

# A CONSULTATION DOCUMENT



## Isle of Man Gambling Supervision Commission

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## SOFTWARE SUPPLIER LICENSING

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[December 2018]

**Contents**

<b>Section</b>	<b>Page</b>
1. Introduction	4
2. Background	4
3. Measures Proposed	5
4. Consultation Process	6
Appendices:	
A List of Stakeholders consulted	8
B FAQ's for Software Supplier Licensing	9

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Gambling Supervision Commission.

## **1. Introduction**

The Isle of Man Gambling Supervision Commission (GSC) is responsible for regulating all gambling in the Isle of Man.

Part of that remit is to ensure that the regulatory processes adapt to the changing needs of the industry in order to provide a modern and relevant licensing framework. The GSC also needs to remain self-reflective and to look at how its processes can become more streamlined and effective.

The GSC is proposing the introduction of Software Supplier Licensing for both regular software providers and for those based on block-chain technology. This will see the creation of a central register of approved software to be held by the GSC, streamlining internal processes and speeding up game deployment for licensed operators.

## **2. Background**

### Certification

The GSC does not currently offer licensing to software suppliers. The identified risk posed by software lies in its fairness to the player. Games that contain coding errors for example may fail to pay players in the expected way.

The law currently mitigates this risk by seeking independently approved certificates in respect of all games offered by an operator and the certificates must currently be obtained from each licensed operator offering the games, even if the games stem from a common supplier. These certificates prove that each game meets prescribed standards of fairness.

However, requiring test certificates from operators rather than the software suppliers that write the games can cause a duplication of effort and cost particularly when multiple operators seek to deploy the same gaming content at the same time. In these scenarios, workload for the GSC is increased, the licensees' business needs can be delayed and the process becomes more bureaucratic than it should be.

### 3. Measures proposed

The GSC is consulting on the following items:

- 3.1 The GSC will introduce a central software register which will list companies offering gambling software and related services, such as live dealer studios.
- 3.2 Any software or service listed on the central register will be deemed certified and any Isle of Man licensee wishing to deploy those games or services will be permitted to do so without requiring notice to, or permission from the GSC.
- 3.3 In order to list software or services on the register, the company will be obliged to supply its certification directly to the GSC and not via an operator. In order to hold that company accountable for failures, a licensing regime will be introduced.
- 3.4 In order for a company, a game or a service to be listed on the register, it will be necessary for the company to hold a new variant of the Online Gambling Regulation Act (OGRA) licence which will be called either:
  - a software supplier licence; or
  - a token-based software supplier licence
- 3.5 A software supplier licence will be available for any licensee that wishes to list software or related services on the register.
- 3.6 A token-based software supplier licence will be necessary for any licensee that wishes to make available software or related services which depend upon a block-chain dependent token as the primary means of exchanging value.
- 3.7 The licensing process will be the same for a software supplier licence as it is for a standard OGRA licence.
- 3.8 The licensing process for a token-based software supplier licence will incorporate additional tests around the availability of tokens and the proven business competence of those involved in the offering. There will also be reporting restrictions on an applicant during the approval period (see appendix B).
- 3.9 The standing OGRA requirements in relation to players (fund protection, quarterly AML returns, terms and conditions) will not apply to software supplier licenses or token-based software supplier licences. This will be reflected in the application process and the ongoing supervisory regime. Licensees will still be subject to licence conditions in respect of non-player related affairs.
- 3.10 The GSC has anticipated a number of questions that might arise in respect of this consultation, so an FAQ has been included as a supplement (Appendix B). If you have a question in respect of this

consultation that is not covered in the FAQ, please write and let us know.

The FAQ includes responses on anticipated licence costs, whether the new regime is mandatory or not (it isn't), the application process, particulars on how information will be presented on the register, timescales and so forth.

## 4. Consultation Process

- 4.0 As the policy changes suggested are of minimal impact and responses are required from a targeted, specialist audience the consultation will remain open for 3 weeks only and a post consultation response may or may not be made available to the public.
- 4.1 This consultation exercise is designed to invite comments on the new proposals in the consultation document and is being conducted by the Gambling Supervision Commission.
- 4.2 A list of consultees can be found at Appendix A of this document. If there is anyone not on the list who you think should be consulted please feel free to forward a copy of this document to them, or to contact the Officer named below.
- 4.3 The GSC intends to implement the proposed policy changes using new regulations. It is intended that they be called the **Online Gambling (Software Supplier Licensing) Regulations 2019**. It is not anticipated that these regulations will be circulated separately, unless they depart markedly from similar regulations that were created for network services.
- 4.4 Comments should be submitted in writing by post or by email (our preference) to the following:

Nicola Libreri  
Inspector  
Gambling Supervision Commission  
Ground Floor, St Georges Court, Myrtle St.  
Douglas, Isle of Man, IM1 1ED  
[nicola.libreri@gaming.gov.im](mailto:nicola.libreri@gaming.gov.im)

The consultation will be open until the close of business on:

**3 January 2019**

- 4.5 When submitting your views please can you indicate whether you are responding on behalf of an organisation.
- 4.6 For additional hard copies please contact the Gambling Supervision Commission by telephoning 01624 694331.
- 4.7 Electronic copies of this document are also available at <https://www.gov.im/about-the-government/statutory-boards/gambling-supervision-commission/>
- 4.8 To ensure that the process is open and in line with the Government's Code of Conduct on Consultation, responses can only be accepted if you provide your name with your response.
- 4.9 Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. **Please mark your response clearly if you wish your response and/or name to be kept confidential.** Confidential responses may be included in any statistical summary and numbers of comments received.
- 4.10 A summary of the responses received may be published and may be made available to other Government Departments and/or on the Government.
- 4.11 The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed regulation changes. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.
- 4.12 Due to the specific nature of the consultation and its anticipated impact, and the optional requirement to consult on secondary legislation, the consultation will be of a shortened period of 3 weeks.

Issued on 13 December 2018

## **Appendix A**

### **A list of stakeholders consulted**

Members of Department for Enterprise

Current licence holders

Known Island-based Software suppliers

Software suppliers which have historically expressed interest in licensing

Corporate Service Providers

MeGA (Manx e-Gaming Association)

EGSAB (e-Gaming Strategic Advisory Board)



## **Appendix B**

### **FAQ's SOFTWARE SUPPLIER & TOKEN-BASED SOFTWARE SUPPLIER LICENSING**

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#### **What are we proposing?**

The Isle of Man Gambling Supervision Commission (GSC) is proposing an amendment to certain Online Gambling Regulation Act (OGRA) regulations in order to facilitate the licensing of gambling software suppliers. The amendments will allow for a central register of software to be held by the GSC and licensed software providers will be able to have their products listed on this register. The register will give operators the ability to offer registered games to their players without having to first supply test certificates to the GSC and await approval.

#### **Why do we want to introduce Software Supplier Licensing?**

There will be several benefits to maintaining a central register of software.

- It will create an easier and simpler process for operators seeking to deploy games content by listing readily available content;
- The process used by the GSC to approve games will become more streamlined;
- Software suppliers will be able to certify all of their games in anticipation of operators seeking to use them, so the time it takes to offer a game to players will be reduced;
- The current process occasionally creates duplication of cost and effort for the sector as well as for the GSC. This will be eliminated.

#### **Who can apply for a Software Supplier Licence?**

Any company supplying software or related services in a way that does not see player activity occurring on Isle of Man servers may apply. Software related services include the provision of live dealer studios, the supply of games or suites of games and commercial arrangements such as resellers.

The GSC will also accept applications from token-based software suppliers subject to certain requirements being met.

#### **What are token-based software suppliers and what will the additional requirements be?**

Token-based software suppliers are entities that have created block-chain based tokens for use as currency in a gambling eco-system.

The creation of tokens, sometimes referred to as an initial coin offering (ICO), has acquired a mixed reputation and some ICOs have left people who bought into them with tokens that have

little or no value because the ICO was fraudulent or because the people behind the ICO miscalculated interest or were incapable of running the business the ICO was set up to fund. There is also a risk that an ICO funded business will use the licensing process to simply boost the value of its tokens with a view to liquidating tokens they have retained at higher prices.

For these reasons, applications for token-based software supplier licenses will need to be able to demonstrate that:

- A credible supply of tokens has been created and the token is available to the public for purchase (i.e. there are exchanges prepared to list it);
- The key personnel behind the business:
  - Understand the technology;
  - Understand the risks peculiar to the technology and have credible mitigations;
  - Have a credible, sustainable business model; and
  - Have a track record of successful business and the experience necessary to sustain the business model.

In addition, token-based software licence applicants will not be permitted to publicise the progress of their licensing efforts, or respond to enquiries in respect of the licensing process until they have been approved and received the licence. Throughout the licensing process, applicants will be restricted to the simple message that “they have applied for a licence from the GSC and that the approval process is ongoing.”

### **Will the certification requirements for live dealer studios remain the same as they are now?**

Yes – the GSC will continue to apply enhanced certification standards to live dealer studios. Currently this process requires the supply of a detailed report on the games and the gaming environment.

### **What will be required of Software Supplier Licence holders?**

All software must be tested in line with the Online Gambling (System Verification) (No2) Regulations 2007. Licence holders will be required to provide a test certificate directly to the GSC that meets the GSC’s standards and which is signed by an approved test house. The certified game or service will be added to a central, publically available register.

The compliance regime will be proportionate to the lower risk posed by software suppliers and will take into account that the GSC already approves the test-houses that audit the certificates. Initial applications will use the standard OGRA process but certain elements of the procedure, specifically those relating to the treatment of players, will be omitted. In addition, applicants with a track record of successful business will be exempted from some of the financial reporting and business model elements of the process.

The new regulations will dis-apply those elements of OGRA that relate to players, which will in turn reduce the ongoing compliance overhead significantly. Software supplier licensees will still have to meet the general requirements of our primary legislation. There will however be no requirement for player fund protection, the provision of a website, or the provision of quarterly returns.

## **How will the central register work?**

Once an approved certificate has been received by the GSC from a licensed software supplier, the software title will be listed on an online register, held on our website. Operators will be able to view the register and make decisions to purchase and deploy pre-approved software. For practical reasons, suppliers will be listed alphabetically on the register with game titles and game versions listed as a subset within each supplier area. No prominence will be given to any licensee.

Once the register has settled into the day to day routine of the GSC, the Inspectorate will endeavour to update the register within 3-5 working days of receipt of a certificate.

However, initially the process may take longer as the bulk of the software supplier submissions are received and recorded on the register. Those submissions will be processed once the licence has been issued.

## **If an Isle of Man operator already has an OGRA licence, and produces its own software, does it need a software supplier licence as well?**

No – in this case, the software supplier function will simply be added to the existing licence.

If however an existing full licensee wishes to offer a token-based software product, then the existing licence must be a network services licence and not a standard licence.

## **What is the difference between the proposed software supplier licence and the existing network services licence?**

The network services licence is required whenever a player takes part in gambling on an Isle of Man based server. While Isle of Man based software supplier licensees may use servers as part of their software development, they will not be permitted to host play in the Isle of Man unless they have a network services licence.

## **Why is the network services licence being retained and not replaced with a one-size-fits-all B2B licence?**

When a licensee hosts players from another operator (as in the case of a network services licence) there arises a potential money laundering and terrorist financing risk. The network services licence therefore carries additional AML/CFT safeguards which have no relevance to a software supplier which does not host players.

## **Does the licence apply to so-called software re-sellers?**

The licence is required by anyone submitting gambling products for the central register. If a software re-seller wishes to submit games for registration on behalf of another then it will be required to have a software supplier licence.

## **How long will the licensing process take?**

OGRA Licensing typically takes around 10-12 weeks, beginning when the Inspectorate issue a letter stating that the application has been accepted and the process is underway. With lighter

compliance requirements (those which apply to players will be removed), it is possible the process will take less time.

**Will the licensing only apply to suppliers who supply games to the Isle of Man's licensed operators?**

No, Isle of Man licensed operators will be able to immediately deploy software listed on the central register. However suppliers are free to supply software and services outside of the Isle of Man taking into consideration local jurisdictional requirements.

**How much will the licence cost and how long will it last?**

Both licence types have a £5,000 application fee.

A software supplier licence will cost £35,000 per annum and a token-based software supplier licence will cost £50,000 per annum. Licenses last for five years.

**If an applicant already has a catalogue of games that have received approval from the GSC, will the GSC list those on the register automatically?**

Current software held by the GSC is held on behalf of specific operators, the GSC require that all available software is submitted by the software supplier for addition onto the list in order to ensure the most up to date versions are captured and responsibility is transferred to the software licence holder.

**Do the games that are already certified have to be added to the register?**

No – if games have been approved in the past by the GSC then they may continue to be offered even if later versions of the same game are listed on the register.

**Can multiple versions of a game be listed on the register?**

Yes – the GSC will list the versions that are approved in the format “all versions up to version 7” or “versions 2, 5 and 7” or “versions 2 to 6”. However only versions submitted to the register by the software supplier will be listed.

**If games are certified in another country with which the GSC has an information sharing memorandum of understanding, will those certificates qualify on the central register?**

Yes, the MOU will apply to certificates under the new licensing regime in the same way that they do currently.

**How will the GSC check that operators are not deploying games that are not on the register?**

Operators undergo regular compliance cycles that include checking the certification of deployed content, this will continue unchanged.

**What happens if a software supplier does not want a licence but still wants to supply games to an Isle of Man operator?**

Operators can still submit certificates in the normal way for any software supplier that doesn't hold an IOM licence. The certificate must come from an approved test-house and meet the same standards as laid out in the Online Systems Verification (No2) Regulations or comply with the standards of a jurisdiction with which the GSC hold an MOU.

**If an applicant is already licensed in another country, can the licence be fast-tracked?**

No, unfortunately the Online Gambling Regulation Act does not currently permit this.

**Is there any way to register interest before the regulations are made?**

Yes, contact the GSC on +44 1624 694331 or drop us an email [gaming@gov.im](mailto:gaming@gov.im)

**Can an application for a licence be made now?**

Yes, it is already possible to apply for an OGRA licence. The licence type does not need to be determined until the point where the licence is issued.

However it must be understood that while an application for an OGRA licence can be made, no software supplier licence or token-based software supplier licence can be granted until the law permits it i.e. until the regulations have been made and the law comes into force (currently we are aiming for February 22<sup>nd</sup> 2019).

With a 10-12 week application process, it is already highly probable that the licence will be available as soon as the approval process completes. However, the GSC cannot take the timescale on the making of regulations for granted and it is always possible that delays can occur in the legislative process.

**When will this happen?**

Following consultation with our stakeholders it is hoped that software supplier licensing will be ready for launch shortly after ICE Feb 2019. We are aiming to switch on the law on 22 February 2019.