**BACKGROUND OF CASINOS**

Script

Casinos are **highly regulated entertainment venues.** They are also the only Accountable Institutions that are of an entertainment category. Casinos operate at a very high pace due to the **high frequency and high volumes** of low value transactions. Due to its very nature, casinos are largely **paperless** as opposed to other types of Accountable Institutions.

Notwithstanding the afore-said, casinos pose a **relatively low risk** for money laundering and terror financing. Casino clients mostly transact by way of debit or credit cards issued by financial institutions after they have been FICA’d by those financial institutions. Financial institutions are Accountable Institutions.

In the circumstances, **casinos are Secondary Accountable Institutions** whilst financial institutions remain the Primary Accountable Institutions. Other contributing factors to casinos being low-risk, is that they submit **transactional reports** to the FIC and their supervisory bodies. Casinos are also required by law to determine net winnings to enable them to issue winners’ cheques following extensive internal control procedures. In addition, the casino industry is not aware of any money-laundering or terror-financing cases in the Republic that involved casinos.

**EXEMPTIONS GRANTED TO THE CASINO INDUSTRY**

Script

Due to casinos being **entertainment venues** with **high-paced operations**, it was virtually **impossible** for casinos to comply with the FICA when it was implemented. Effective collaboration between the FIC and the industry culminated in **reasonable exemptions** being granted to casinos. These exemptions contributed to the designing of casino operations and systems to give effect to the FICA.

We cannot over-emphasize that **exemptions are paramount** to the casino industry. It is therefore imperative for the current exemptions to remain in force, and due the entertainment nature of the industry, the granting of reasonable exemptions in the future may be necessary to enable casinos to comply with the proposed amendments.

Therefore, we respectfully submit that our **comments on this Bill** has always been and continues to be made with the view that the current exemptions will remain intact and, where necessary, reasonable future exemptions will be granted.

**COMMENTS: CLAUSE 5**

Script

We are respectfully of the view that the Counter Money Laundering Advisory Council played a crucial role to date, especially since it provides AIs a platform to formally consult with the FIC.

In the Council is dismantled, then it would be reasonable to expect that the legislation should provide for a mechanism for private sector participation. It is a concern to the casino industry that exemptions could be amended or repealed with AIs being consulted. The only requirement proposed in the Bill is for the FIC must be consulted and the exemption Regulations tabled in Parliament. Our concerns could reasonably remedied by amending section 74(2) of the FICA to provide for consultation with affected AIs prior to the amendment or withdrawal of existing exemptions.

**COMMENTS: CLAUSES 8 & 12**

Script

We respectfully submit that casinos could comply with Clauses 8 & 12 in respect of Single Transactions to the extent that their existing exemptions remain intact.

However, as casinos do not maintain business correspondence for the conclusion of Single Transactions it would be reasonable for casinos to be exempted from the corresponding requirement. Alternatively, this could be easily remedied in Clause 12 by the insertion of the words *“where applicable”* immediately after the words “business correspondence”.

**COMMENT: CLAUSE 10 (21F, 21G & 21H)**

Script

We respectfully submit that the provisions of the proposed clause 10 in respect of 21F, 21G and 21H are extremely onerous and impractical for implementation in the current version, this against the backdrop of the serious consequences for failure to identify the influential or prominent persons or their family members or associates.

Furthermore, the determination of whether or not an individual falls within the category of the afore-going persons is required to be made pursuant to the Risk Management and Compliance Programme which requires absolute measures to be taken.

The afore-going impracticalities are further amplified by:

* The absence of verification databases to accurately identify the persons concerned when transactions are concluded;
* The approval of senior management prior to concluding certain transactions with these individuals; and
* The determination of source of funds and source of wealth, which in the context of a casino, the corresponding source documents will not be readily available.
* The accurate determination of time periods that would qualify persons as domestic influential prominent persons.

To compound this matter further, South Africa lacks information sharing legislation such as section 314(b) of the USA Patriot Act.

We believe that in the circumstances, it is a reasonable expectation for the legislation to be amended to accommodate for reasonable measures to be taken to identify influential or prominent persons or their family and close associates, and for such identification to be made after the fact.

**COMMENT: CLAUSE 14**

Script

We respectfully submit that the confining of electronic records to be within the Republic would severely prejudice casinos from utilizing cloud-based technology situated in foreign jurisdictions. This is due to economies of scale being readily available at more favourable costs in foreign jurisdictions.

We propose that cloud computing in foreign jurisdiction be permissible provided that it is readily accessible from within the Republic.

**COMMENT: CLAUSE 27**

Script

We respectfully submit that casinos could comply with the requirements for a Risk Management and Compliance Programme to the extent that their existing exemptions remain intact and the legislation is amended to provide for reasonable steps to be taken as opposed to the absolute measures purported by the words “must enable”. Furthermore, the Risk Management and Compliance Programme is meant to be founded on a risk-based approach whereas the language used in this version does not support this notion.

In addition, the legislation should provide that the Risk Management and Compliance Programme should only be implemented in a casino’s foreign operation if client funds are transferred directly between the local and foreign operation.

**COMMENT: CLAUSE 58**

Script

We note that no provision has been made for transitional arrangements, or that the amendments will come into operation on a date later than the promulgation date. It must be appreciated that sufficient time is necessary for the development of the Risk Management and Compliance Programme, training and any system developments. As with the Banking Association of South Africa, we support a minimum transition period of 12 to 18 months.