

IN THE MATTER of the Gambling Act 2003
AND on an application by **SKYCITY
AUCKLAND LIMITED** and
**SKYCITY CASINO
MANAGEMENT LIMITED** for
approval to open overseas bank
accounts

BEFORE THE GAMBLING COMMISSION

Members: G L Reeves (Chief Gambling Commissioner)
L M Hansen
R D Bell
D C Matahaere-Atariki
W N Harvey

Date of Application: 27 October 2017

Date of Decisions: 8 December 2017

Date of Notification
of Decision: 14th December 2017

**DECISION ON AN APPLICATION BY SKYCITY AUCKLAND LIMITED
AND SKYCITY CASINO MANAGEMENT LIMITED
FOR APPROVAL TO OPEN OVERSEAS BANK ACCOUNTS**

Introduction

1. SKYCITY Auckland Limited ("**SCAL**") and SKYCITY Casino Management Limited ("**SCML**") (together referred to as the "**Applicants**") applied to the Commission for approval, under condition 22 of SCAL's venue licence and condition 37 of SCML's operator's licence for the Auckland casino, to open five bank accounts: two each in Macau and Taiwan, and one in Hong Kong.
2. The relevant licence conditions are as follows:

SCAL venue licence

22. The Licence Holder, its parent company, or any subsidiaries of the Licence Holder or parent company, shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

SCML's operator's licence (Auckland)

37. The Licence Holder, its parent company, or any subsidiaries of the Licence Holder or parent company, shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.

Submissions by the Applicants

3. The Applicants submitted, in summary, as follows:
- (a) SCAL currently operates bank accounts overseas in Australia, Hong Kong, Singapore, Malaysia and Macau. It also has approval to open a bank account in Indonesia but has never done so. Horizon Tourism Ltd ("HTL"), a wholly owned subsidiary of SKYCITY Wellington Ltd, which itself is a wholly owned subsidiary of SKYCITY Entertainment Group Ltd ("SKYCITY") operates bank accounts in Hong Kong and Macau. Both SCAL and HTL now want to open a further foreign holding bank account with Development Bank of Singapore ("DBS") in Taiwan.
 - (b) The new accounts would be used by international players transferring funds from their personal accounts in advance of a casino visit. Upon arrival at Auckland casino, the international player would be issued with chips up to the New Zealand dollar equivalent of the funds held in the new foreign holding account at the date of arrival. On departure, the player's win/loss position would be determined, with wins credited from the relevant account to the player's personal account, and losses credited to SCML's bank account in New Zealand.
 - (c) Foreign currency accounts reduce exchange rate exposure, and eliminate bad debt risk (to the extent of funds deposited in the account) which might arise through the use of a credit facility. All major casinos in Australia operate foreign currency accounts and they represent an important component in servicing the needs of the international market.
 - (d) As SKYCITY continues its efforts to expand its international clientele, it has become evident that there is a demand to establish further foreign holding bank accounts in Taiwan to facilitate transactions from visiting international VIPs.
 - (e) The Applicants undertook an inquiry and analysis of the money laundering/terrorist financing risks in respect of Taiwan and provided a copy of the resulting report to the Commission. In the light of recent steps to improve the AML/CFT regime in Taiwan, SCML is comfortable in proceeding with the establishment of the accounts, subject to Commission approval. As a casino operator, SCML is cognisant of its obligations with regard to the AML/CFT Act 2009, to detect and deter money laundering and the financing of terrorism through monitoring and reporting any suspicious transactions to the New Zealand FIU.
 - (f) SCAL opened a bank account in Macau through DBS in June 2017. In decision GC40/13, the Commission approved an application by SCAL to open a foreign holding account with DBS in Hong Kong. One of the reasons that it had sought



approval in that case (reflected in that decision) was because DBS Hong Kong had a branch in Macau which, it was believed, would facilitate transactions with DBS in Macau, rather than continue to rely on the branch arrangement. Unfortunately, SCAL overlooked the need to make application for approval of the new account. It seeks to regularise the position with this application.

- (g) SKYCITY wrote to the Commission on 3 December 2015 advising that HTL was proposing to open bank accounts at DBS Hong Kong and that those accounts would be used to facilitate visits to SKYCITY's casinos in Australia and New Zealand, in exactly the same manner as SCAL's foreign holding bank accounts. It noted that the proposal fell outside the ambit of the licence conditions. The Commission confirmed that it was not a matter requiring Commission approval. HTL subsequently decided to open a further account at the Macau branch. While the process for opening those accounts had commenced at a time when no Commission approval was necessary, by subsequent decision (GC11/16, dated 9 September 2016) the Commission varied the licence conditions at all casinos so that they applied not just to the licence holder but to its parent company and any subsidiaries of the licence holder or parent company. As a result, any accounts HTL opened after September 2016 required Commission approval.
- (h) Following that September 2016 decision, SKYCITY omitted to check whether any of its subsidiaries had commenced, but not completed, a process to establish a foreign holding bank account (which was, in fact, the case in respect of HTL), which required an additional application to the Commission. It is now seeking belatedly seeking the necessary approval in this application
- (i) As a result, it now seeks Commission approval, pursuant to condition 22 of SCAL's venue licence and condition 37 of SCML's operator's licence, in respect of:
- the DBS Macau bank account opened by SCAL in June 2017;
 - the DBS Taiwan bank account that SCAL proposes to open;
 - the DBS Hong Kong bank account opened by HTL in June 2017;
 - the DBS Macau bank account opened by HTL in June 2017; and
 - the DBS Taiwan bank account that HTL proposes to open.
- (j) The Hong Kong accounts accept the following currencies: HKD, USD, NZD, AUD and SGD. The Macau accounts accept the same currencies as above, as well as Macau Pataca. The Taiwanese accounts accept the new Taiwan Dollar, AUD, NZD, USD, HKD and SGD.



- (k) Although the Commission has previously approved the use of a Hong Kong foreign holding account, SKYCITY provided an updated report on ML/TF risks in respect of Hong Kong and Macau.
- (l) As a casino operator, SCML is cognisant of its obligations with regard to the AML/CFT Act 2009 to detect and deter money laundering and the financing of terrorism through monitoring and reporting any suspicious transactions to the New Zealand FIU.

The Secretary's submissions

4. The Secretary submitted, in summary, that:

- (a) There is an inherent money laundering risk associated with foreign holding accounts. In the absence of a New Zealand based withdrawal of deposited funds, the movement of those funds would not be subject to New Zealand anti-money laundering legislation, but rather to that of the foreign country. Any request for an overseas casino bank account should be dealt with on a case-by-case basis, taking into account the jurisdiction involved and the banking institution.
- (b) The Financial Action Task Force's ("FATF") 2012 Mutual Evaluation follow-up report for Hong Kong provides positive comment in respect of facets relevant to this application. The report states that considerable efforts have been made to strengthen Hong Kong's AML/CFT regime since 2008 across all areas of activity. The next mutual evaluation of Hong Kong is scheduled for 2018.
- (c) The FATF Mutual Evaluation report for Macau China was tabled in July 2017 and its formal publication is due by the end of 2017. The following key findings of the report are relevant to this application:
 - The lack of a cross-border disclosure or declaration system is a major intelligence gap for a jurisdiction exposed to high-risk from vast numbers of visitors and cash-intensive businesses, particularly casinos and related high-value dealers, although mandatory threshold reporting by the gaming sector helps mitigate this gap.
 - Implementation of terrorism funding-related sanctions is sound.
 - There is sound implementation of preventative measures in the financial sector and also by the six concessionaires/sub-concessionaires (casinos).
 - All financial institutions, designated non-financial business professionals and other sectors, are subject to AML/CFT supervision with resources



devoted to higher risk and material sectors. Sound risk-based supervision is undertaken in the two most significant sectors – the Gaming Inspection and Coordination Bureau (DICJ) supervised gaming sector and Monetary Authority of Macau (AMCM) supervised financial sector. Compliance has improved because of supervisory actions undertaken.

- (d) The FATF's 2007 Mutual Evaluation report for Chinese Taipei (Taiwan) provides positive comment in respect of facets relevant to this application. Taiwan has implemented a system of generally comprehensive AML/CFT measures for financial institutions, with internal controls and systems embedded in the law and well supported by regulatory initiatives. Overall, the obligations on financial institutions to have internal controls are comprehensive. The next mutual evaluation of Taiwan is scheduled for 2018.
- (e) He has discussed the application with the Financial Intelligence Unit ("FIU") of the NZ Police. The FIU has provided no adverse information with regard to this application.
- (f) He has no objections to this application.

Applicants' submissions in response

- 5. In response, the Applicants submitted, in summary, as follows:
 - (a) The Secretary submits that, in the absence of a New Zealand based withdrawal of funds deposited into the foreign holding account, the movement of those funds would not be subject to New Zealand anti-money laundering legislation. The Applicants do not agree.
 - (b) Where funds are deposited into a foreign holding account and made available for wagering at a casino, the transaction is deemed to be an international funds transfer (despite no transfer having yet been made through the formal banking system). In such cases, the transaction is then immediately subject to New Zealand's AML/CFT statutory scheme and must be reported to the FIU.

Analysis

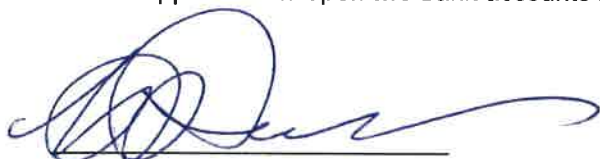
- 6. There is a curious difference in view between the parties regarding the extent to which New Zealand AML/CFT regulation extends to foreign holding accounts made available for wagering in New Zealand. The Secretary contends that such accounts are only subject to New Zealand regulation if and when funds are transferred to a New Zealand bank account. The Applicants contend that foreign accounts are subject to New Zealand

regulation as soon as the funds are made available for local wagering. The difference relates to the extent to which the AML/CFT risk attaching to such accounts is regulated locally. Although the Secretary's view is the more pessimistic on that issue, he does not oppose the application.

7. The application seeks approval both for 2 new accounts and for 3 existing accounts. Approval should have been obtained previously for the latter. In one case, SCAL obtained approval to open a Hong Kong account but, for operational reasons, opened a Macau account with the same bank instead. In the other two cases, the accounts were opened by an associated company which did not originally require approval. However, a requirement for such approval was imposed in September 2016 and overlooked.
8. The omissions to obtain prior approval were discovered by the Applicants who applied promptly to regularise the position.
9. In the circumstances, the Commission is prepared to authorise all accounts applied for.

Decision of the Commission

10. The Commission approves, under condition 22 of SCAL's venue licence, and under condition 37 of SCML's operator's licence for the Auckland casino, the Applicants' application to open two bank accounts in Macau, two in Taiwan and one in Hong Kong.



Graeme Reeves
Chief Gambling Commissioner

for and on behalf of the
Gambling Commission

14th December 2017

