

28 May 2013

**MEMORANDUM**  
**OF**  
**UNDERSTANDING**

**ESTONIA**  
**Tax and Customs Board**

**ISLE OF MAN**  
**Gambling**  
**Supervision Commission**

# Contents

## RECITALS

## OPERATIVE PART

Interpretation  
Purpose and Principles  
Responsible Gaming and Consumer Protection  
Technical Equipment and Issues  
Non Duplication  
Player Liquidity  
Further Collaboration  
Provision of Unsolicited Information  
Requests for Assistance  
Procedure for Requests  
Assessing Requests  
Contact Points  
Further Provisions  
Costs  
Confidentiality  
Consultation  
Commencement

## APPENDIX 1: FURTHER PROCEDURES FOR ENFORCEMENT MATTERS

Further Details to be Contained in Requests for Assistance  
Further Ground for Denial of Request  
Requests to Sit in  
Joint Investigations  
Rights of Persons Preserved

## **Memorandum of Understanding ("MoU")**

Between

Estonian Tax and Customs Board and the Isle of Man Gambling Supervision Commission (GSC)

### **I. Recitals**

- A. The Estonian Tax and Customs Board (hereinafter referred to as the "TCB") is the authority tasked with exercising state supervision over organization of gambling in Estonia, according to Estonian Gambling Act.
- B. The Gambling Supervision Commission (hereinafter referred to as the "GSC") is the Isle of Man's national gaming regulator established by an Act of Tynwald.
- C. The TCB and the GSC share common objective values in their regulation of remote gaming so as to ensure consumer protection and the protection of society amongst others. In particular both countries' regulatory regimes are based on fair, responsible, safe and secure provision of gaming services, implemented through robust and comprehensive systems, mechanisms and monitoring in order to ensure effectiveness and compliance. Both countries' regulatory regimes seek to ensure in particular the fair and responsible delivery and advertising of the game to the player, the protection of minors and vulnerable persons and the keeping of gaming free from criminal activity such as fraud and money laundering.
- D. Wish to enter into this MoU to develop and foster common responsible gaming measures and enhance consumer and player protection measures including the protection of minors and the vulnerable. In addition the Parties wish to develop and share common regulatory best practices such as twinning programs, common certification standards and other practical and operative arrangements to reflect technological and other relevant developments in the area.
- E. Wish to enter into this MoU to provide a formal basis and framework for cooperation between them, including for the exchange of information and investigative assistance of providers and remote gaming services. The TCB and the GSC believe such co-operation will enable them to more effectively perform their respective functions.

## **II. Operative Part**

### **Interpretation**

1. In this MoU, unless the context requires otherwise:

"administering" means the operation of an applicable law, regulation or requirement includes enforcing the same;

"applicable laws, regulations and requirements" means any law, regulation or requirement applicable in Estonia and/or in the Isle of Man, and where the context permits includes:

- (a) relevant European legislation that has not yet been transposed, into the parties' domestic laws, where applicable
- (b) any law, regulation or requirement applicable in Estonia or the Isle of Man; and
- (c) any rule, direction, requirement, guidance or policy made or given by or to be taken into account by an Authority;

"Authority" means the TCB or the GSC;

"GSC" means the Isle of Man Gambling Supervision Commission;

"TCB" means Estonian Tax and Customs Board;

"permitted onward recipient" means an agency or authority responsible for prosecuting, regulating or enforcing applicable laws, regulations and requirements falling within the areas of responsibility of the Authorities;

"person" means a natural person, legal entity, partnership or unincorporated association.

"requirement" means any obligation, prohibition, condition or limit provided for in the laws, regulations or administrative provisions of the respective jurisdictions or in consequence of case law of the National Courts and, or the Court of Justice of the European Union.

### **Purpose and Principles**

2. The purpose of this MoU is to set forth the basis upon which the authorities reciprocally propose to cooperate in order to achieve a high level of protection of consumers (players, minors and the vulnerable, fight against addictions), to ensure the preservation of public order (prevention of fraud, money laundering and other crimes) and to achieve a common understanding of the applicable laws, regulations and requirements implemented by each Authority and to establish mutual trust and a good working relationship between the Authorities thus facilitating the performance of their respective functions.

This MoU also aims to establish a formal basis for co-operation, including the exchange of information and investigative assistance in compliance with national and EU law.

3. In order to achieve these objectives, the Authorities shall, in particular:

3.1 take measures to ensure that gambling operators licensed in jurisdiction of one Authority refrain from providing their services to residents of another Authority's jurisdiction, unless duly licensed there;

3.2 endeavor to make it easier to gambling operators duly licensed by one Authority to receive desired licenses from another Authority, by applying measures described below.

4. This MoU does not modify or supersede any laws or regulatory requirements in force in, or applying to, Estonia or the Isle of Man. This MoU sets forth a statement of intent and accordingly does not create any enforceable rights. This MoU does not affect any arrangements under other MoUs.

5. The Authorities acknowledge that they may only provide information under this MoU if permitted or not prevented under applicable laws, regulations and requirements.

### **Responsible Gaming and Consumer Protection**

6. The Authorities agree to ensure a high level of consumer protection in the activities of their licencees, including measures for the protection of minors and the vulnerable. In this respect they aspire to develop common standards and applications on responsible gaming and consumer protection.

### **Technical Equipment and Issues**

7. The Authorities recognise that for practical, technical and economic reasons gaming service providers may wish to locate technical equipment in jurisdictions other than those where they are licensed. The Authorities agree to permit their licensed service providers to locate such technical equipment in the territory of the other Authority, in accordance with the conditions laid down in the respective laws or regulations of the licensing authority. The licensing Authority will disclose such conditions to service providers applying for permission to locate their technical equipment in the territory of the other Authority.

8. The Authorities agree to assist each other for the purposes of point 7 for example by carrying out inspections on behalf of each other and/or allowing each other access to their territory in order to inspect such equipment.

9. The Authorities agree to include and be included in each other's respective regulated cloud environments. Detailed practical measures will be agreed between the Parties.

### **Non Duplication**

10. The Authorities agree to recognise certificates issued by respective National Certification Bodies thereby avoiding their duplication. The Authorities will also list other common approvals and certifications such as approved testing houses which may be used in the process of certifying technical equipment. For this purpose, a list of approved bodies, certificates and processes etc will be annexed to this agreement.

### **Player Liquidity**

11. The Authorities agree to allow their service providers to gain and maintain player liquidity with service providers licensed by the other Authority. The Authorities will agree on the manner in which such player liquidity shall be applied between Isle of Man and Estonia licensees through the issuance of a complementary technical agreement between the two Authorities.

### **Further Collaboration**

12. Either Authority may propose a program for the joint, cooperative or collaborative development of operational and technical standards for gaming, joint proof of concept for cloud computing/virtualisation of services, testing and certification of equipment and software and similar matters.

13. Either Authority may propose the development of common or similar standards, requirements and similar matters where this will enhance integrity, consumer protection, public confidence, anti-crime measures, and appropriate flexibility for gaming service providers. In particular the Authorities will strive to achieve common Know Your Customer standards to be imposed on operators.

14. Either Authority may at any time propose a program for employee exchange, twinning programs and other similar matters.

### **Provision of Unsolicited Information**

15. The Authorities may provide information or arrange for information to be provided, on a voluntary basis even though no request has been made.

### **Requests for Assistance**

16. If a request for assistance is made, each Authority will use reasonable efforts to provide assistance to the other, subject to its laws and overall policy. Assistance may include for example:

- (a) providing information in the possession of the requested Authority;
- (b) confirming or verifying information provided to it for that purpose by the requesting Authority;
- (c) exchanging information on or discussing issues of mutual interest;
- (d) obtaining specified information and documents; and
- (e) conducting inspections or examinations of licensed service providers or arranging for the same.

## **Procedure for Requests**

17. Requests for the provision of information or other assistance will be made in writing, or made orally and, unless otherwise agreed, confirmed in writing within ten business days. To facilitate assistance, the requesting Authority should specify in any written request:

- (a) the information or other assistance requested (identity of persons, specific questions to be asked etc.);
- (b) if information is provided by the requesting Authority for confirmation or verification, the information and the kind of confirmation or verification sought;
- (c) the purpose for which the information or other assistance is sought;
- (d) to whom, if anyone, onward disclosure of information provided to the requesting Authority is likely to be necessary and, in relation to onward disclosure to a person who is not a permitted onward recipient, the purpose such disclosure would serve;
- (e) if the request for assistance is for the purpose of actual or possible enforcement action, the matters set out in clause 1 of Appendix 1; and any other matters specified by the requested Authority and by the applicable laws, regulations and requirements in relation to the requested Authority; and
- (f) any other matters specified by the requested Authority and by the applicable laws, regulations and requirements in relation to the requested Authority.

## **Assessing Requests**

18. Each request for assistance will be assessed on a case-by-case basis by the requested Authority to determine whether assistance can be provided under the terms of this MoU. In any case where the request cannot be fulfilled in part or whole, the requested Authority will consider whether there may be other assistance which can be given by itself or by any other authority in its jurisdiction.

19. In deciding whether and to what extent to fulfill a request, the requested Authority may take into account:

- (a) whether the request conforms with this MoU;
- (b) whether the request involves the administration of a law, regulation or requirement which has no close parallel in the jurisdiction of the requested Authority;
- (c) whether the provision of assistance would be so burdensome as to disrupt the proper performance of the requested Authority's functions;



- (d) whether it would be otherwise contrary to the public interest or the essential national interest of the requested Authority's jurisdiction to give the assistance sought;
- (e) if the request for assistance is for the purpose of actual or possible enforcement action, the further matter set out in clause 2 of Appendix 1;
- (f) any other matters specified by the laws, regulations and requirements of the requested Authority's jurisdiction (in particular those relating to confidentiality and professional secrecy, data protection and privacy, commercial secrecy and procedural fairness, EU legal principles); and
- (g) whether complying with the request may otherwise be prejudicial to the performance by the requested Authority of its functions.

20. The authorities recognise that assistance may be denied in whole or in part for any of the reasons mentioned in paragraph 18 in the discretion of the requested Authority.

#### **Contact Points**

21. The Authorities will provide a list of contact points to which information or requests for information or assistance under this MoU should be directed.

#### **Further Provisions**

22. The further provisions set out in:

- (a) Appendix 1 will apply in relation to actual or possible enforcement matters;
- (b) any other Appendices covering specific areas or specific issues, as agreed in writing by the Authorities, will apply.

#### **Costs**

23. If the cost of fulfilling a request is likely to be substantial, the requested Authority may, as a condition of agreeing to give assistance under this MoU, require the requesting Authority to make a contribution to costs.

## **Confidentiality**

24. An Authority that receives non-public information under this MoU will only disclose that information in accordance with disclosure permitted under its applicable laws, regulations and requirements. The recipient Authority will endeavour to consult with the other Authority if it proposes to pass on information to another person. The recipient Authority will use the information it receives solely for the purposes it was requested and endeavour to comply with any restrictions on the use of information that are agreed when the information is provided.

25. If there is a legally enforceable demand for information supplied under this MoU, the Authority receiving the demand will notify the Authority that supplied the information of the demand, unless this is not practicable for reasons of urgency. The Authority receiving the demand will use all reasonable legal means to resist such a demand, including asserting such appropriate legal exemptions or privileges with respect to that information as may be available.

## **Consultation**

26. The Authorities will keep the operation of this MoU under review and within 18 months from the conclusion of the MoU will propose necessary amendments to the MoU with a view to improving its operation and resolving any matters.

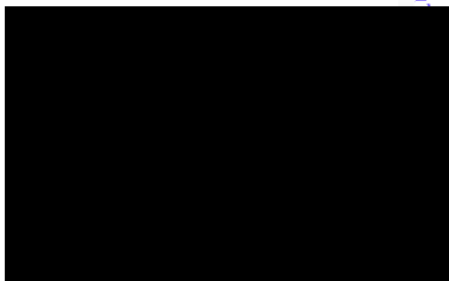
27. Where the specific conduct set out in the request for assistance may constitute a breach of a law, regulation or requirement in both the territory of the requesting and the requested Authorities, the relevant Authorities will consult to determine the most appropriate means for each Authority to provide assistance.

## **Commencement**

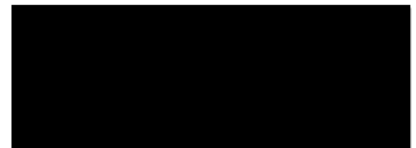
28. This MoU will take effect when both Authorities have signed it and will continue to have effect until terminated by either Authority giving 30 days advance written notice to the other Authority. It may be amended by mutual agreement in writing.

## **Executed by the Parties:**

**For the TCB**  
Marek Helm  
Director General



**For the GSC**  
Steve Brennan  
Chief Executive Officer



Date: 28.05.2013

## **Appendix 1: Further Procedures for Enforcement Matters**

### **Further Details to be Contained in Requests for Assistance**

1. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further details will be contained in the request:

- (a) a description of the conduct or suspected conduct which gives rise to the request;
- (b) details of the applicable law, regulation or requirement to the administration of which the request is relevant;
- (c) the link between the specified rule or law and the regulatory functions of the requesting Authority;
- (d) the relevance of the requested assistance to the specified rule or law; and
- (e) whether it is desired that, to the extent permitted by the laws applying to the requested Authority, any persons from the country of the requesting Authority should be present during interviews which form part of an investigation, and whether it is desired that such persons should be permitted to participate in the questioning (as to which see clause 3 below).

### **Further Ground for Denial of Request**

2. If a request for assistance as described in this MoU relates to actual or possible enforcement action, the following further matter may be taken into account by the requested Authority in determining whether to fulfill the request in whole or in part:

- whether the request would lead to the prosecution of, or the taking of disciplinary or other enforcement action (1) in respect of an alleged breach which is not, in the opinion of the requested Authority a breach of its own or EU laws and/or (2) against, a person who in the opinion of the requested Authority has already been appropriately dealt with in relation to the alleged breach the subject-matter of the request.

### **Requests to Sit in**

3. If, following a request from the requesting Authority, the requested Authority conducts an interview of any person, the requested Authority may permit a representative of the requesting Authority to attend such an interview and to ask questions. Such requests will be in accordance with the applicable laws, regulations and requirements of the requested Authority. Requests for such assistance should conform to any published guidance for the making of such requests issued by the requested Authority.

## **Joint Investigations**

4. The Authorities acknowledge that, subject to secrecy and confidentiality issues, an investigation, where it concerns suspected breaches of the law of both jurisdictions, may be conducted more effectively by the establishment of a joint investigation involving members from both Authorities.

5. The Authority suggesting the joint investigation will advise the other Authority of the background to the request for a joint investigation, and liaise with the other Authority to determine the likely objectives of the joint investigation, the expected resources required and the approximate duration of the proposed joint investigation. Each Authority will advise the other as soon as possible as to whether it will agree to such an investigation.

6. If the Authorities agree to take part in a joint investigation, an agreed initial action plan will be prepared setting out, among other things, the objectives, expected duration, funding, publicity and accountability arrangements, management of the joint investigation, and allocation of responsibilities.

7. Suggestions to TCB for a joint investigation should be made through the Monika Jõesaar (Head of Taxation Division). Suggestions to the GSC should be made to the Chief Executive Officer.

## **Rights of Persons Preserved**

8. Any person providing testimony, information or documents as a result of a request made under this MoU will be entitled to all the rights and protections of the laws of the jurisdiction of the requested Authority. Where assertions are made regarding other rights and privileges arising exclusively pursuant to the laws of the jurisdiction of the requesting Authority, the Authorities will consult to determine the most appropriate way to proceed.