) name and address of the distributor and of the manufacturer, where they are not the same;
- b) type, model, or serial number (identification number);
- c) drawings and plans of the game tables as well as their components and parts;
- d) description of the employed hardware and software, if any, as well as diagrams and flowcharts;
- e) information on gameplay;
- f) description of the inspection procedures applied;
- g) inspection result and inspection report.

2) Before the activation of other gambling games and jackpot systems, the Office of Economic Affairs may demand the following information and documents:

- a) name and address of the distributor and of the manufacturer, where they are not the same;
- b) type, model, or serial number (identification number) if any;
- c) description and complete documentation of the software, including diagrams and flow charts;
- d) information on gameplay;
- e) description of the inspection procedures applied;
- f) function and design of the random number generator;
- g) manner in which the individual game events and game results occur;
- h) maximum winnings in the individual game;
- i) for jackpot systems, the system architecture and a description of the functioning of the jackpot system, including the criterion that triggers the jackpot;
- k) the type of calculation as well as the results of the game statistics;
- l) the number and results of the test games or game simulations performed;
- m) the payout ratio, where applicable;
- n) the probability of winning games;
- o) the source code;

- p) every storage medium (EPROM, CD-ROM, flashcard, etc.);
- q) a confirmation as well as the inspection result and inspection report of a body in accordance with Article 33(2) which demonstrate that the gambling game meets the legal requirements.

3) The organiser of online gambling games shall record for the entire duration of the operation of the gambling games and jackpot systems any modifications concerning the information under paragraphs 1 and 2 with details of the nature, reason, and time of the modification as well as the person responsible (edit history) and shall retain the data in a secure location for a period of five years.

4) The Office of Economic Affairs may require the organisers of online gambling games or the suppliers of gaming equipment to supply an ECS or a jackpot system free of charge.

#### Article 77

##### *Duty to provide information*

The organiser of online gambling games shall submit a list of all table games, other gambling games, and jackpot systems operated via an electronic platform to the Office of Economic Affairs. This list shall be kept up to date.

## **B. Technical gaming requirements for gambling games**

#### Article 78

##### *Control and design*

- 1) A gambling game must:
  - a) be able to restore operation without loss of data following a power outage;
  - b) have an internal diagnostics system (Article 85);
  - c) have a random number generator to determine the game events or game results in accordance with Article 79(1) or the game processes in accordance with Article 79(2);
  - d) be protected from external interference, particularly from electromagnetic and electrostatic disruption.

2) Any connection and communication with other devices and systems must have no influence, subject to Article 87, on the game events, game results, and other game processes of the gambling game in accordance with Article 79(1) and (2).

3) The organiser of online gambling games must provide evidence of the reliability of the random number generator using recognised probability calculation methods or other procedures recognised by the Office of Economic Affairs.

#### Article 79

##### *Game events and game results*

1) In games of chance, all game events and game results must predominantly be based on chance.

2) In poker and games of skill, the distribution of the cards, playing figures, gaming pieces, and the like must predominantly be based on chance, to the extent not otherwise required by internationally recognised game rules.

3) The game events and game results are predominantly based on chance if:

- a) they are triggered by a random number generator or another means based on chance;
- b) they cannot be influenced or can be influenced only minimally by the players.

4) The game events and game results to be determined may be defined only on the basis of immutable requirements. Any compensation or control mechanism shall be prohibited. A game event or game result must not, with the exception of paragraph 5, have any influence on future game events, game results, or gameplay. The probability that a given game event or game result occurs must always be the same.

5) Game results and game events of a prior game may be transferred in full or in part only to the directly following game.

#### Article 80

##### *Bonus games for casino games*

1) In casino games, bonus games may be offered within a game which link to a previous game event or game result.

- 2) No additional bets may be deducted for the bonus games.
- 3) The determination of the game events and game results of the bonus game must not be influenced by prior game events and game results.
- 4) The game events and game results within a bonus game may be determined on the basis of different requirements than the original game.
- 5) The player may be credited with any winnings from these bonus games only at the end of the overall game.

#### Article 81

##### *Bonus winnings for casino games*

Bonus winnings generated by an accumulation of increments (mini bonus) are permitted only under the following conditions:

- a) The triggering of these winnings is the result of a random process fully integrated into the gambling game.
- b) The bonus winnings are defined by constant parameters.

#### Article 82

##### *Payout and winning ratios*

1) A game of chance must have a theoretical payout ratio of at least 80%. Traditional lotteries (e.g. number lotteries) may deviate from this ratio.

2) The payout ratio shall be calculated on the basis of recognised probability calculations in relation to the possible number of game results or must be demonstrated using test games.

#### Article 83

##### *Start and end of a game for casino games*

1) A casino game shall start when triggered by the player after placing a bet and shall end with the decision on winning or losing, before a bet is placed for a new game.

2) If bonus games are offered, they shall not be considered a new game, as long as the winnings generated are neither paid out nor credited to the player, but rather are used directly for the bonus game.

## Article 84

*Data to be recorded*

For gambling games, the following data must be recorded individually:

- a) the gaming credits used in all games played (turnover);
- b) the gaming credits won in all games played (total wins);
- c) the total number of games (stroke);
- d) all gaming credits deposited and posted for each betting opportunity;
- e) all gaming credits paid out for each payout opportunity;
- f) for virtual table games in which the player does not play against the bank (e.g. baccarat, poker tournaments), the commissions, participation fees, and the like (droits de table, rakes) paid by the players and the prizes paid out.

## Article 85

*Internal diagnostics system*

1) The electronic platform must have an internal diagnostics system.

2) The internal diagnostics system must save all game events and game results as well as all other information for the current and at least the previous four games. Based on the data saved, it must be possible to reconstruct the original state of the individual gambling game offered. It must be possible to display the saved data on request.

3) The diagnostics system must autonomously perform tests on the individual gambling games offered. If it discovers malfunctions which have an impact on the course of the game, the counters, or data capture by the ECS, the system shall report them immediately to the ECS and shall block the gambling games concerned.

4) For poker and similar gambling tournaments, the diagnostics system must ensure that unfair gaming, for example the exchange of information between players or the use of automated gaming programmes (bots and the like) by players, can be detected and prevented as the current technology allows.

5) For betting, the diagnostics system must ensure that unfair gaming, for example the use of insider knowledge or the influencing of the outcome by the players, can be detected and prevented as the current technology allows.

## C. Jackpot systems

### 1. Technical gaming requirements

#### Article 86

##### *Design of the jackpot system*

The jackpot system must be constructed so that:

- a) in the event of a power outage or other events, no data is lost and the jackpot amount can be reconstructed;
- b) no conclusions can be drawn regarding the time at which the jackpot is triggered.

#### Article 87

##### *Trigger conditions*

1) Conditions that trigger a jackpot must be defined in advance; these conditions must not be changed until the jackpot has been triggered, subject to Article 96.

2) Conditions may also be defined the fulfilment of which determines whether or not a player participates in the jackpot. These conditions shall be made known to the players.

3) Each gambling game connected to a jackpot system must offer the opportunity to trigger the jackpot under the conditions defined for triggering the jackpot.

4) If a jackpot is triggered, the triggering gambling game must be blocked. It may be unblocked only once all of the essential facts serving as evidence for the jackpot win have been determined.

#### Article 88

##### *Recording and retention*

1) The jackpot system must automatically record the following information:

- a) the current jackpot status;
- b) the connected gambling games;

- c) the increments for each connected gambling game;
- d) the base value;
- e) the upper limit;
- f) the individual jackpot winnings including date and time;
- g) the connected gambling game by which the jackpot was triggered.

2) The following additional data must be saved by the jackpot system or the ECS and retained for a period of five years:

- a) all changes to parameters;
- b) all access to the system;
- c) all malfunctions of the system;
- d) the data referred to in paragraph 1(b) to (g).

#### Article 89

##### *Jackpot amount*

The jackpot amount offered to the players as prospective winnings shall correspond to the contributions paid by the gambling games to the jackpot (increments), plus the base value. No other prospective winnings may be offered to the players.

#### Article 90

##### *Mystery jackpot*

1) The condition for triggering the mystery jackpot must be defined using a random number generator within a range between the base value and the upper limit. The Office of Economic Affairs may order a defined range.

2) The probability that a winning value is determined must always be the same within the range. The organiser of online gambling games shall determine the upper limit.

3) The probability of winning the mystery jackpot must be proportional to the amount of the bet.

4) In the event of a malfunction, the mystery jackpot system must be taken out of service. The gambling games which are no longer connected with the system may continue to be operated, provided that the players are notified. In addition, the jackpot display concerned must be switched off.

## Article 91

*Progressive jackpot*

1) A progressive jackpot is triggered by a specific game event or game result which occurs randomly in a gambling game connected to the jackpot system.

2) The probability of triggering the jackpot must be the same for all gambling games connected to the progressive jackpot system.

3) If a connection to one of the connected gambling games breaks down, the progressive jackpot system must indicate this fact either directly or via the ECS. The gambling game in question must be taken out of service immediately.

**2. Operations**

## Article 92

*Jackpot guarantee*

If the organiser of online gambling games operates a jackpot system, the organiser must ensure prior to its activation that the jackpot amount can be paid out or transferred to the jackpot winner no later than the banking day after next. This provision also applies if jackpot systems of various organisers of online gambling games are networked with each other. The amount of the winnings must be paid out by each organiser of online gambling games in whose gaming system the jackpot was triggered.

## Article 93

*Real-time connection*

The jackpot system and the connected gambling games must be connected such that a real-time connection is established.

## Article 94

*Increments*

When the gambling games connected to the jackpot system are played (jackpot game), the jackpot amount shall increase continuously by the given increments.



## Article 95

*Determination of the gross gambling revenue from jackpots*

1) The jackpot amount shall be deducted from the gross gambling revenue as soon as the jackpot has been triggered and paid out.

2) In the case of jackpots networked between several organisers of online gambling games, the increments for the current jackpot and for the subsequent jackpot (hidden jackpot) may be deducted on a monthly basis.

## Article 96

*Interruption and modification of the current jackpot*

1) An ongoing jackpot may not be interrupted until it has been triggered. The Office of Economic Affairs may allow exceptions.

2) In the case of reactivation, the same jackpot amount must be displayed as before the event.

3) Modifications of parameters, in particular the condition defined to trigger the jackpot, or the re-entry of the existing parameters shall require prior approval by the Office of Economic Affairs.

4) All modifications of parameters in regard to a future jackpot may not influence the current jackpot.

## Article 97

*Change and transfer of jackpot winnings*

1) The prospective jackpot winnings may be changed before the jackpot has been triggered only in the event of a malfunction. Such a change shall require approval by the Office of Economic Affairs.

2) The prospective jackpot winnings may be transferred to another jackpot system, in particular if the jackpot system or the connected gambling games are defective or are replaced. This transfer shall require approval by the Office of Economic Affairs.

## Article 98

*Amount of winnings and display of jackpot amount*

- 1) If a jackpot has been won, the amount recorded in the jackpot controller shall be used to determine the amount of the winnings.
- 2) The current prospective jackpot winnings must be displayed to players to at least two decimal places.
- 3) If a gambling game is connected with several jackpot systems, the jackpot system or systems to which the gambling game is connected must be displayed to the players.

## Article 99

*Triggering of jackpot*

- 1) Once the jackpot has been triggered, the jackpot system must display the following information:
  - a) the identity of the triggering gambling game;
  - b) the amount of the winnings.
- 2) Once the jackpot has been triggered, the jackpot system must automatically and immediately be reset to the base value and the game must be continued.

## Article 100

*Multiple winners*

If the jackpot is triggered simultaneously by multiple gambling games, each triggering player shall receive the full jackpot amount displayed. The Office of Economic Affairs may allow a different distribution for individual jackpot systems in advance.

### **3. Networking of jackpot systems of the organiser of online gambling games**

#### Article 101

##### *Basic principle*

If gambling games are connected simultaneously to several jackpot systems or if several jackpot systems of the organiser of online gambling games are connected to each other, the provisions of Articles 86 to 100 shall apply.

### **4. Networking of gambling games between organisers of online gambling games**

#### Article 102

##### *Additional provisions*

If gambling games or jackpot systems are networked between domestic or international organisers of online gambling games, the provisions of this Section shall apply in addition to Articles 86 to 100.

#### Article 103

##### *Central jackpot system*

- 1) The central jackpot system must be located at the premises of one of the connected organisers of online gambling games.
- 2) The connected organisers of online gambling games shall set out the rights and obligations concerning participation in the central jackpot in writing and shall submit them to the Office of Economic Affairs for approval.
- 3) The communication between the central jackpot system and the connected online gambling games must be encrypted.
- 4) A qualified independent third party shall be mandated by the connected organisers of online gambling games to monitor the operation of the jackpot system.

## Article 104

*Securing data and operations*

1) If the communication connection between one of the connected organisers of online gambling games and the central jackpot system is interrupted, the operation of the connected gambling games must be suspended immediately at the premises of the organiser concerned.

2) If the connection is re-established, it must be ensured that the displayed jackpot amount is identical for all connected organisers of online gambling games.

**5. Use of jackpot contributions when suspending operations**

## Article 105

*Basic principle*

1) If an organiser of online gambling games suspends its operations or the operation of the jackpot system for more than six months or permanently, the Office of Economic Affairs shall decide on the use of the accumulated jackpot amount.

2) If an organiser of online gambling games which is networked with one or more other organisers of online gambling games suspends its operations or the operation of the networked jackpot, the contributions paid by that organiser shall remain in the jackpot amount.

**VI. Business report and accounting rules**

## Article 106

*Business report*

1) The organiser of online gambling games shall prepare a business report as of the end of each calendar year with an annual financial statement and an annual report and shall submit the business report to the Office of Economic Affairs and the FMA.

2) The annual financial statement shall comprise the balance sheet, the income statement, details of equity movements, the cash flow statement, and the notes.

3) The annual report shall also contain information on:

- a) implementation of the security and due diligence concept;
- b) all significant events occurring after the balance sheet date.

4) If an organiser of online gambling games holds more than half of votes or capital directly or indirectly in one or more companies or otherwise exercises a controlling influence on such companies, the organiser shall additionally prepare a consolidated annual report.

#### Article 107

##### *Financial reporting*

1) The annual financial statements shall be prepared in accordance with the principles of proper financial reporting such that a true and fair view of the assets and liabilities, financial position, and profit or loss of the organiser of online gambling games can be assessed as reliably as possible.

2) The organiser of online gambling games shall apply the following accounting standards:

- a) the United States Generally Accepted Accounting Principles (US GAAP);  
or
- b) the International Financial Reporting Standards (IFRS).

3) In view of the determination and verification of the gross gambling revenue, the Office of Economic Affairs may, for each game type, specify the form and content of the data to be recorded and submitted to it.

4) If the organiser of online gambling games provides other fee-based offerings (annex offerings) on its electronic platform, separate annual financial statements must be prepared for the gaming operations and the annex offerings in addition to the company financial statement. The Office of Economic Affairs may grant simplifications for the annual financial statement of the annex offerings of an organiser of online gambling games.

## VII. Auditing

### Article 108

#### *Audit*

1) The organiser of online gambling games shall have its business report audited each year by a commercially and legally independent external auditor as part of a regular audit. The external auditor must also audit whether:

- a) the business activity and the organisation of the organiser of online gambling games conform to the laws, articles of association, and rules;
- b) the conditions for granting the concession are fulfilled on a permanent basis;
- c) the business report meets the requirements as set out by law, the articles of association, and the rules.

2) Audit firms may serve as external auditors if they:

- a) hold a licence under the Law on Auditors and Audit Firms or a licence as external auditors under special legislation; and
- b) are independent of the organisers of online gambling games to be audited.

3) The organiser of online gambling games must allow its first and each subsequent third financial report to be audited by external auditors which also have basic knowledge of the casino business and experience in the auditing of casino undertakings.

4) The annual fees from audit services and other services for the individual organisers of online gambling games and the companies connected with that organiser by unified management (corporate group) must not exceed 10% of the total fees of the audit firm.

5) If an organiser of online gambling games has a specialist internal controlling or audit department, the external auditors shall take account of that department's report and coordinate activities with it. The external auditors shall retain responsibility.

6) The organiser of online gambling games shall grant the external auditors access to all books and records at any time including business correspondence and minutes from the board of directors and general management and shall provide it with all information required to satisfy the audit obligation.

7) The Office of Economic Affairs may order extraordinary audits.

## Article 109

*Audit report*

1) The auditors shall prepare an audit report and transmit it by 30 April of the year following the reporting year simultaneously to the board of directors of the organiser of online gambling games, the Office of Economic Affairs, and the FMA.

2) The audit report must clearly state the general financial situation of the organiser of online gambling games. It must establish whether the liabilities reported in the properly prepared balance sheet are covered by the available assets and whether the reported own funds are in fact available.

3) The external auditors shall independently value the assets and liabilities.

4) In addition to the legal requirements under the PGR, the audit report shall comment on the following points:

- a) compliance with the financial conditions for a concession;
- b) compilation of all risks and the value adjustments required on the assets as well as the provisions available to cover them;
- c) lawfulness, appropriateness, and functioning of the internal organisation of the organiser of online gambling games, taking into account the monitoring and control of business activities and accounting through operational organisational measures.

5) The Office of Economic Affairs may determine the minimum requirements for the content of the audit report from case to case.

**VIII. Gambling tax****A. Object and tax rate**

## Article 110

*Taxable object*

The taxable object shall be the gross gambling revenue.

## Article 111

*Gross gambling revenue from games*

1) The gross gambling revenue from the games shall be the difference between the bets placed and the winnings lawfully paid out by the organiser of online gambling games.

2) Winnings shall be deemed lawful if they are in compliance with the game rules, the technical requirements, and the winnings tables.

3) The commissions, participation fees, and the like (in particular droits de table or rakes for baccarat, poker, and other games and tournaments) levied by the organiser of online gambling games, reduced by the prizes paid out, shall be considered part of the gross gambling revenue in the event of a surplus.

4) Free game credits shall not be considered part of the gross gambling revenue. They must be recorded and documented in a separate statement of accounts.

## Article 112

*Statement of accounts and documentation requirement*

1) The organiser of online gambling games shall define rules governing the accounting procedure for gambling games. It must submit these rules to the Office of Economic Affairs for approval.

2) For the purpose of verifying the gross gambling revenue, the organiser of online gambling games shall log the data to be collected in accordance with Article 84 on a daily basis via the ECS. The retention of data shall be governed by Article 32.

3) The organiser of online gambling games shall log the electronic and ECS counter readings at least once a month. At the same time, the organiser shall register any discrepancies in the data and report them to the Office of Economic Affairs. The organiser must also ascertain the cause of these discrepancies and determine the correct data.

4) The organiser shall prepare an overall statement of accounts once a month and shall submit it to the Office of Economic Affairs.

5) The Office of Economic Affairs shall specify the content of the overall statement of accounts and the methods of transmission.



## Article 113

*Free game credits*

1) If the organiser of online gambling games issues free game credits for advertising purposes or otherwise allows free participation in gambling games, the organiser must submit a procedure for separating out those bets from the gross gambling revenue to the Office of Economic Affairs for approval.

2) On the basis of a written application, the Office of Economic Affairs shall approve the free issue of game credits if:

- a) the free game credits are issued independently of any consideration, subject to subparagraph (d);
- b) the value of the free game credits issued per player and per month does not exceed 500 Swiss francs;
- c) the annual value of the free game credits issued and played in the gambling games does not exceed 1% of the annual gross gambling revenue generated by the organiser of online gambling games. Surplus game credits shall no longer be considered as free game credits within the meaning of paragraph 1, but rather are deemed relevant for the gross gambling revenue;
- d) if the free game credits are issued as part of a promotional campaign in return for consideration (package), a detailed statement of accounts of all costs of the individual services rendered shall be prepared, showing that the game credits issued are free.

3) Free game credits may not be issued as winnings in the gambling games or tournaments held by the organiser of online gambling games.

## Article 114

*Tax rate*

The gross gambling revenue shall be subject to a tax rate of 5%.

## **B. Assessment and collection**

### Article 115

#### *Tax period*

- 1) The Office of Economic Affairs shall collect the gambling tax (tax) for each tax period.
- 2) The tax period shall correspond to the calendar year. The tax liability shall commence upon assumption of gaming operations and shall cease once gaming operations come to an end.
- 3) The regular financial year shall correspond to the calendar year.
- 4) If tax liability commences or ceases during the calendar year, the gross gambling revenue shall be converted to twelve months for the purposes of determining the rate. This conversion shall be performed according to the duration of the intrayear tax period.

### Article 116

#### *Assessment procedure*

- 1) As of the end of each calendar month, the organiser of online gambling games shall submit a monthly statement of accounts of the gross gambling revenue generated in the month in question to the Office of Economic Affairs.
- 2) As of the end of each calendar quarter and each tax period, the organiser of online gambling games shall submit a tax declaration for the gross gambling revenue generated in the quarter or tax period in question to the Office of Economic Affairs.
- 3) The Office of Economic Affairs shall determine the procedure and the requirements to ensure that the gambling tax is collected in full and accurately. It shall determine the form and content of the tax declarations as well as the deadline by which they must be submitted.
- 4) If the organiser of online gambling games fails to submit a tax declaration despite a reminder to do so or if the gross gambling revenue cannot be calculated properly due to a lack of reliable documents, the Office of Economic Affairs shall determine the gross gambling revenue and carry out the official assessment.

5) If special investigative measures or the consultation of experts are required due to a culpable breach of procedural obligations, the resulting costs may be passed on in full or in part to the organiser of online gambling games.

6) The Office of Economic Affairs may provide further details governing the assessment and collection procedure.

#### Article 117

##### *Period of limitation*

Article 115 of the Tax Act shall apply *mutatis mutandis* to the suspension and interruption of the period of limitation.

#### Article 118

##### *Due date and payment*

1) The tax shall be due on 31 January of each year.

2) The tax shall be collected by the Office of Economic Affairs and delivered directly to the National Financial Accounting Office.

#### Article 119

##### *Payment on account*

1) The organiser of online gambling games shall make payments on account. These shall be levied on the basis of the quarterly tax declarations according to the tax rate in the previous tax period. If the tax rate in the previous tax period has not been established, the rate estimated by the Office of Economic Affairs for the current tax period shall be applied.

2) Payments on account shall be due 30 days from the end of the calendar quarter.

3) Payments on account shall be collected by the Office of Economic Affairs and delivered directly to the National Financial Accounting Office.

4) Payments made on account shall be deducted from the final tax due. If the payments on account exceed the tax due, the surplus shall be repaid to the organiser of online gambling games.

## Article 120

*Interest*

- 1) If payments on account and taxes are paid late, default interest shall be charged without a reminder.
- 2) Refund interest shall be paid on surplus payments on account and taxes from the date on which the tax is due.
- 3) The default interest rate and the refund interest shall be 5%.

**IX. Supervision and consultation of experts**

## Article 121

*Powers*

- 1) The Office of Economic Affairs may order any measures required to monitor compliance with legislative provisions. In particular, it may:
  - a) demand evidence, documents, and information;
  - b) inspect books and business documents;
  - c) review invoices, balance sheets, and records;
  - d) inspect technical equipment as well as accounting, control, and surveillance systems;
  - e) inspect gambling games and jackpot systems;
  - f) arrange inspections;
  - g) take protective measures;
  - h) order confiscations;
  - i) prohibit the operation of gambling games and jackpot systems.
- 2) This article is subject to the powers of the FMA within the scope of its responsibilities.

## Article 122

*Contracting of experts*

- 1) The Office of Economic Affairs and the FMA may contract the services of experts.

2) In the case of contracts of a technical nature, the bodies shall be consulted which have the accreditation and notification required by law or a similar qualification.

3) The Office of Economic Affairs and the FMA shall take measures to ensure the uniform performance of contracts. In particular, they may provide basic and continuing training to the experts.

## **X. Due diligence obligations to combat money laundering, organised crime, and terrorist financing**

### **A. General provisions**

#### Article 123

##### *Applicable law*

1) To the extent not otherwise set out in the provisions of this Chapter, the provisions of the Due Diligence Ordinance (SPV) shall apply.

2) The provisions on occasional transactions shall always apply if no ongoing business relationships exist in accordance with Article 125(2).

### **B. Due diligence obligations**

#### **1. Identification and verification of the identity of players; special duties to provide documentation**

#### Article 124

##### *Processing an occasional transaction*

When processing the following occasional transactions, the organiser of online gambling games must identify and verify the identity of the player by inspecting a probative document:

- a) acceptance of payments from the player of 25 000 Swiss francs or more, in particular from debit and credit cards, bank and postal accounts, e-wallets, and the like, irrespective of whether these payments:

1. are made directly by the player to the organiser or are processed indirectly via a financial intermediary;
  2. are made in a single transaction or in multiple transactions between which there appears to be a link.
- b) payouts to the player of more than 5 000 Swiss francs, in particular to debit and credit cards, bank and postal accounts, e-wallets, and the like, irrespective of whether these payouts are made directly by the organiser to the player or are processed indirectly via a financial intermediary;
- c) issuing and cashing of cheques.

#### Article 125

##### *Entering into an ongoing business relationship*

1) When entering into an ongoing business relationship, the organiser of online gambling games must identify and verify the identity of the player using a probative document.

2) An ongoing business relationship shall exist if the organiser of online gambling games:

- a) provides a player with a customer account, where such a customer account has a credit balance of at least 25 000 Swiss francs;
- b) provides a player with an electronic carrier medium for game credits which is used for more than one day of gaming and has a credit balance of more than 5 000 Swiss francs; or
- c) issues a customer card which is recognised by the organiser as a form of identification.

#### Article 126

##### *Probative documents*

1) Identity documents as referred to in Articles 7 and 10 SPV shall be considered probative documents.

2) If the player is unable to obtain an official identity document from the player's country of origin, the player must provide confirmation of identity from the competent authorities in the player's place of residence.

3) After hearing the FMA, the Office of Economic Affairs may approve the use of customer cards as probative documents if they allow the player's identity to be properly established and verified and if they have been issued

on the basis of an official identity document, a copy of which is deposited with the organiser of online gambling games.

4) When entering into an ongoing business relationship, the organiser of online gambling games shall verify the identity by obtaining the original or an authenticated copy of the probative document and:

- a) by obtaining confirmation of the information referred to in Article 127 by the player's signature or use of a secure electronic signature in accordance with Article 2(1)(d) or Article 24(3) of the Signature Act; or
- b) by verifying the residential address of the player through postal delivery with return receipt or an equivalent method.

#### Article 127

##### *Information to be collected and documented*

1) The organiser of online gambling games shall collect and document the surname, first name, date of birth, residential address, country of residence, and nationality of the player.

2) In the case of an ongoing business relationship, the organiser of online gambling games must clarify whether the player is a politically exposed person under Article 2(1)(h) SPG.

3) If the player originates from a country in which dates of birth or residential addresses are not used, this information shall be omitted. The reason for this exception must be documented in the due diligence file.

## **2. Identification and verification of the identity of the beneficial owner**

#### Article 128

##### *Basic principle*

The organiser of online gambling games may assume that the player is identical to the beneficial owner unless:

- a) an ongoing business relationship exists;
- b) the organiser is processing an occasional transaction as referred to in Article 132;
- c) the organiser must assume that the assets converted, bet, or deposited by the player exceed the player's financial circumstances;
- d) contact with the player gives rise to other unusual findings.

## Article 129

*Written declaration of the player*

1) The organiser of online gambling games must collect and document the surname, first name, date of birth, residential address, country of residence, and nationality of the player for the purpose of identifying and verifying the identity of the beneficial owner.

2) The organiser must obtain confirmation of the information by the player's own signature or use of a secure electronic signature in accordance with Article 2(1)(d) or Article 24(3) of the Signature Act.

3) In the case of an ongoing business relationship, the organiser of online gambling games must clarify whether the beneficial owner is a politically exposed person under Article 2(1)(h) SPG.

4) If the beneficial owner originates from a country in which dates of birth or residential addresses are not used, this information shall be omitted. The reason for this exception must be documented in the due diligence file.

5) If, over the course of an ongoing business relationship, doubts arise regarding the identity of the beneficial owner, the organiser of online gambling games must repeat the identification and verification of the identity of the beneficial owner and document this in the due diligence files.

**3. Business profile**

## Article 130

*Basic principle*

1) In the case of ongoing business relationships, the organiser of online gambling games must create a profile of the business relationship with the following information:

- a) the player and the beneficial owner;
- b) any authorised persons acting in relation to the organiser;
- c) the financial background and origin of the assets;
- d) the occupation and business activity of the beneficial owner.

2) The organiser of online gambling games must ensure that the data and information contained in the business profile are kept up to date. The level of detail of the information referred to in paragraph 1 must take into account the risk of the ongoing business relationship.



3) As part of the business profile referred to in Article 8 SPG, the organiser of online gambling games shall divide the players identified under Articles 125 and 126 into at least two categories:

- a) players that meet one or more risk criteria set out in Article 134(2) and (3) (higher risk); or
- b) players that do not meet any such risk criteria or for which no such risk criteria can be identified after in-depth clarification.

4) The organiser shall review the classification under paragraph 3 on an annual basis and shall submit it to the external auditors as part of the regular audit.

#### **4. Risk-adequate monitoring**

##### Article 131

###### *Basic principle*

1) Organisers of online gambling games shall match their lists of identified persons with the official lists of persons against whom coercive measures have been imposed in accordance with the International Sanctions Act (ISG) within 10 days from the publication of each official update.

2) Organisers of online gambling games shall incorporate the official lists referred to in paragraph 1 into the lists of gambling bans under Article 22 of the Act.

3) Organisers of online gambling games shall not allow persons to participate in games and shall not enter into ongoing business relationships with them if coercive measures have been imposed against such persons under the ISG.

##### Article 132

###### *Monitoring of occasional transactions*

The organiser of online gambling games must document all occasional transactions with identified players and must monitor them additionally in cases of enhanced due diligence under Article 134.

## Article 133

*Monitoring of ongoing business relationships*

1) The organiser of online gambling games must ensure risk-adequate monitoring of ongoing business relationships.

2) The organiser shall document all transactions over the course of an ongoing business relationship.

**5. Enhanced due diligence**

## Article 134

*Criteria and measures for ongoing business relationships and occasional transactions with higher risks*

1) The organiser of online gambling games must assign the ongoing business relationships and occasional transactions with higher risks according to the criteria defined in the internal instructions referred to in Article 138. Ongoing business relationships with higher risks must be monitored more intensively.

2) The criteria for ongoing business relationships and occasional transactions with higher risks may in particular include:

- a) the registered office or place of residence of the player and the beneficial owner or their nationality;
- b) the nature and location of the business activity of the player and the beneficial owner;
- c) the value of the assets paid in or bet;
- d) the value of the assets paid out;
- e) a significant deviation from the transaction types, volumes, or frequencies customary in the ongoing business relationship;
- f) a significant deviation in the transaction from the business profile in terms of nature, volume, or frequency;
- g) the country of origin or country of destination of transfers for the benefit of the player.

3) In the following cases, ongoing business relationships and occasional transactions must always be assumed to be higher risk:

- a) ongoing business relationships with politically exposed persons;

b) if 50 000 Swiss francs or more is paid in at the same time.

4) The measures set out in Article 23(3)(a), (b), and (d) SPV shall be considered additional measures to be defined in the internal instructions referred to in Article 138.

## 6. Documentation and internal organisation

### Article 135

#### *Documentation requirement*

1) The organiser of online gambling games must document compliance with the due diligence obligations under the Act and the SPG in the due diligence files.

2) The due diligence files shall contain the documents and records created and consulted to comply with the provisions of the Act and the SPG. In particular, the due diligence files shall contain:

- a) the documents and records that served to identify and verify the identity of the player and the beneficial owner;
- b) the business profile referred to in Article 130;
- c) the player-related documentation of occasional transactions under Article 132 and the ongoing business relationships under Article 133;
- d) the documentation of any clarifications under Article 133 and all documents and records consulted in this regard;
- e) the documentation on the measures taken under Article 134;
- f) any reports to the Financial Intelligence Unit (FIU) under Article 17(1) SPG.

3) The documents and records referred to in paragraph 2(a) and (b) shall be player-related; the documents and records referred to in paragraph 2(c) to (f) shall be transaction-related.

### Article 136

#### *Internal annual report*

1) In addition to the information under Article 30(1)(a) to (c) SPV, the internal annual report of the organiser of online gambling games must contain:

- a) the number of ongoing business relationships and any changes in that number (current number, new, and terminated) compared with the previous year;
- b) the number of occasional transactions as referred to in Article 124(1) and any changes in that number (current number, new, and terminated) compared with the previous year;
- c) the number of ongoing business relationships and occasional transactions with higher risks as referred to in Article 134(2) and (3);
- d) the number of persons responsible for the due diligence concept and the number of all employees of the organiser of online gambling games in contact with cash or guests or with management responsibilities relevant to due diligence who have performed management responsibilities relevant to due diligence in the calendar year that has come to an end, and their change in number compared with the previous year.

2) The organiser of online gambling games must transmit each annual report to the FMA by the end of April of the following year without being requested to do so.

#### Article 137

##### *Due diligence concept*

1) The organiser of online gambling games shall maintain a due diligence concept in accordance with Article 11 of the Act which ensures that:

- a) the obligations under the Act and the Due Diligence Act are met;
- b) the special due diligence obligations of the organiser of online gambling games, in particular under Articles 31, 67(2), 68, and 69 of the Act and Articles 23(2) and 124 to 140 of this Ordinance are met;
- c) the external auditors as referred to in Article 37 of the Act are commissioned with the tasks prescribed by law;
- d) the requisite reports are submitted to the Office of Economic Affairs and the FMA.

2) The administration or general management of the organiser of online gambling games shall be responsible for issuing and updating the due diligence concept.

## Article 138

*Internal instructions*

1) The organiser of online gambling games shall issue internal instructions regarding how the due diligence obligations and related obligations of the Act and the SPG must be met specifically, and it shall make these available to all persons responsible for due diligence and to all employees with responsibilities relevant to due diligence.

2) In addition to the information referred to in Article 31(2)(a) to (d), (g), and (i) SPV, the internal instructions must contain in particular:

- a) the criteria and measures referred to in Article 134;
- b) the main features of basic and continuing training as referred to in Article 140.

## Article 139

*Non-negotiable cheques*

1) The organiser of online gambling games shall keep a separate register of the non-negotiable cheques received and issued.

2) All of the non-negotiable cheques issued by the organiser shall be imprinted with the phrase: "This document does not certify any bets or winnings."

## Article 140

*Basic and continuing training*

1) The persons responsible for the due diligence concept and all employees of the organiser of online gambling games with responsibilities relevant to due diligence are required to complete basic and continuing training regarding the key aspects of combating money laundering, organised crime, and terrorist financing. This mandatory training shall consist of basic training, which must be completed at the latest within six months from the first day of employment, and annual continuing training. A certificate shall be issued to employees completing a training session. The certificate must be presented to the FMA on request.

2) The basic and continuing training must be conducted by qualified persons or institutions.

3) All basic and continuing training shall be documented.

## **XI. Final provisions**

### Article 141

#### *Evaluation report*

In the evaluation report referred to in Article 96 of the Act, the Government must report in particular on experiences with the organisers of online gambling games holding a concession in regard to their compliance with the objectives set out by law and their national economic and commercial situation.

### Article 142

#### *Entry into force*

This Ordinance shall enter into force on the day of its promulgation.

The Government:  
signed *Klaus Tschütscher*  
Prime Minister