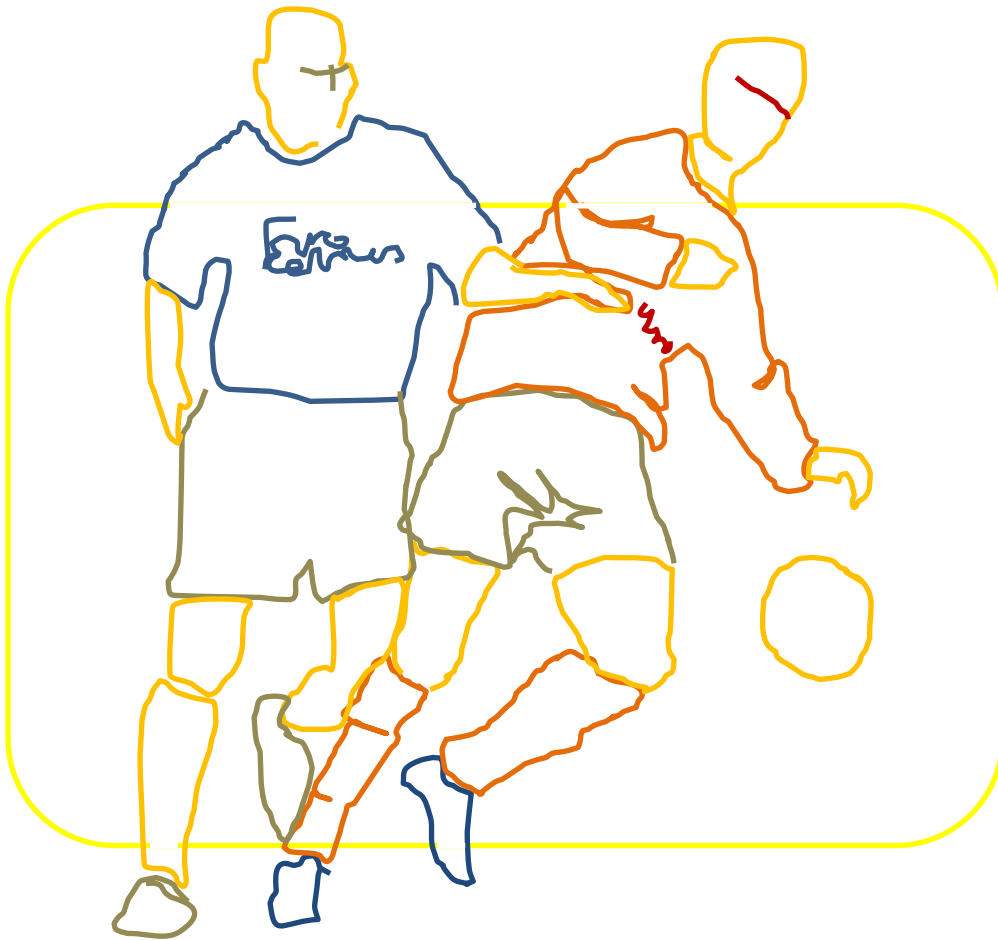


ISLE OF MAN
GAMBLING
SUPERVISION
COMMISSION



Guidance for Online Gambling (Amendments)
Regulations 2016

Version (1):04/01/2017RT

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This guidance is effective from 1st January 2017.

1. Introduction

1.1 About this document

This document has been prepared by the Gambling Supervision Commission (GSC) and contains advice and guidance necessary to understand the provisions of the Online Gambling (Amendments) Regulations 2016.

Throughout the consultation process, the GSC has recognised that the changes being made to the law would require additional clarification and advice. This guidance intends to clarify, where necessary, certain elements of the changes and provide interested parties with further information to ensure that the changes have been properly understood.

The contents of this guidance should not be construed as legal advice.

1.2 The Gambling Supervision Commission

The application of the gambling legislation to the industry falls to the GSC. The GSC is an independent statutory board of Tynwald and comprises the Inspectorate and the Commission.

The Commission consists of five independent members drawn from various professions and backgrounds. The Commission members conduct monthly hearings into all matters that pertain to gambling in the Isle of Man and are supported by their Inspectorate.

The Inspectorate is managed by the Chief Executive of the GSC.

The GSC is available 9:00am to 5:00pm Monday to Friday.

It can be contacted via phone on +44 (0)1624 694331.

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2. Background

The GSC identified that some of its laws were not in keeping with that of other regulatory jurisdictions. Coupled with the speed in which technology has developed over a relatively short timescale, the GSC determined to introduce proposals designed to improve the regulatory environment afforded by it to licence holders.

In April 2016, the GSC undertook a consultation detailing a number of proposed changes that would be made to secondary legislation. The consultation highlighted certain areas of the law that the GSC considered would benefit from having changes applied. Those changes included –

- Allowing virtual currencies to be accepted by operators (subject to certain regulatory safeguards);
- Broadening the services that a full licence holder can provide to its sub-licensee;
- Allowing for the GSC to recognise test certificates issued in respect of the laws of other gambling regulators as being equal to Isle of Man standards;
- Extending the range of voluntary gambling controls that operators' can provide to players;
- Providing clarity for winnings (that the GSC considers to be out of scope for protection); and,
- Having an ability to offset unused portions of licence fees against new licences.

Following industry feedback, an additional limited consultation was undertaken in November 2016. This consultation was centred on one specific issue –

- The abolition of network partner fees.

The GSC, with the support of its sponsoring body Treasury, laid down the regulatory changes before Tynwald at its December 2016 sitting. The regulations came into effect on 1st January 2017.

3. The changes made

3.1 Online Gambling (Registration and Accounts) Regulations 2008

The GSC has provided clarity with regard to some of the definitions used within the Online Gambling Regulation Act 2001 and its associated regulations.

:: Modernisation of wording

It is customary for drafters to take the opportunity of regulatory reform to tidy up wording that has become outdated or which is incorrect. A number of changes reflect this tradition.

Grammatical amendments have been made to **Regulation 2 (Registration and Accounts)** and **Regulation 3 (Rules for Registration)** with the renumbering of sub-paragraphs.

A new sub-paragraph (5) has been added requiring an operator to exclude from registration or cancel the registration of problem gamblers. Amendments have been made to **Regulation 5 (Rules as to play)**.

Clarity with regard to the instances that may result in a player having an overdrawn account has been provided. This is detailed in **Regulation 5A (Overdrawing a participant's account)**.

Amendments have been made to the **Schedule (Rules as to accounts – opening of account)** of the regulations.

Existing text has been renumbered and the paragraph set differently introducing sub-headers to accommodate the introduction of the ability to be able to open an account using ***a deposit of something which has a value in money's worth***

:: Elective controls for gamblers

Significant changes have been made to the types of controls that operators may make available to registered players. The changes are detailed in **Regulation 5C (Limiting the player's exposure to gambling)**.

Licensees should consider which of the controls is most likely to assist their players control their gambling to prevent it becoming a problem. They may elect to continue with their existing controls, add more controls to their functionality or switch to a different control.

The controls now include –

- The ability for players to be able to set limits on the amount that they can deposit;
- The ability for players to be able set limits on the amount that they can spend; or,
- The ability for players to be able to limit the net amount that they can lose.

At least one of the elective controls above must be made available to players.

Licensees currently offering limits that comply with the old regulations are automatically deemed to be compliant with the spend-limit function in the new regulations and need not change that functionality if they consider it to be effective.

When selecting a control, a player should be able to choose (or if no choices are available) specify a term over which time the control will operate. If a term is chosen or specified by a player then the control chosen must stay in effect until the full term has passed. The exception is where a player wishes to further tighten the control (that is, to reduce a value or increase the term further).

Operators must offer functionality that they believe will be helpful. The controls are primarily aimed at people who have a rational idea of what they wish to spend and who know they will be tempted to stray from those limits once they start gambling.

For example, a player may wish to limit the amount of money they can deposit into their gambling account. They may ask that they can only deposit £100 over the next seven days. Later that evening they decide they feel lucky and ask for the limit to be increased to £500. The licensee refuses because seven days have not elapsed. After seven days, the limit may be changed.

The regulatory changes now require operators to accommodate requests for elective limits to be made, *as soon as reasonably practicable*. If it is not possible to implement the limit immediately, operators are required to inform players when the limit will take effect.

The ability to set loss limits is another elective control that operators may offer. The GSC considers a loss limit to be a limit on the maximum net amount a player can lose. For example, a player has an account balance of £500. He sets a maximum loss limit of £100 in a period of 24 hours. After 30 minutes of gameplay, the player's account is in positive position and shows a balance of £800. After a further 2 hours of gameplay, the player's balance has been reduced to £400 resulting in the player being unable to place any more stakes (due to his net loss limit of £100 being reached).

:: Additional options for the currency used to open an account

Clarification about the criteria that is applied in determining whether something has a value in money's worth has been added. This clarity is shown at **Regulation 11 (2) (a) and (b) of the 2016 Regulations**.

It is now possible to open an account with an Isle of Man gambling operator by using anything which has a value in money's worth.

This includes convertible and non-convertible virtual currencies (CVCs and VCs respectively).

Convertible virtual currencies include items such as bitcoins which can be bought and sold through independent exchanges for fiat currency.

Non-convertible virtual currencies include virtual goods such as digital "skins" for avatars and weapons in video games and other digital objects that have functions in video games, as well as in-house game currencies that can be used within the game to buy such objects.

These changes can be found at Part 2 of the new regulations.

For a more detailed overview of the GCS's position regarding use of CVCs and VCs please see appendix 1

3.2 Online Gambling (Licence Fees) Regulations 2009

The terms "network services" and "licensable services" have been introduced and definitions provided for both.

:: Additional permissions for licensees offering services to sub-licensees

The services that a full licence holder can offer to its sub-licensee have been expanded. Historically, a sub-licensee was permitted to only use games or lottery products operated by the holder of a full licence. The change permits a full licence holder to offer additional services to sub-licensees including back office solutions and betting platforms as well as the former games and lotteries etc.

However, there is no change to the exclusivity arrangements. For example, a full licence holder can source its platform and gambling products from a number of different suppliers whereas the sub-licensee is only permitted to use games or products supplied directly by a single full (or network services) licence holder (with which it is contracted) or games and products that it has developed itself. A sub-licensee would not be permitted to source its platform from one full licence holder and its games from another, or to source games from two or more full licence holders.

:: An offset mechanism for unused licence fees when upgrading or downgrading

Significant amendments have been made to **Regulation 3 (Licence fees)**.

Previously, there was no ability for operators to obtain a refund of any portion of a licence fee that was unused following an upgrade to a more expensive licence. A mechanism has been introduced that makes it possible for operators who wish to upgrade their licence to be able to offset any remaining unused portion of their licence fee against the cost of the upgrade.

:: Removal of the £5,000 annual network partner fee

Additionally, the network partner fee has been abolished. Network services licence holders pay £50,000 for a licence. At licence renewal, network services licence holders were additionally charged £5,000 for each network partner that they contracted with during the preceding twelve months. From 1st January 2017, on renewal, a network licensee will only be charged the network licence fee. There will be no charge raised for network partners.

These changes can be seen at Part 3 of the new regulations.

:: Relief from fund protection requirements where the funds pass to a third party and the players are professional gamblers

In the Online Gambling (Participants' Money) Regulations 2010, the definition of "participants' money" has changed. Clarification can be seen at Part 4 of the new regulations.

A new paragraph has also been added explaining what is meant by "participants' money." This change to the law was made to provide clarity about how the GSC expects operators to protect player funds at certain stages. For example, some operators employ models that are intrinsically linked with Tote betting. This change provides details about certain scenarios whereby the Commission considers funds to not be "participants' money."

3.4 Online Gambling (Systems Verification) (No. 2) Regulations 2007

Changes have been made to the definitions listed at **Regulation 1 (Citation, Commencement and Interpretation)**.

Regulation 2 (Certification of System for Gaming and Lotteries) has been substituted in its entirety.

Historically, the GSC was only able to accept test certificates that had been issued in compliance with the requirements of schedule 1 of the regulations. This change to the law now means that the GSC is able to accept test certificates that have been issued to other gambling regulators (by test houses approved by the GSC), if the regulatory authority has entered into a Memorandum of Understanding with the GSC. Presently, agreements have been signed with Alderney, Denmark, Estonia, Jersey, Malta, Seychelles and the United Kingdom and this change will enable the GSC to accept test certificates which have been issued following testing to the standards set down by those other regulatory jurisdictions.

In addition, should an international body or group of gambling regulators (of which the GSC is a member), draw up a set of standards, test certificates issued in compliance with those standards will be accepted.

These changes can be found at Part 5 of the new regulations.

Appendix 1 - Convertible and non-convertible virtual currencies (CVCs and VCs respectively).

Background

It is now possible to open an account with an Isle of Man gambling operator by using anything which has a value in money's worth.

This includes convertible and non-convertible virtual currencies (CVCs and VCs respectively).

Convertible virtual currencies include items such as bitcoins which can be bought and sold through independent exchanges for fiat currency.

Non-convertible virtual currencies include virtual goods such as digital "skins" for avatars and weapons in video games and other digital objects that have functions in video games, as well as in-house game currencies that can be used within the game to buy such objects.

Practice detail.

This practice note outlines the GSC's initial approach to this new form of technology and may be changed over time as the technology matures. For this reason, no regulations will be created until it is clear that the GSC's framework is resilient for consumers and workable for operators. Licence conditions will be used during this period to prescribe the rules and these will be changed as rules need to be strengthened or can be safely relaxed.

1. Permitted models for CVCs and VCs

The GSC has identified five different models which operators could seek to use:

- **CVC to fiat conversion prior to play.** In this model, the operator uses an exchange as an interface between players who deposit CVCs and its platform. The player deposits with the exchange and the exchange passes the fiat equivalent to the operator for gambling. The GSC is willing to licence this model provided the exchange that is used is subject to FATF-compliant, mandatory reporting requirements for suspicion of money laundering and terrorist financing in a jurisdiction with an effective AML/CFT framework.
- **CVC-in, CVC-out, peer-to-peer.** In this model, players may deposit CVCs and use them to play against other players with the same deposit arrangements. Play may be competitive (for example: poker) or passive (for example: pool betting, pari-mutuel). The GSC is willing to licence this model provided the CVCs cannot be cross-traded, that is: one type of CVC deposited and a different CVC withdrawn. However it is still permitted for multiple channels of CVC and VC to be operated for a player – this concept of multi-channel operations is discussed in (2) below.
- **CVC-in, CVC-out, against the house.** In this model, players may deposit or pay for gambling against an operator and winnings are drawn against the operator's

funds rather than those of other players. The GSC is willing to licence this model provided applicants understand and intend to apply the GSC guidance on CVC/VC gambling.

- **VC-in, Optional Conversion, VC-out.** In this model virtual goods are deposited by the player. Different virtual goods may have different values and may therefore be converted to a common denomination for the purposes of play using an in-house currency. This in-house currency is then converted back to the same type of virtual goods as were deposited to supply the prize prior to withdrawal. The in-house currency has no application outside the gambling website although the operator may allow it to be purchased separately.
- **CVC-X-in, CVC-Y-out** and **CVC-in, Fiat-out.** In this model it is possible for players to deposit any fiat or CVC with the operator and choose a different currency (fiat or CVC) as a means of withdrawal, effectively treating the operator as an exchange. The GSC is not willing to licence this model at present.

2. Player account rules

.AML requirements

Accounts may only be opened if operators can comply with:

- The current AML/CFT Code and guidance for online gambling; and
- The enhanced AML/CFT guidance that the GSC issues in respect of virtual currencies and goods gambling.

.The specific CVC used

Accounts may be opened using CVC/VCS. If an operator wishes to accept a CVC from players directly then its risk assessment for AML/CFT purposes must consider the nature of the CVC paying particular regard to the privacy/secretcy ambitions of the schema, its history and the ability of law enforcement to obtain access to users' identity.

.Multi-channel gambling

A player may deposit and play with more than one CVC/VC but the accounting rules for tracking play must keep each channel separate, as if each currency were a separate wallet.

For example:

A player deposits a bitcoin and a dogecoin with an operator. The bitcoin is gambled and produces a win of another coin. The dogecoin is gambled and produces a win of three extra coins. The maximum withdrawal the player can make is two bitcoins and four dogecoins.

Even if the exchange rate were 1 bitcoin for 1 dogecoin, the bitcoin win could not be converted into dogecoins nor the dogecoin win converted into bitcoins. In the same way the operator could not convert the currencies internally before play or withdrawal. Such crossed transactions will be prevented by the conditions of the licence.

.Deposit address = withdrawal address, exception if wallet issued by operator

The address used to deposit a CVC must be the address used for withdrawal transactions.

An operator is not permitted to send a withdrawal to a second or subsequent address even if the player supplies a credible reason why a second address should be used.

However if an operator supplies the new address itself and registers it against evidence of identity (for example, photo ID and proof of address) then this new address can be used because its subsequent activity can be tied to an identity for the purposes of reporting suspicious activity and assisting law enforcement.

3. Protection of players' currencies and goods

If players deposit CVC/VCs with an operator, those deposits may be vulnerable to two types of protection failure.

The first type of failure occurs when insufficient care is taken by the operator to safeguard deposits or winnings held by the operator (for example, the private key of a wallet is shared with temporary staff). The GSC considers it is the operator's responsibility to guard against these types of failure.

The second type of failure is where the underlying platform of a CVC/VC or the infrastructure underpinning CVC/VCs is either withdrawn, insufficiently supported or fails (for example, a company which administrates the virtual goods for a computer game discontinues the game). The GSC does not consider the operator responsible for this type of failure unless it was precipitated by the operator itself.

.Requirement to safeguard deposits

Operators must demonstrate to the GSC that they have anticipated threats to the mechanisms used to store players' deposits and winnings and that they have put in place credible measures to mitigate these threats. Mitigations may include:

- Taking surplus currency off the network until it is needed;
- Converting the currency to something more secure until it is needed;
- Using multi-signature applications to protect against withdrawal by a single person;
- Insuring or hedging against loss of currency arising from hacking, accidental loss, deliberate theft (internal or external), and so forth.

If a wallet is held directly by the operator, rather than a trusted third party who executes instructions, then the operator will need to indicate how an internal threat (i.e. from an insider) is managed.

.Requirement to explain risk to players

The virtual goods that players obtain in gaming often do not belong to them, but rather remain the property of the software company that created them and which administrates

their allocation. Players on the other hand may believe that the virtual goods are theirs because they may have paid for them.

Operators who have not secured the agreement of the company which controls the allocation of virtual goods must make it clear to players that their goods are not protected if an action by that company results in the goods no longer being available.

Operators with formal agreements from software suppliers are not obliged to explain the risk. In this case, if the software supplier breaches the agreement it is only necessary for there to be recourse to legal action (for example, for breach of contract).

4. Volatility rules for player-versus-the-house models

The value of CVC/VCs can change quickly (for example in response to good news and bad news stories). An operator accepting CVC/VCs when the value is low may be faced with a large overhead if a win means they have to source the same currency or goods when the value has increased significantly.

An operator offering betting and other games where it has an exposure to winners in CVCs/VCs must be able to supply those CVCs/VCs if the win occurs.

For AML/CFT reasons, an operator may not offer a fiat equivalent to make up any shortfall to players.

If an insurance arrangement is used to hedge against unpayable wins it must be capable of supplying the CVC/VCs required even during periods where the value of the currency or goods has increased outside of expectations.

5. Player to player transfers - VCs only

If an operator offers ancillary functionality for VCs to be transferred, traded or sold then it must only apply to winnings and it must not be possible for players to set the trade or sale price.

Any transfers must be subject to AML/CFT monitoring and treated as qualifying payments if the EUR 3,000 threshold is met.

6. Technology assurance costs

The GSC reserves the right to oblige operators to pay for an independent technology expert to be chosen by the GSC and to assist the GSC with elements of a model that are beyond the GSC's expertise.

The GSC is happy to meet with potential applicants before they pay their application fee in order to discuss models and identify any areas where independent expertise might be required (and where the operator may be requested to fund the expert's fees).

7. Pay-as-you-go gambling

CVCs offer the prospect of cheap micro-transactions. Operators who have satisfied their AML/CFT obligations on account opening may subsequently offer pay-as-you-go arrangements to players, that is: players purchase a stake in an individual game of chance on a play-by-play basis rather than depositing currency in a wallet and drawing from it to play.

For example, a player plays crypto-slots with an operator. Every time he selects the spin button, a payment the CVC is made to the operator's address. Whenever he wins a prize, it is sent to his address. After a twenty minute session, he stops playing and his balance with the operator is zero.

It is recognised that operators automatically paying winnings may elect to retain winnings until the transactions that were used as the stakes have entered the block-chain as trusted transactions.

.Requirement to detect unusual activity

An operator offering a pay-as-you-go model must be able to detect unusual activity in real time and suspend the account automatically. The GSC's experience of third party software written to mimic human players (bots) suggests that similar applications could be created to make automatic virtual currency payments (for whatever reason). Such applications could fail and create runaway payment situations.

Equally, player accounts can be hi-jacked and attempts made to drain funds as quickly as possible.

Where unusual activity is detected, the operator's software must be capable of automatically locking the account until a satisfactory explanation can be obtained.

Operators will be expected to determine limits which guard against high velocity withdrawals or deposits which appear to be automatic in nature and to lock the accounts where this occurs until the player has been contacted.

.AML requirements on pay-as-you-go models for qualifying payments

Operators' software must be capable of applying an automatic lock on withdrawals once the AML/CFT qualifying payment threshold has been met (currently EUR 3,000).

This means that the software must understand and apply the rolling aggregate calculation to the previous 30 days' activity and must calculate the equivalent EURO value of all transactions based on their equivalent value at the time. If multi-channel wallets are held by a single player, the aggregate calculation must operate on the sum of these wallets' activity.

For example:

A player with multiple wallets on his account withdraws the following sums during a period of volatile exchange rates:

<i>1/1/2018</i>	<i>1 altcoin</i>	<i>equivalent fiat value EUR300</i>
<i>4/1/2018</i>	<i>1 bitcoin</i>	<i>equivalent fiat value EUR800</i>
<i>9/1/2018</i>	<i>1 altcoin</i>	<i>equivalent fiat value EUR1</i>
<i>12/1/2018</i>	<i>1 altcoin</i>	<i>equivalent fiat value EUR1900</i>

The transaction on the 12th causes the aggregate value of transactions to exceed the EUR 3,000 threshold and the account is locked pending AML/CFT checks.

.Data that operators can expect the GSC to request

When examining transaction records the GSC will require exchange rate information to be supplied as well so it will be helpful if operators can record against each transaction the exchange rate for fiat (GBP or EURO are acceptable) at the time of the transaction.

Operators may be asked to demonstrate to the GSC which exchange rate or basket of exchange rates they track. Once an exchange rate or basket of rates has been selected, the GSC expects that this source will be used consistently.

.Manual locking of accounts

Operators must be able to manually lock accounts so that they can prevent payments being made to people that are:

- subject to financial sanctions or AML/CFT investigation;
- suspected of cheating;
- suspected to be under age; or
- suspected to have a gambling problem.

.Automatic response to risk factor changes

If a player's risk rating changes and becomes higher (perhaps as a result of an unusual step up in transaction value, a change in the country from which play occurs or a change in political exposure) then the system must be able to lock the account until the AML/CFT requirements in the Code have been satisfied.

8. Information requirements

Operators adopting virtual currencies and goods will be subject to two additional requirements for supplying information to the GSC.

.Separation of channels for quarterly reports

The financial data supplied on quarterly returns for fiat activity and virtual activity must be separated by channel. If an operator offers poker, casino games, a sports book, altcoin poker, altcoin slots and virtual goods gambling for video games A and B then it will be required to report financial data relating to fiat gambling, altcoin gambling and virtual goods gambling separately.

.Thematic checks

As the GSC moves compliance to a risk-based approach, it is likely that it will seek to monitor virtual currency and virtual goods gambling more closely.

For this reason, operators which offer these products may be asked to participate in additional reporting.

9. Advertising fiat equivalent values for virtual currency or virtual goods

If an operator suggests in its advertising or on its website/application that CVC/VCs have an equivalent fiat value then the claim must:

- Be correct at the time of the advertising;
- Show how the value has been calculated (i.e. which exchange has been used);
- Must carry a disclaimer that changes in the exchange rate may mean that the prize has a lower value when won; and
- That the prize will, in any case be paid as a CVC/VC despite the fiat equivalent used in the advertisement and that no cash equivalent will ever be paid.

10. Existing operators adding CVCs to their licence

The GSC does not see the addition of a CVC into payment options as a new gambling product. If slots can be played using separate fiat and CVC wallets then it is sufficient for the licence to specify that RNG Games are licensed.

However the GSC will require the licence to be modified so that a schedule with the requirements for CVC use can be added.

11. Existing operators adding virtual goods to their licence

The GSC sees the offering of gambling using VCs as a separate product and licensees seeking to offer this type of gambling will be required to have the new product approved by the GSC and added to their licensed products.

12. Fees and Taxation

The GSC currently accepts only GBP as a payment for its fees.

Operators seeking to offer CVC/VCs in gambling are strongly advised to contact the Isle of Man Treasury's Customs and Excise Division in order to understand how their liabilities will be calculated.

Appendix A: Summary of permissions and constraints

1. Accounts can be opened using CVC/VCs;
2. Operators can accept CVC/VCs through an exchange or directly from players;
3. Volatility rules apply where play is against the house;
4. CVCs cannot be converted to fiat or other CVCs/VCs at all;
5. Multiple CVC/VCs may be accepted by an operator provided they are kept separate. These cannot be mingled, exchanged or traded. They may be temporarily converted into an in-house currency in order to be compatible with dissimilar currencies in peer to peer play but this in-house currency may only be converted back into the original CVC/VC of the player;
6. The address used for deposits or payments is the only address that can be used to receive withdrawals unless the operator supplies the address itself and ties it to the player's identity credentials;
7. AML/CFT obligations must be met at all times – equivalent fiat values will need to be calculated to do this;
8. Enhanced AML/CFT rules may be prescribed in licence conditions and additional guidance may be supplied;
9. Value held by the operator for players must be protected against predictable threats but the GSC accepts that loss of value through the failure of a distributed ledger or such like, or the unilateral action of the controller of virtual goods is beyond the operator's control.
10. The GSC may ask operators to pay for technology experts appointed by the GSC but is happy to discuss the likelihood of this before any application fees are paid;
11. Once players have opened accounts, operators may accept payments in real time for gambling rather than require deposits. If this function is offered then ongoing monitoring and account locking must be automatic for certain circumstances and manual account locking must also be possible;
12. The GSC will ask for transaction data to contain exchange rates so operators should consider integrating this into their transaction records;
13. If operators advertise fiat cash-equivalents for CVC/VCs then rules will apply to the calculation and to disclaimers;
14. Cash can never be paid in lieu of virtual winnings;
15. Existing operators seeking to add virtual offerings require additional licence conditions from the GSC and adding VCs requires the product to be added to the licence.;
16. Operators and prospective applicants are advised to contact Customs and Excise to understand the taxation implications of gambling when CVC/VCs are used;
17. The GSC will adapt requirements as this area of technology matures.