

**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  
A K Foote

Date of Application: 5 August 2013

Date of Decision: 8 November 2013

Date of Notification  
of Decision: 6 December 2013

**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, to open bank accounts with the Development Bank of Singapore in Hong Kong and with PT Bank ANZ in Indonesia.
2. The relevant licence conditions are as follows:
  - SCAL venue licence**
  22. The Licence Holder shall not open any bank account 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 shall not open any bank account overseas to facilitate, or in connection with, the operation of the Casino without the approval of the Commission.
3. Section 22(1)(b)(ii) of the Anti-Money Laundering and Counter Financing of Terrorism Act 2009 is as follows:



**22. Circumstances when enhanced customer due diligence applies**

- (1) A reporting entity must conduct enhanced customer due diligence in accordance with sections 23 and 24 in the following circumstances:
- (b) if a customer seeks to conduct an occasional transaction through the reporting entity and that customer is—
- (ii) a non-resident customer from a country that has ~~insufficient anti-money laundering and countering financing of terrorism systems or measures in place:~~

**Submissions by the Applicants**

## 4. The Applicants submitted, in summary, that:

- (a) They currently operate bank accounts in Australia, Hong Kong, Singapore and Malaysia, and want to open further foreign holding accounts with the Development Bank of Singapore in Hong Kong and with PT Bank ANZ in Indonesia.
- (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 the 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 accounts at the date of arrival. At the time of departure, the player's win/loss position would be determined, with wins credited to the player's account and with losses credited to SKYCITY's bank account in New Zealand.
- (c) Foreign currency accounts reduce their exchange rate exposure, and eliminate bad debt risk, which might arise through a cheque cashing 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 they continue their efforts to expand their international clientele, it has become evident that there is a demand to establish further foreign bank accounts to facilitate transactions from visiting international VIPs.
- (e) The Indonesian accounts would accept the following currencies: Rupiah, AUD, NZD, USD, HKD and SGD.
- (f) The Hong Kong accounts would accept the following currencies: Macau Pataca, AUD, NZD, USD, HKD and SGD.
- (g) They already have an ANZ account in Hong Kong. The reason they now want to open an account with the Development Bank of Singapore in Hong Kong is because it has a branch in Macau which would facilitate transactions through that location.



- (h) Indonesia is rated as having a high ML/TF risk. Financial Action Task Force (“FATF”) has noted that Indonesia has taken steps towards improving its AML/CFT regime but that certain strategic deficiencies remain regarding the establishment and implementation of an adequate legal framework and procedures for identifying and freezing of terrorist assets.
- (i) SKYCITY as a casino operator is cognisant of its obligations with regard to the AML/CFT Act to detect and deter money laundering and the financing of terrorism, through monitoring and reporting any suspicious transactions to the New Zealand Financial Intelligence Unit (“FIU”).

### **The Secretary’s submissions**

5. The Secretary submitted, in summary, that:

- (a) He has discussed this application with the FIU. The FIU has no adverse reports on the Development Bank of Singapore and notes that Hong Kong has a robust AML and CTF regime. Further, the FIU contacted its Hong Kong counterpart, which reported no adverse findings.
- (b) He has no regulatory concerns with respect to the application to open foreign holding accounts with the Development Bank of Singapore in Hong Kong.
- (c) The FIU also contacted its Indonesian counterpart in relation to the PT Bank ANZ in Indonesia. The FIU did not receive a response, and holds no information on that bank.
- (d) As noted by SKYCITY in its application, Indonesia is rated as having high ML/TF risk. FATF last issued a statement on Indonesia on 18 October 2013. It stated as follows:

Indonesia has taken steps towards improving its AML/CFT regime. However, despite Indonesia's high level political commitment to work with the FATF and the APG to address its strategic AML/CFT deficiencies, Indonesia has not made sufficient progress in implementing its action plan within the agreed timelines, and certain key CFT deficiencies remain regarding the establishment and implementation of an adequate legal framework and procedures for identifying and freezing of terrorist assets. The FATF encourages Indonesia to address these remaining issues, in compliance with international standards.

- (e) The FIU notes that it has an MOU with its Indonesian counterpart that is rated for effectiveness in receiving suspicious transaction reports. However, in addition to the FATF reported inadequacies concerning the identification and freezing of terrorist assets, the FIU also reports weak implementation of measures concerning non-domestic politically exposed persons, no requirements for the conduct of customer due diligence when money-laundering/terrorist financing is



suspected, and no requirement for confirming whether a person is authorised to act on behalf of a legal person.

- (f) These concerns are jurisdictional issues and, as noted above, he has no information on the bank in question.
- (g) Casino operators are required to have a risk-based AML/CFT programme in place which contains the reporting entity's internal policies, procedures and controls.
- (h) If the application is approved, he considers that the Applicants will need to recognise the additional risk factors within its AML/CFT programme and will be obliged, with respect to any Indonesian-based transaction, to conduct enhanced customer due diligence ("EDD") in accordance with section 22(1)(b)(ii) of the AML/CFT Act 2009. That is, they will need to conduct EDD in a situation whereby a non-resident customer is seeking to conduct an occasional transaction through a reporting entity and is from a country that has insufficient AML/CFT systems or measures in place. EDD includes the responsibility to require information relating to the source of the funds or the wealth of the customer. The Applicants have stated in their application that they are cognisant of their obligations with regard to the AML/CFT Act 2009.

#### **Applicants' submissions in reply**

- 6. In reply, the Applicants submitted, in summary, that:
  - (a) They acknowledge that Indonesia is a country that is rated as having a high ML/TF risk, but they have in place a risk-based AML/CFT programme, including policies and procedures which determine when enhanced customer due diligence is required. The programme will not require any changes to accommodate the establishment of the bank account for which approval is sought.
  - (b) As a reporting entity subject to the requirements of the AML/CFT Act 2009, SKYCITY is well versed in its obligations under the legislation.

#### **Analysis**

- 7. The Applicants have sought approval to open bank accounts with two banks in Asia; the Development Bank of Singapore in Hong Kong and with PT Bank ANZ in Indonesia. Condition 22 of SCAL's venue licence and condition 37 of SCML's operator's licence provide that the Applicants cannot open any overseas bank accounts without Commission approval. The Commission understands that the rationale behind these licence conditions is that overseas bank accounts are not subject to New Zealand law, so licence holders should not have an unfettered ability to open them without due consideration.



8. The Secretary undertook enquiries regarding the proposal and was satisfied that SCAL's operation of an account with the Development Bank of Singapore in Hong Kong would raise no issues of regulatory concern. Given the nature and extent of the investigation, the Commission was satisfied that the Applicants should be allowed to open the account with the Development Bank of Singapore in Hong Kong for the denominations sought.
9. The position was less clear with the proposal to open bank accounts with PT Bank ANZ in Indonesia given that the FIU received no information from its Indonesian counterpart on the Bank, and given Indonesia's noted AML/CFT deficiencies.
10. The Commission gave careful consideration to the Applicants' proposal to open bank accounts with PT Bank ANZ Indonesia deciding, on balance, that approval could be granted. The Commission reached this decision for the following reasons. First, the higher risks associated with the lack of information from the Indonesian counterpart and the FATF evaluation of Indonesia must be addressed by the Applicants in meeting their own obligations under the AML/CFT Act, including the need to carry out enhanced customer due diligence, pursuant to section 22(1)(b)(ii) AML/CFT Act. The Applicants acknowledge their responsibility under New Zealand legislation to do so. Secondly, the matters of concern relate to Indonesia as a jurisdiction rather than to the proposed bank. The Commission's inquiries indicate that PT Bank ANZ Indonesia is part of the ANZ Group, with the ANZ Group having a 99% shareholding in PT Bank ANZ Indonesia. This information gave the Commission comfort as the ANZ Group is a banking group with a sound global reputation and in Australia and New Zealand is a regulated or "reporting" entity.

#### **Decision of the Commission**

11. The Commission approved, under condition 22 of SCAL's venue licence, and condition 37 of SCML's operator's licence, the Applicants' application to open foreign holding accounts with the Development Bank of Singapore in Hong Kong, and the application to open foreign holding accounts with PT Bank ANZ Indonesia.



Graeme Reeves  
Chief Gambling Commissioner

for and on behalf of the  
Gambling Commission

6 December 2013



**GAMBLING  
COMMISSION**