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The following Notification is, by command of His Excellency the Governor-General, published for general information.

PATRICIA RODNEY EVERING, OD (MS.)
Governor-General's Secretary and
Clerk to the Privy Council (Assigned).

GOVERNMENT NOTICE

MISCELLANEOUS

No. 539

NOTICE TO APPLY ENHANCED DUE DILIGENCE FOR SPECIFIED TERRITORIES

(Amended)

Pursuant to sections 94A and 102 of the Proceeds of Crime Act ("POCA"), the Betting, Gaming and Lotteries Commission ("BGLC") hereby gives notice that the following jurisdictions have been designated as specified territories:

1. Democratic People's Republic of Korea (DPKR);
2. Iran; and
3. Myanmar.

This notice is applicable to regulated entities of the BGLC, that is, gaming machine operators classified as Designated Non-Financial Institutions (DNFI) under the provisions of POCA, and Terrorism Prevention Act (TPA).

Designation as “Specified Territories”

When countries are designated as “specified territories”, this means that those territories have been deemed to be territories in respect of which there is a greater associated risk of money laundering or terrorist financing.

The FATF Call for Action

On October 21, 2022, the Financial Action Task Force (“FATF”) issued a statement entitled ‘High-Risk Jurisdictions subject to a Call for Action’ in respect of the abovementioned specified territories.

The FATF statement indicated that the specified territories are considered high-risk jurisdictions as they are found to have significant strategic deficiencies in their regimes to counter money laundering (ML), terrorist financing (TF) and proliferation financing (PF). The Statement called on all members and urged all jurisdictions to apply countermeasures to protect the international financial system from the ML, TF and PF risks emanating from the specified territories.

Measures to be Applied to Specified Territories

The regulated entities within the gaming industry are hereby required to apply enhanced due diligence measures and countermeasures in relation to the specified territories.

This means that all business relationships, financial transactions, including one-off transactions and counterparties’ transactions originating from or involving both legal and natural persons from the specified territories should be subject to enhanced due diligence measures and enhanced ML and TF countermeasures.

Enhanced Due Diligence

Enhanced due diligence (EDD) involves determining, based on a risk-based approach, to investigate particular clients or customers more thoroughly, requiring significantly more evidence and detailed information about their reputation and history to be collected.

The Proceeds of Crime (Money Laundering Prevention) Regulations (“POC-MLPR”) and the Terrorism Prevention (Reporting Entities) Regulations (“TP-RER”) make provisions for various measures and obligations with which businesses within the regulated sector (“regulated entities”) must comply.

More specifically, regulation 7A(5) of the POC-MLPR and regulation 6A(5) of the TP-RER require regulated entities to:

- Obtain senior management approval to commence or continue the business relationship or one-off transaction;
- Examine the background and purpose of the business relationship and transaction, as far as reasonably possible;
- Increase the degree and nature of monitoring throughout the course of the business relationship or one-off transaction to determine whether the transaction or the relationship appears to be suspicious;
- Ensure that the findings of the examinations conducted on the background and purpose of the business relationship and transactions are documented and made available, upon request, to the designated authority (the Financial Investigations Division) as the case may require;
- Limit those business relationships and one-off transactions that appear or have been deemed to be suspicious in accordance with the appropriate enhanced measures;
- Verify the source of funds and source of wealth held by the customer for business, all other persons concerned in the business relationship or one-off transaction;
- Conduct more frequent updating of customer information;
- Obtain more detailed information about the applicant for business, and other persons concerned in the transaction.

Countermeasures

The abovementioned actions must be taken in accordance with the enhanced ML countermeasures outlined in regulation 7B of the POC-MLPR and regulation 6B of the TP-RER.

Those countermeasures are any directions from the BGLC to the regulated entities which:

- impose limits on the business relationships or transactions, as may be specified in writing by the BGLC for that purpose;
- require the provision of reports at more frequent intervals;
- require the conduct of additional requirements as may be specified in the direction; and
- disallow exemptions concerning identification procedures.

Consequences of Non-Compliance

Failure to comply with the requirement to apply the EDD procedures along with the enhanced countermeasures as may be prescribed, is an offence under section 94A(3) of the POCA. A regulated entity that fails to comply would be liable on conviction before a Parish Court, to a maximum fine of three million dollars (\$3,000,000) or on conviction before a Circuit Court, to a fine.

Importance of Compliance

All regulated entities have a responsibility to ensure their businesses are not used by criminal elements to launder the proceeds of crime, finance terrorism or finance proliferation.

Regulated entities are reminded that they are required to exercise full compliance with their regulatory obligations and requirements, in order to maintain an effective Anti-Money Laundering/Countering Terrorist Financing (AML/CTF) regime and to avert individual and/or national consequences/sanctions associated with non-compliance.

Regulated entities are further reminded that they must keep themselves informed at all times of the relevant AML/CTF statutory obligations and requirements.

Signed by: VITUS EVANS
Executive Director,
Betting, Gaming and Lotteries Commission.