

Clients & Friends Memo

UK Gambling Commission Cracks Down in Respect of Money Laundering Failures

16 March 2020

On 12 March 2020, the UK Gambling Commission announced that it will fine online gambling business Betway Limited (“**Betway**”) £11.6 million for failures in respect of its anti-money laundering controls and handling of seven of its “VIP” high-spending customers.

Beyond its relevance to the online gambling industry, this case clearly illustrates that all companies subject to the UK Money Laundering Regulations, including businesses in the finance sector, are required to have up-to-date and sophisticated anti-money laundering systems and controls.

The Gambling Commission commenced its investigation into Betway prompted by complaints from customers and reports from other agencies. The investigation revealed systematic failures in accounts held by seven customers between November 2014 and December 2018. These failures included failures to implement effective anti-money laundering (“**AML**”) controls and to identify problem gambling behaviour. For the purposes of this memo, we will focus on the anti-money laundering failures.

Gambling businesses in the UK are required to comply with the Money Laundering Regulations 2007 and of the Money Laundering Regulations 2017. Licence Condition 12.1.2 of Betway’s Licence specified: “*Licencees to put into place and implement the measures described in Parts 2 and 3 of the Money Laundering Regulations 2007 (superseded by the 2017 Regulations), insofar as they relate to casinos.*”

Betway accepted that between November 2014 and December 2018 it did not have adequate AML controls to consistently address the risks presented by higher risk customers. Specifically:

- Betway failed to conduct sufficient ongoing monitoring of its business relationship with the customers.
- At the time of the customers spend, Betway failed to apply enhanced customer due diligence and enhanced ongoing monitoring on a risk-sensitive basis.

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- Betway failed to keep full records of the evidence and supporting documents it considered part of its customer due diligence checks and business relationship with the customer.
- Betway failed to establish and maintain appropriate and risk-sensitive policies and procedures relating to specified matters (including the monitoring and management of compliance with such policies and procedures) in order to prevent activities related to money laundering and terrorist financing.
- Betway failed to have an appropriate Money Laundering and Terrorist Financing risk assessment in place.
- Betway failed to apply adequate customer due diligence measures which include, but are not restricted to, ongoing monitoring of a business relationship, scrutiny of transactions, source of funds checks where necessary, and the undertaking of reviews of existing records, and keeping documents obtained for client due diligence purposes up to date.

In an illustrative example, a customer (who subsequently was convicted of fraud) deposited more than £494,000 over a period of 17 months into 11 separate accounts. This customer was the subject of 18 reviews by Betway's risk and fraud team. However, Betway did not undertake any checks to establish that the customer's source of funds was legitimate as the customer failed to trigger any of the financial thresholds in place at the time.

The financial penalty paid by Betway is comprised of:

- a £5.8 million payment in lieu of a financial penalty which will be directed towards delivering the National strategy to reduce gambling harms; and
- a £5.8 million divestment (the majority of which will go to victims where it has been found, or could reasonably suspected, to be proceeds of crime).

In addition, Betway has agreed to an independent review of its policies and processes and a compliance review of all active UK customers, and is conducting an ongoing internal investigation into its top 25 customers by gross gambling yield and its top 25 customers by deposit for years 2015, 2016, 2017, and 2018. Where Betway identifies similar findings to those identified by the Gambling Commission, it has agreed to make further divestments where appropriate.

The key takeaways from this enforcement action are that online gambling businesses must:

- conduct appropriate AML risk assessments of customers;
- have effective AML policies in order to mitigate the risks of proceeds of crime being spent on their website(s); and

- maintain adequate documentation and an audit trail of account reviews in order to demonstrate the effectiveness of their policies and processes.

This enforcement action should be viewed in the context of continued focus on money laundering by the UK Authorities. In his first budget announced on 11 March 2020, UK Chancellor Rishi Sunak set out plans to supplement public sector funding of financial crime and AML enforcement with a levy paid by all groups that are subject to the UK Money Laundering Regulations. The proceeds from the levy will fund the hiring financial investigators, the development of law enforcement technology, and the enactment of measures contained in the National Crime Agency's Economic Crime Plan of July 2019.

The UK authorities also have been making use of Unexplained Wealth Orders ("**UWOs**"). Introduced in 2018, UWOs allow the UK authorities to demand that anyone with assets of more than £50,000 explain how they could afford them if their income appears insufficient, and call on politically exposed people to explain their wealth. On 5 February 2020, Zamira Hajiyeva failed in her appeal to overturn an UWO in respect of UK properties valued at £11.5 million and £10.5 million. She will now have to explain a legitimate source of funds or these properties will be subject to seizure.

These developments clearly show that the UK Authorities are serious about investigating and enforcing against individuals and businesses where money laundering is suspected. Business operating in high-risk sectors may wish to consider a review of their current controls.

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