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To: AML/CFT Consultation Team

**Re: Ministry of Justice consultation paper on Phase Two of the AML/CFT Act**

1. Thank you for the opportunity to comment on the above paper. SKYCITY Casino Management Limited ("**SCML**") has been a reporting entity since Phase One of New Zealand's AML/CFT Act came into effect in 2013. We support the expansion of the regime to embrace more businesses and professions and in particular to mitigate the displacement effect where criminals move their funds to sectors outside of regulated sectors in a bid to avoid detection.

2. In this sense we are surprised that the Phase Two proposals in relation to the gambling sector are not intended to extend to societies operating gaming machines ("**EGMs**") in clubs and pubs because they are considered a "low-risk activity", supposedly on the basis that the Gambling (Harm Prevention and Minimisation) Regulations 2004 set a maximum jackpot limit of $1,000. SCML is unclear why the value of the EGM jackpot limit should determine the money laundering risk. The sector risk assessment undertaken by the Department of Internal Affairs in 2011 identifies a number of risks in relation to the use of EGMs. These include crediting EGMs and then cashing out immediately or with minimal play; difficulty in distinguishing a cancel credit from a credit win; combining winnings and cash into cheques; exchanging low denomination for high denomination currency and use of illicit funds to gamble. These risks would appear to be as equally applicable to the operation of EGMs in pubs and clubs as those used in casinos. While the criminal fraternity may be discouraged from attempting to launder funds through the casino sector (given the high level of AML/CFT regulation and control) it would seem to have a ready alternative available to it in the form of the multiple clubs and pubs operating EGMs. SCML believes that further consideration should be given to the inclusion of these gambling service providers in the AML regime. SML submits that the identified risks are not mitigated by jackpot restrictions in these venues.

3. There is a suggestion that the proposals for extending the gambling services that would be subject to AML/CFT requirements might embrace organisations such as the New Zealand Racing Board, New Zealand Lotteries Commission and junket operators. Both the New Zealand Racing Board and the New Zealand Lotteries Commission appeal as likely candidates in this respect given that they accept bets and provide accounts for the purposes of gambling or betting and that Cabinet had always expressly intended that they be included in the Phase Two reforms. However, SCML is unclear of the rationale which might support the inclusion of junket operators in these reforms. To the best of our knowledge it has never been suggested that they should be reporting entities under the AML regime presumably because they do not accept or make bets on behalf of others, provide accounts or conduct

other gambling activities that might otherwise attract statutory coverage. Virtually all junket operators reside outside New Zealand and periodically visit the casino for short trips – some even conduct junkets while not present in this country. SCML envisages some significant practical difficulties in extending the AML/CFT requirements to junket operators – any AML/CFT risks associated with junket activity are, in our view, best managed by casino operators.

4. In terms of a threshold that might be used to trigger AML/CFT customer due diligence ("**CDD**") and reporting requirements for cash transactions, there is a logic in applying some consistency between gambling service providers. Casino operators currently must meet CDD obligations when they conduct cash transactions of $6,000 or more and for so long as that threshold is retained we would expect that other gambling service providers be subject to a similar regime. That said SCML has previously questioned why the casino sector should be subject to a lower threshold than financial institutions – if the lower threshold is applied on a risk-based approach then it is difficult to understand why sectors that have been accorded a similar or higher risk by the Department of Internal Affairs in its AML/CFT Sector Risk Assessment should not be subject to this same threshold value. There is clearly an inconsistency in approach here which is exacerbated by the fact that Australian gambling service providers are subject to a higher threshold of $10,000 which is also the prescribed transaction reporting threshold under the Anti-Money Laundering and Countering Financing of Terrorism Amendment Act 2015. We believe that the casino threshold should be reviewed and if it is still deemed appropriate then all other reporting entities that have a similar overall ML/FT risk should have the same threshold applied to them.

5. In terms of what supervisory model should be applied to the proposed new reporting entities, we acknowledge the pros and cons associated with the two alternatives identified. Clearly neither model provides a perfect fit and SCML has no specific preference for one over the other. Our only expectation is that whatever supervisory model is adopted, all reporting entities will be subject to a consistent even-handed approach in overseeing the discharge of their statutory obligations.

6. The paper raises the possibility of expanding the current suspicious transaction reporting processes from a transaction-based model to an activity-based model – that is, whether suspicious activity should be reported rather than just actual transactions. To the extent that the current arrangement may discourage a reporting entity from reporting suspicious or unusual activities in the absence of a transaction (particularly where the matter may provide valuable financial intelligence for detecting crime) then we would support some broadening of the current reporting processes. However we would not expect that any widening of the reporting processes should attract higher compliance costs for reporting entities. Any barriers which might currently frustrate an activity-based reporting model could be removed without requiring reporting entities to put in place further processes for identifying suspicious activity. We believe the primary focus should continue to be transaction-based activity which is consistent with the FATF recommendations.

7. In terms of the information sharing proposals we have no particular concerns if additional information is shared between regulators and supervision agencies to provide more effective mechanisms for combating criminal activity, ensuring reporting entities discharge their statutory obligations and creating better alignment with the relevant statutes. Clearly any expansion of information sharing arrangements will have privacy implications requiring the balancing of policy considerations relating to an individual's right to privacy and mechanisms designed to detect and prosecute crime. While we are happy to leave the balancing arrangement to Government to determine, we would expect that any changes in this area would include suitable protection for reporting entities who provide agencies with access to customer information.

8. SCML would be happy to clarify or expand on any of the issues raised. Thank you once again for the opportunity to provide comment.

Phil O'Connell
Group General Manager, Regulatory Affairs and AML

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