

# Irish Gambling Sector Risk Assessment

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## **Acronyms**

<b>ML</b>	<i>Money-Laundering</i>
<b>AML</b>	<i>Anti-Money Laundering</i>
<b>TF</b>	<i>Terrorist Financing</i>
<b>CFT</b>	<i>Countering the Financing of Terrorism</i>
<b>NRA</b>	<i>National Risk Assessment</i>
<b>STR</b>	<i>Suspicious Transaction Report</i>
<b>CDD</b>	<i>Customer Due Diligence</i>
<b>SNRA</b>	<i>EU Supranational Risk Assessment</i>
<b>AMLSC</b>	<i>Anti-Money Laundering Steering Committee</i>
<b>PMC</b>	<i>Private Members' Club</i>
<b>LBO</b>	<i>Licensed Betting Operator</i>
<b>4AMLD</b>	<i>EU 4<sup>th</sup> Anti-Money Laundering Directive</i>
<b>LEA</b>	<i>Law Enforcement Agency</i>
<b>OCG</b>	<i>Organised Crime Gang</i>

## Introduction

There is a wide range of gambling service providers in Ireland, who provide products and services to many different types of customer. The gambling services sector broadly, and Private Members' Clubs specifically, were analysed in the Money Laundering and Terrorist Financing National Risk Assessment, published in 2016. While the majority of gambling operators are currently unsupervised for AML/CFT purposes, they are otherwise licensed and regulated under the provisions of the Betting Act 1931 (as amended) ('the Betting Act') and the Gaming and Lotteries Act 1956, with specific legislation for the National Lottery under the National Lottery Act 2013 and for Totalisator betting under the Totalisator Act 1929, as amended.

While betting/bookmaking (both land-based and online) is the largest sub-sector of the gambling sector, there are a number of smaller scale gambling services available in Ireland which are to be examined in this assessment, namely lotteries, bingo, poker, and gaming and amusement arcades. This assessment will deal with the betting sector first before turning to the smaller sub-sectors. The EU's supra-national risk assessment deals with all online gambling as one area without distinction between specific activities. Therefore this assessment's rating of online betting applies to all other online gambling services. The potential vulnerability, risk, and mitigants for each of these areas will be analysed before a residual risk rating is determined.

The focus of this report will be the assessment of primarily money laundering but also terrorist financing risk and potential in the Irish gambling sector. This report takes account of the relevant findings of the EU's Supra-National Risk Assessment (which was created with input from Irish authorities) which found the specific risk of terrorist financing to be not relevant for its assessment of every gambling sub-sector. Nonetheless, this risk has been taken into account as part of this assessment. It endeavours to expand upon the work done during Ireland's National Risk Assessment and to determine the appropriate level of AML/CFT requirements to extend to the gambling sector in line with Ireland's transposition of the EU '4<sup>th</sup> Anti-Money Laundering Directive'.<sup>1</sup> Article 2 of this Directive states that;

*[...] following an appropriate risk assessment, Member States may decide to exempt, in full or in part, providers of certain gambling services from national provisions transposing this Directive on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services [...]*

This report will consider some of the key threats and predicate crimes that may create potential for abuse of the gambling sector, and then how these threats may lead to abuse of certain key vulnerabilities in the sector. The report will discuss each sector in turn, beginning with an analysis of the nature, scale of operations, and complexity of the sector. It will also consider, as appropriate, the degree of vulnerability of the transactions, including with respect to the payment methods when assessing the level of risk – particularly when comparing the sector to other jurisdictions or other sectors. Finally, the established and potential mitigants will be taken into account and a final residual risk rating will be determined based on the factors assessed. The same approach shall be applied to each sector of the gambling industry in turn.

## Threats and Predicate Crimes

The proceeds-generating criminal activities ('predicate crimes') and ML/TF threats which impact the gambling sector are largely aligned with those which impact the Irish financial system more broadly, such as organised crime and drug crime, particularly relevant for generating cash proceeds and fuelling criminal 'lifestyle spend' in the gambling sector. Criminal activities considered particularly generative of illicit proceeds are: drug offences; financial crime; tobacco smuggling; tax evasion; prostitution; fuel laundering; theft and burglary; cybercrime; human trafficking; bribery and corruption; and other illicit trade, such as counterfeiting and intellectual property theft.

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<sup>1</sup> Directive (EU) 2015/849

Predicate offences are perpetrated by offenders of various levels of sophistication, from small scale criminals through criminalised professionals to organised crime gangs (OCGs). It is estimated that there are approximately 40 OCGs in Ireland, of which at least 9 have international links with OCGs in regions such as the Netherlands, Spain, West Africa and the United Kingdom.<sup>2</sup> The presence in Ireland of foreign OCGs is evident in multi-jurisdictional economic crime areas such as human trafficking, drugs smuggling and distribution, firearms smuggling, tobacco smuggling, vehicle theft and counterfeiting, although the extent to which Irish or foreign OCGs control these markets is difficult to estimate. The level of multi-jurisdictional OCG activity in Ireland has increased in recent years, both on a cross-border basis, with OCGs in Northern Ireland, and internationally, where increased collaboration has become evident.

As established in the 2016 NRA, some of the key proceeds-generating predicate crimes in Ireland are drug crime and other crime associated with OCGs. A key typology in these types of crime is the prevalence of cash, and the need for the criminals to launder large amounts of physical cash. This also has associated policing and AML/CFT implications, and thus particular attention is paid to potential ML routes for cash proceeds. As mentioned above, these crimes and the proceeds, often cash proceeds, which they generate create a potential for both organised money laundering through various gambling services as well as for criminal spend and self-laundering through recreational use of gambling facilities.

Another key threat which has been looked at both at European (for instance in the European Commission's work on the ML/TF supra-national risk assessment, the 'SNRA')<sup>3</sup> and international (the FATF has also discussed this as a potential issue)<sup>4</sup> level for the gambling sector is the potential for criminals or OCGs to gain ownership or control of gambling operators. This is considered a serious threat in a number of jurisdictions, particularly as regards casinos. With regard to the betting sector, law enforcement authorities in Ireland have found that there does not seem to be any significant threat of criminals owning or controlling retail betting operations. Similarly, whilst there is the potential for this to be an issue with remote bookmakers or betting intermediaries, particularly those based outside the state but offering services within the state, this does not appear to be an issue in the Irish context. This threat will be further considered below in relation to each sub-sector in turn.

## **Betting Sector**

Betting (bookmaking) is the largest sub-sector of the gambling sector<sup>5</sup> and in Irish terms is defined as wagering on the outcome of a future event, as distinct from playing a game of skill or chance, which would be classified as gaming and legislated for under the Gaming and Lotteries Act 1956. Betting is currently regulated by the Betting Act, as amended by the Betting (Amendment) Act, 2015 ('the 2015 legislation/reforms'), which further updated and extended the regulatory regime in Ireland. This update included a reform of the bookmakers' licensing system, to include all remote betting operators and betting intermediaries who are accepting or facilitating bets from Irish customers.

Totalisator betting is dealt with separately in this assessment and so this section deals only with private commercial bookmakers.

In Ireland, betting operators mainly consist of retail bookmakers, online bookmakers and betting intermediaries, and on-course bookmakers. The updated Betting Act now prohibits the offering of remote

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<sup>2</sup> Savona Ernesto U. & Riccardi Michele (Eds.), 2015, From illegal markets to legitimate businesses: the portfolio of organised crime in Europe. Final Report of Project OCP – Organised Crime Portfolio. Trento: Transcrime – Università degli Studi di Trento, p 107

<sup>3</sup> EU Supranational Risk Assessment on money laundering and terrorist financing, Ares(2017)1060803, [https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-1060803\\_en](https://ec.europa.eu/info/law/better-regulation/initiatives/ares-2017-1060803_en)

<sup>4</sup> FATF, Vulnerabilities of Casinos and Gaming Sector, March 2009, <http://www.fatf-gafi.org/publications/methodsandtrends/documents/vulnerabilitiesofcasinosandgamingsector.html>

<sup>5</sup> As per submissions by the Gaming and Leisure Association of Ireland (GLAI) and the Irish Bookmakers Association (IBA), and information furnished by the Revenue Commissioners

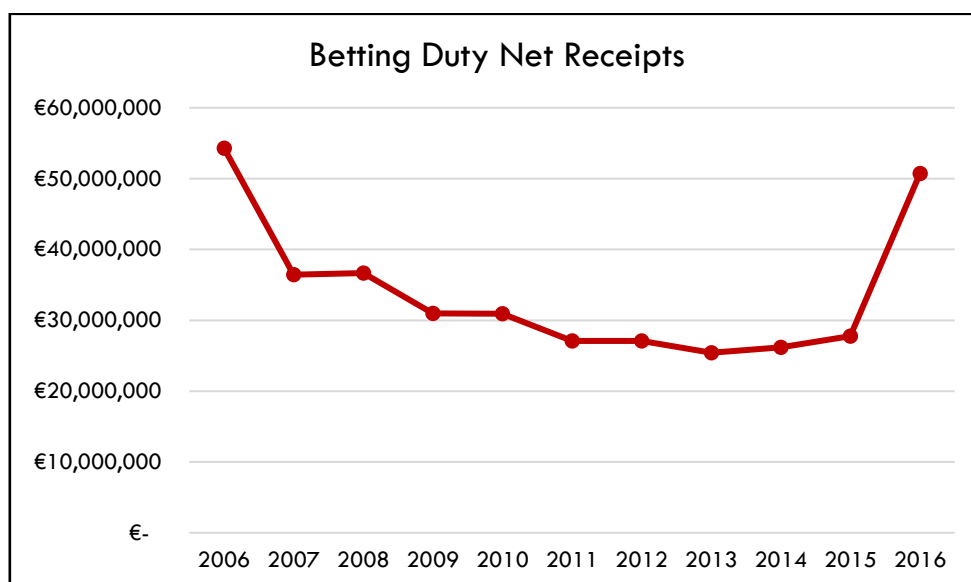
betting or intermediary betting services to customers in Ireland without a licence, whether operators are located within Ireland or in other jurisdictions, and also provides for prosecutions of offenders *in absentia*.

## Nature and Scale of the Irish Betting Sector

This section will address the key background and context issues of the various sub-sectors of the Irish betting sector, including retail bookmakers, online bookmakers and betting intermediaries, and on-course bookmakers. It will focus on the scale of these various markets, as well as the scale of individual market players, alongside the features of these sectors which prove relevant when assessing the scale of ML/TF risk, and how best to approach mitigating it.

A good estimate of the scale of the betting sector overall can be seen from the Office of the Revenue Commissioners' figures for 'betting duty' receipts. Betting duty is paid at 1% of all bets entered into by a bookmaker/remote bookmaker with persons in the State. Based on this figure an approximation of the size of the industry turnover (value of bets placed) in a year can be determined. For 2016, with a betting duty net receipt of €50.7 million, the size of the retail and remote betting industry can be estimated at about €5.07 billion. The figures below should be read in light of the fact that the betting duty was extended in the 2015 Act to remote bookmakers.

Figure 1



Source: Figures provided by the Office of the Revenue Commissioners

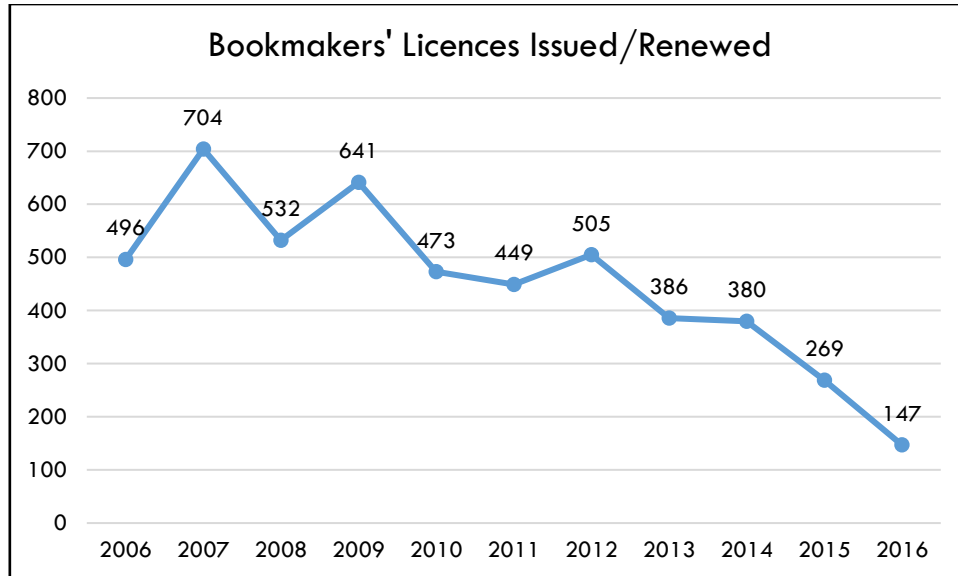
### Retail Bookmakers

'Brick-and-mortar' retail bookmakers still constitute the largest single share of the Irish betting market. Of the overall turnover-based betting duty net receipts of €50.7 million, the traditional betting sector accounts for €28.1 million, suggesting a turnover of about €2.81 billion of the €5.07 billion for the whole betting industry. Notwithstanding this, there has been a significant decline in the number of betting shops over the last 10 years, whilst the on-line sector has continued to steadily increase its market share of the sector. This is reflected in a decrease in the number of traditional bookmakers' licences issued/renewed in recent years. As multiple bookmakers' shops can be operated under one bookmaker's licence, the decline in overall numbers of licences issued could also be attributable to the phenomenon of smaller independent bookmakers being bought by medium-to-large chain operations.

The tables below show the Revenue figures for the number of bookmakers' licences issued or renewed per year, followed by the number of bookmaking premises' licences issued or renewed. These figures do seem to show a decline in the numbers of licensed bookmakers, which is in line with suggestions from

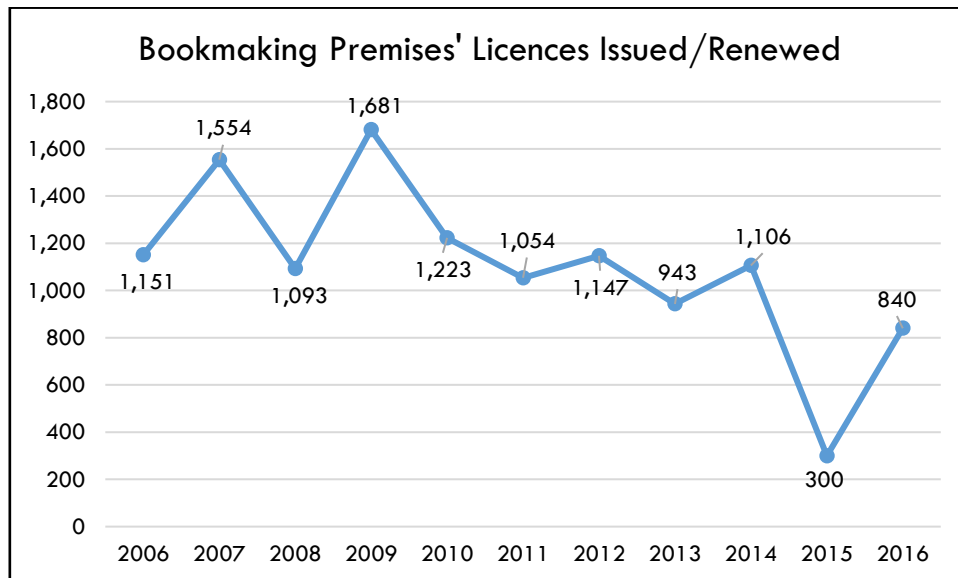
industry that there has been consolidation within the industry, with a number of independent bookmakers being amalgamated or closing down.

Figure 2



Source: Figures provided by the Office of the Revenue Commissioners

Figure 3



Source: Figures provided by the Office of the Revenue Commissioners

However, some of the low figure for bookmakers' licences issued/renewed in 2016, as well as the temporary drop in 2015 for premises' licences, may be broadly attributed to issues arising out of the reforms introduced by the 2015 legislation. Some delays in introducing, and a lack of familiarity on the part of the industry with the new legislation, along with the fact that all bookmakers' and bookmaking

premises' licences are issued for a two-year period, mean that it may take a couple of years for the figures to normalise.

The Office of the Revenue Commissioners also holds registers of the numbers of licences currently in circulation at a point-in-time, updated regularly. The figures for the 3<sup>rd</sup> of August 2017 show 325 licensed bookmakers<sup>6</sup> and 862 licensed bookmaking offices.<sup>7</sup>

The retail bookmaking industry disaggregates the retail sector into three different tiers. Tier 1 has somewhere in the region of 620 shops, accounts for over 70% of market share and employs approximately 5,000 people. Tier 2 has about 160 shops, nearly 20% of the market share and employs roughly 1,000 people, while Tier 3 has around 70 shops, under 10% of the market share and employs about 350 people. The Irish Bookmakers Association (IBA) is the largest representative body of licensed betting shops in Ireland. IBA members comprise a mix of independent bookmakers and major operators (including, for example, Ladbrokes, BoyleSports, PaddyPowerBetfair, TrackSports and Tully Bookmakers). The IBA currently represents approximately 735 of the 862 licensed betting shops in Ireland.

### **Online Bookmakers and Betting Intermediaries**

Online bookmakers and betting intermediaries are a significant and growing proportion of the Irish betting market. The 2015 legislation brought them into the licensing regime for traditional bookmakers, with the requirement to obtain a licence and for online bookmakers to pay the 1% betting duty, whilst online betting intermediaries are required to pay a duty of 15% of the commission they charge for use of their facilities.

Remote bookmakers require a remote bookmakers' licence for operators offering remote betting to customers based in Ireland, whether or not they have a physical premises in Ireland. Remote betting intermediaries require a remote betting intermediary's licence for operators who facilitate Irish customers making bets (i.e. betting exchanges), again whether or not they have a physical premises in Ireland. According to the Office of the Revenue Commissioners' online register, as of the 3<sup>rd</sup> of August 2017, there are currently 74 registered 'remote bookmaking operations' – a term which included both licensed remote bookmakers and licensed remote betting intermediaries.<sup>8</sup> These consisted of 11 licensed remote betting intermediaries and 63 licensed remote bookmakers.

Due to the fact that the 2015 legislation only extended the existing 1% turnover-based betting duty to remote bookmakers from the latter part of 2015, it has not been possible to accurately compare the scale of on-line sector business with the retail sector up until recently, but we can now give a rough comparison of the relative size of the various sectors. Similarly, remote betting intermediaries are now subject to a betting intermediary duty which is currently 15% of 'commission charges'. 'Commission charges' means the amount that parties in the State are charged, whether by deduction from winnings or otherwise, for using the facilities of a remote betting intermediary.

In this regard, the Revenue figures for betting duty collected from remote bookmakers totalled €20.7 million for 2016, with a further figure of €1.9 million for remote betting intermediary commissions.<sup>9</sup> In addition to the €28.1 million receipts for traditional betting duty, this makes up the €50.7 million figure for betting duty yield in 2016. This would indicate that the remote sector makes up roughly 45% of overall turnover in the betting sector (not including the on-course sector).

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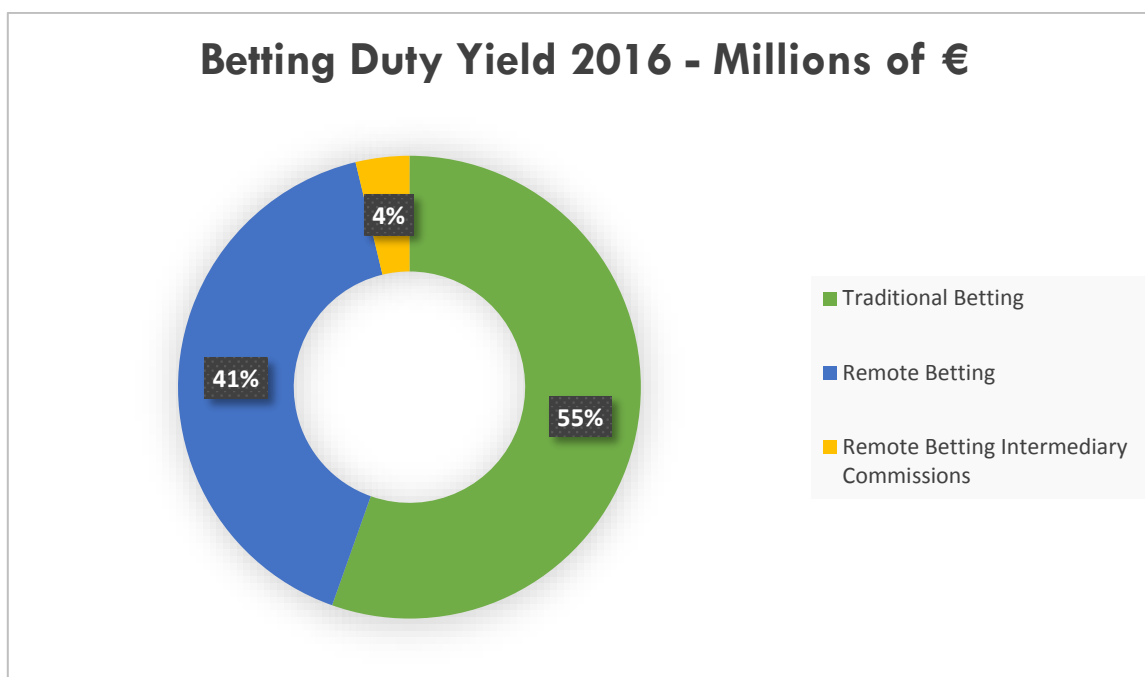
<sup>6</sup> Register of Bookmakers @ 3 August 2017, <http://www.revenue.ie/en/tax/excise/index.html>

<sup>7</sup> Register of Bookmaking Offices @ 3 August 2017, <http://www.revenue.ie/en/tax/excise/index.html>

<sup>8</sup> Licensed Remote Bookmaking Operations @ 3 August 2017, <http://www.revenue.ie/en/tax/excise/index.html>

<sup>9</sup> Figures provided by Revenue

Figure 4



Source: Figures provided by the Office of the Revenue Commissioners

### On-Course Bookmakers

The on-course betting market is a relatively small sub-sector of the Irish betting sector, with about 2,550 horse races ( across 356 meetings) being run each year. 'The Ring' collectively turns over, on average, about €26,000 per race. This is usually spread out over approximately 25-50 on-course bookmakers.<sup>10</sup> Whilst there are no statistics available that record the number of tickets each bookmaker issues, the average bet on-course is estimated to be somewhere between €15 and €40.<sup>11</sup> In greyhound racing there are around 1642 race meetings held each year. The industry has indicated that the on-course sector represents a very small niche area of the betting market and total turnover for on-course betting from horse and greyhound races is in the region of €100m a year.

The betting duty of 1% of turnover does not apply to this sector, therefore there is little independent information available to estimate its size. However, Horse Racing Ireland, the regulatory body for bookmakers and betting in the horse racing industry, lays down regulations and has the power to collect a levy on on-course bookmakers' turnover (recently reduced from 0.5% to a rate of 0.25%). The Horse Racing Ireland Factbook 2016 broadly corroborates the figures above, as it indicates that on-course bookmakers took approximately €67.7million in bets at horse racing events in 2016.<sup>12</sup> It is worth noting that this is a reduction from €71.7 million in 2015 and €73 million in 2014.

The Irish National Professional Bookmakers' Association (INPBA) is a representative body for racecourse, point-to-point and greyhound racing bookmakers. The INPBA is run by a voluntary Committee and does not have any disciplinary powers over the members and cannot expel a bookmaker from the Association. All bookmakers who work in the sectors are entitled to membership. In 2016 119 bookmakers paid a subscription, which is 98% of the 121 Horse Racing Ireland Permit Holders. Greyhound bookmakers are members of individual track associations, of which those on tracks owned by the Irish Greyhound Board are affiliated to the INPBA. The INPBA does not represent bookmakers betting in the private greyhound sector.

<sup>10</sup> Information provided by the INPBA

<sup>11</sup> Information provided by the INPBA

<sup>12</sup> HRI Factbook 2016, p. 20



## Risk Scenarios and ML/TF Vulnerabilities

As part of the European Commission's supra-national risk assessment (SNRA), to which Ireland has contributed, a number of sectors potentially relevant to ML/TF were assessed on an EU-wide scale. One of the key mechanisms for this assessment was the use of identified risk scenarios to assess the potential for ML/TF in different situations. The potential ML/TF risk scenarios identified by the Commission and Member States as part of the SNRA include those relevant to the betting industry:

*A perpetrator makes a forecast on the outcome of a sports or other event and deposits illicit funds with a bookmaker or pari-mutuel operator. The operator pays out any winnings with a receipt legitimising the funds.*

*A perpetrator can increase the odds by spreading the funds across different events and/or outcomes or remove any uncertainty altogether by approaching a winner and purchasing the winning betting slip.*

As mentioned above and in the NRA, cash remains a key contributor to risk in certain sectors, stemming from a number of factors, including: difficulty in tracing cash; anonymity of cash transactions; transferability of cash; and the prevalence of cash payments in illicit industries. The risks inherent in the use of cash reinforce the need for AML and CFT measures in sectors which might conduct large numbers of or large volume cash transactions, such as the betting sector.

National law enforcement agencies and international standard-setting bodies have also pointed to the potential money laundering and terrorist financing risk associated with both e-money and digital currencies, which typically offer a rapid and sometimes anonymous payment option. Whilst there is little evidence of e-money or digital currencies currently being used on a large scale in the betting sector it is an area that is under consideration by Irish LEAs, due to both potential strengths and weaknesses of these payment methods.

Set out below are some of the key vulnerabilities and potential weaknesses identified as part of this risk assessment, the 2016 NRA, and the work of the SNRA, for the various sub-sectors of the Irish betting sector.

### **Retail Bookmakers**

One of the main vulnerabilities of the retail betting sector is the cash-based nature of its business. In this regard the industry has confirmed that roughly 97% of traditional betting transactions are placed in cash. They maintain, however, that the average wager for retail betting is approximately €14, with 90% of all wagers below €25,<sup>13</sup> both of which would seem to suggest transaction amounts which would not suit large scale money laundering operations. Nonetheless, with a high annual turnover in the retail sector, there is undoubtedly significant potential for money laundering if appropriate systems and safeguards are not in place in bookmakers' shops. In addition, industry figures have acknowledged that large stakes are wagered by a small percentage of their customers.

Betting operators are not currently designated persons under the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (as amended). Therefore, betting operators are not legally required to perform customer due diligence on their customers for AML/CFT purposes. Due to the lack of a customer identification or other customer due diligence (CDD) requirements for the retail and on-course betting sectors there is a potentially significant degree of anonymity in these transactions, which could increase the vulnerability to money laundering posed by the cash-based nature of the sectors. This

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<sup>13</sup> Irish Bookmakers Association (IBA) submission to the AMLSC

anonymity and use of cash could allow for the masking of the source of cash, including in cases where that cash might be the proceeds of criminal activity.

The extent and effectiveness of transaction monitoring in these sectors is again limited by the cash-based and anonymous nature of the traditional betting sectors. In addition, due to the nature of retail and on-course betting, industry argue that it would be difficult to implement AML/CFT customer identification and transaction monitoring measures. The IBA and a number of industry representatives have met with authorities to discuss potential ways to implement such measures in this industry. The diverse customer base of retail and on-course betting operators increases the vulnerability to money laundering, as it has been known to include suspected criminals and domestic and foreign politically exposed persons (PEPs), though, due to weaknesses in identification and monitoring, there are no clear figures of the prevalence of such individuals as customers.

Law enforcement intelligence suggests that retail and on-course bookmakers could be vulnerable to exploitation by criminals who place high value wagers in a structured manner to launder significant proceeds of crime. In addition, the transferrable nature of betting receipts could increase the money laundering risk for traditional betting operators. Winning betting slips could be sold by launderers to criminals to launder the proceeds of crime and give criminals an apparently legitimate source of funds.

### **On-Course Bookmakers**

Whilst broadly covered above by the discussion of the retail bookmaking sector, there are a small number of considerations specific to the on-course bookmaking sector. Many of the issues present in betting shops are also present, often to an even greater degree, with on-course bookmakers, such as the high prevalence of cash and the anonymity of customers. Even compared to retail bookmakers, there are significant barriers to conducting customer identification and/or transaction monitoring on customers of on-course bookmakers in any depth. The figures on the sizes of average or maximum stakes in this sector are often very approximate or simply not obtainable. It is up to the individual bookmaker to decide whether to set any upper limit on the size of a bet that will be accepted or paid out. Furthermore, this could vary from race to race and customer to customer. Nonetheless, it has been suggested by industry that many on-course bookmakers will not be in a position to accept particularly large or high risk bets and will be wary of suspicious bets due to the nature of their business, e.g. only holding a limited amount of cash for customer payouts at any given time.

Industry representatives point out that most larger bettors are well known faces in the Ring. The normal practice is to accept bets and pay out without ID as the recording of ID would present a challenge to an on-course bookmaker due to the nature of the business, i.e. operating outdoors with minimal staff and equipment. The time needed to check ID and to write down details by hand in a special register has been suggested as problematic. The practicalities of doing so outdoors, particularly in bad weather, could also present a challenge. Even more so than in retail premises, on-course bookmakers are confronted with the difficulty that most bets are placed within a few minutes before the 'off' of a race, thus leaving very little time to potentially conduct the transaction and any identification checks or other measures.

### **Online Bookmakers and Betting Intermediaries**

As mentioned above, online bookmakers and betting intermediaries are a significant and growing sub-sector of the betting market, and many of the vulnerabilities in this area stem from a consideration which is also relevant in the traditional betting sector – the sheer volume and size of transactions. It is notable that although there are significantly fewer licenses for remote betting operators (74)<sup>14</sup> than traditional bookmakers (325)<sup>15</sup> the sizes of the sectors are not that divergent (see *Figure 4* above), suggesting that each online operator is dealing with a significant number and value of transactions.

One of the major differences in this area in comparison to the traditional betting operators, when it comes to money laundering vulnerability, is that there is little to no use of cash or similar payment

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<sup>14</sup> Licensed Remote Bookmaking Operations @ 3 August 2017, <http://www.revenue.ie/en/tax/excise/index.html>

<sup>15</sup> Register of Bookmakers @ 3 August 2017, <http://www.revenue.ie/en/tax/excise/index.html>

methods in online betting. The other significant area of divergence on money laundering vulnerability is tied to the point about the payment methods used – namely that many online payment methods, coupled with the comparative ease of requiring customers to set up online accounts to place bets, generally mean that identification and transaction monitoring can be much more easily implemented and automated.

Due to the nature of the business, online operators accept wagers and winnings predominantly through electronic payment methods. Industry suggests that approximately 95% of all transactions taking place online use credit cards, debit cards, or online wallet services.<sup>16</sup> Online operators may also accept e-money which, depending on the type of e-money service, may not require verification of the source of funds.

Online gaming accounts without turnover requirements are generally considered to be higher risk than accounts with such requirements. A turnover requirement is where account holders are required to wager a certain percentage of any money deposited into an account before being able to withdraw it. Accounts without turnover requirements could be used as alternative forms of bank accounts, existing outside the regulated financial services system. These accounts allow deposits and withdrawals in a manner similar to accounts held at regulated banks without a comparable level of regulation. As such, accounts without turnover requirements are considered to be higher risk. This risk could be further increased where online operators allow cash deposits and withdrawals through their retail branches.

## **Established and Potential Mitigants**

Outlined below are those measures which exist, or could be introduced, to reduce the risk attached to the betting sub-sectors.

In particular, Recital 52 of 4AMLD states that:

*Competent authorities should ensure that, with regard to currency exchange offices, cheque cashing offices, trust or company service providers or gambling service providers, the persons who effectively direct the business of such entities and the beneficial owners of such entities are fit and proper. The criteria for determining whether or not a person is fit and proper should, as a minimum, reflect the need to protect such entities from being misused by their managers or beneficial owners for criminal purposes.*

This is addressed in Ireland to a great extent by the recent introduction of Statutory Instrument No. 560 of 2016 which requires all Irish corporate and legal entities ('companies') to gather and hold their own beneficial ownership data, with a view to this data being submitted to a central register which will be established at a later date. This is in line with requirements under Article 30 of 4AMLD.

Furthermore, the licensing regime for LBOs in Ireland requires that they complete a number of steps to obtain a bookmaker's licence for retail bookmakers, a remote bookmaker's licence for operators offering remote betting to customers based in Ireland and a remote betting intermediary's licence for operators who facilitate Irish customers making bets (i.e. betting exchanges) under the Betting Act 1931, as amended by the Betting (Amendment) Act 2015.

Applicants must apply for a Certificate of Personal Fitness (CPF) from either An Garda Síochána or the Minister for Justice and Equality. Under the legislation, the Department of Justice and Equality is responsible for issuing CPFs to non-Irish resident terrestrial bookmakers and remote (on-line) bookmakers. CPFs are issued to Irish resident terrestrial bookmakers by a relevant Garda Superintendent.

To obtain a licence, bookmakers must submit, in addition to the CPF, a Certificate of Registration of Premises (where operating a bookmaker's business from premises), a valid Tax Clearance Certificate, and a completed Bookmaker's Application Form. The Revenue Commissioners are responsible for issuing

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<sup>16</sup> Irish Bookmakers Association (IBA) submission to the AMLSC

licences in accordance with the legislation and also responsible for enforcement actions against unlicensed betting operators.

Additionally, there is a relatively low level of reporting of suspicious transactions in the betting and gaming sectors. A significant factor in this is that operators in these sectors are not within the scope of the relevant legislation and are therefore not under an obligation to report suspicious transactions. They do however report such transactions on a voluntary basis, and there has been an upward trend in such reporting. The industry has expressed an openness to being designated for the purposes of a legislative requirement to submit STRs.

In the event of designation of gambling service providers, this would become mandatory under Section 42 of the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010, as amended. In the event of exemption of some or all service providers from designated person status, this could be brought in as a specific requirement or service providers could be deemed designated persons with STR obligations, yet be exempted from other requirements of the legislation.

### **Retail Bookmakers**

Representatives of the retail bookmaking industry have submitted that retail betting operators actively monitor wagers to detect unusual betting patterns, albeit primarily from a commercial risk perspective rather than an AML/CFT risk perspective. In addition, all bets in the industry are electronically recorded through Electronic Point of Sale (EPOS) systems. They also indicate that approximately 90% of the market share is derived from Tier 1 and Tier 2 operators, who operate a comprehensive risk-based approach to business and implement staff training for AML<sup>17</sup>. The industry also suggests that comprehensive video monitoring of retail betting premises may reduce this risk by allowing suspicious wagers to be matched to the individuals placing these wagers.<sup>18</sup>

Despite some formal customer due diligence, tracking, and identification measures, as well as more extensive indirect identification and monitoring of customers, there are still weaknesses in the retail sector's monitoring measures from a law enforcement point of view. Lack of formal identification requirements mean that evidence of ML gathered by shop staff may not fulfil evidentiary requirements in the absence of scanned copies of ID, proof of address, proof of source of wealth, etc. Augmenting the existing structures with more rigid requirements to record CDD data could significantly assist law enforcement measures to curb criminality in this sector.

### **Online Bookmakers and Betting Intermediaries**

In contrast to traditional operators, online operators in the Irish market generally require customers to provide identifying documentation when establishing gambling accounts which enables Customer Due Diligence (CDD) to be conducted. This can be for practical purposes or because these operators often operate in the Irish market from jurisdictions where gambling operators are regulated for AML/CFT purposes, even though they are not subject to equivalent regulation in Ireland.

Similarly, as a function of their business model, online operators generally implement sophisticated transaction monitoring systems which, due to the extent of CDD conducted, could enable online operators to effectively detect and report suspicious transactions.

### **On-Course Bookmakers**

It has been suggested that most on-course bookmakers will be unlikely to accept bets from persons they suspect of being associated with criminals. However, advance identification of people is difficult for bookmakers at the races, who are dealing with customers who do not come through a door but access the Ring from many different directions.

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<sup>17</sup> *Ibid*

<sup>18</sup> *Ibid*

Horse Racing Ireland has been given relatively wide powers to investigate all transactions conducted by bookmakers on the racecourse. It has a responsibility to monitor on-course betting so that the Stewards are aware of suspicious betting activity in the Ring that might indicate corrupt practice on the track, such as doping or stopping of favourites.

Horse Racing Ireland is the regulatory body for bookmakers and betting in the horse racing industry. It lays down regulations and has the power to collect a levy on on-course bookmakers' turnover (recently reduced from 0.5% to a rate of 0.25%). It issues bookmakers with a permit annually, and authorised employees with a representative permit, and has the power to suspend or revoke permits. HRI has Ring Inspectors at every meeting, who supervise the bookmakers and will report all incidents to the HRI Betting Committee.

All racecourse bookmakers are required to have a bookmaking licence issued by Revenue as well as an on-course betting permit issued by Horse Racing Ireland.<sup>19</sup> In addition to the conditions set down in the legislation that apply to licensed bookmakers, the holder of an HRI permit must also adhere to all provisions of the Irish Horseracing Industry Act, 1994, and with all the relevant Regulations as well as comply with the Authorised Bookmakers (Code of Practice of Bookmakers At Authorised Racecourses) Regulations, 2004.<sup>20</sup>

## Residual Risk

### **Retail Bookmakers**

Retail betting operators are a significant player in this industry and must contend with issues such as the cash intensive nature of their business, which makes them vulnerable to money laundering. This is reinforced by the anonymous nature of transactions, the absence of a legal requirement to verify customer identity and monitor transactions, the scale of the traditional betting sector, and the transferable nature of betting receipts. Furthermore, there exists a general concern within law enforcement agencies that the system is vulnerable to being exploited by money launderers.

A case can be made that these risks are somewhat mitigated by the fact that approximately 90% of the sector is controlled by Tier 1 and Tier 2 operators who, industry argue, have comprehensive risk-based approaches to how they do business, with risk/trading functions, internal security (loss prevention) teams, operational supervisors, and, in some firms, specific teams reviewing all aspects of AML compliance. Nonetheless, there are areas in which procedures and awareness in this sector can be improved to further mitigate any potential for ML/TF.

The residual risk of ML/TF in the retail bookmaking sector is considered to be *Medium-Low*.

### **Online Bookmakers and Betting Intermediaries**

In the case of online operators, the risk rating must take into account both the large and growing scale of the industry as well as the relative ease of implementing identification and tracking measures into such systems. In terms of scale, the online sector is the fastest growing area of the gambling sector, where the majority of transactions (both wagers and winnings) are through electronic payment methods. Furthermore, as a function of their business model, online operators have a better ability to identify customers, monitor customer transactions and detect suspicious transactions. It is also important to note that the scale of the betting is generally larger, with fewer service providers dealing with a larger scale of turnover.

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<sup>19</sup> Bookmaker Information, HRI, <http://www.hri.ie/industry-services/bookmaker-information/>

<sup>20</sup> S.I. No. 755/2004 <http://www.irishstatutebook.ie/eli/2004/si/755/made/en/print>

It is of key importance that authorities and industry work together to address any potential growth in ML/TF risk in this rapidly growing sub-sector, utilising a number of characteristics which allow for comprehensive identification and transaction monitoring measures.

The residual risk of ML/TF in the online bookmaking sector, and for betting intermediaries, is considered to be *Medium-Low*.

### **On-Course Bookmakers**

The overall ML/TF risk to on-course operators may be more difficult to assess, due to the nature and relatively small scale of the industry. However, it is sure to be influenced by factors such as the lack of customer identification and the associated anonymity, together with the cash intensive nature of this sector. However, the on-course sector accounts for a small proportion of the overall gambling sector, and there is limited scope for large scale or professional money laundering through such channels for a number of reasons, including risk appetite, familiarity with customers, and betting habits.

On the issue of on-course identification and CDD measures, the industry acknowledges that there is potential for introduction of such measures in a minimally invasive manner, once the procedure is kept simple. Suggestions include that measures should be done on the pay-out rather than placing of a stake, when the bookmaker has more time.

The residual risk of ML/TF in the on-course bookmaking sector is considered to be *Medium-Low*.

## **The Tote**

### **Nature and scale**

Totalisator (pari-mutuel) betting, usually referred to as 'the Tote', is operated in Ireland by two semi-state bodies, the Irish Greyhound Board/Bórd na gCon (IGB) and Horse Racing Ireland (HRI) and is legislated for under the Totalisator Act 1929, as amended.

Tote betting differs from the fixed-odds betting offered by bookmakers in that each bettor places their wager in a 'pool' along with everyone else betting on the same event. When the event has concluded, the Tote operator takes a commission from the total pool and what is left is divided among the winners. The amount to be paid out is thus determined by the size of the pool and which outcome people are choosing to bet on, rather than by fixed odds offered by the party taking the bet.

Both HRI and IGB operate on-course facilities as well as online accounts. They also accept bets from international customers via arrangements where local agents in other countries market Irish Tote betting pools. This international business now accounts for a majority of HRI's Tote betting although IGB's is still mostly derived from on-course business.

HRI takes a 20% commission from each betting pool. They guarantee at least €1.10 on every €1.00 winning bet. HRI's turnover of approximately €90m in 2016 was made up of: €70m from international business; €8m from online accounts; and €12m from on-course betting. The Tote is operated at 24 racecourses throughout the Republic of Ireland as well as Down Royal and Downpatrick in Northern Ireland.

IGB's turnover in 2015 (the last full year for which figures are available) was €19.6m. Average turnover per race meeting increased by 5.3% and as with HRI the main source of growth was international business, a trend which was expected to continue. Apart from that international business, on-course betting is a greater source of turnover than online accounts. The Tote is operated at the 17 tracks licensed by the IGB for greyhound racing (7 of which are privately owned and operated).

All profits from the Tote are used to support the horse and greyhound racing industries in Ireland and Tote betting is not subject to a betting duty.

### **Risk Scenarios and ML/TF Vulnerabilities**

The risk factor of laundering money on the Tote derives from the same sources as described above for retail, online and on-course bookmakers – the cash intensive nature of the business, the risk of launderers purchasing winning tickets and the risk of criminal infiltration/ownership.

Figures provided by HRI suggest however that most bets are small in scale:

Channel	Number of bets		Avg Bet Size		2016 Bets >€500		
	2016	2015	2016	2015	Number	Avg Bet Amount	Total
Track	2,092,959	2,136,634	€5.71	€5.83	128	€988	€126,464
Accounts	962,054	972,228	€7.88	€7.92	531	€1,276	€677,556

Similarly, IGB figures are that the average greyhound bet placed on the Tote at track level is only €3.94 and on line is only slightly larger at €4.08.

Therefore large scale wagers would, according to industry, be rare enough as to immediately draw attention. Nonetheless, it can still be seen that significant stakes can be wagered. Although industry has not provided a breakdown of how many stakes/payouts reach the €2000 threshold, it is reasonable to deduce from the ‘average amount’ figures above that such bets are being made to some degree.

While the mechanism of pari-mutuel betting means it may be less attractive to money launderers than fixed-odds betting, as the amount guaranteed to be paid out can fluctuate right up until bets cease to be accepted, industry has acknowledged that such individuals may be willing to accept a loss in order to ‘clean’ money and that this could be possible with structured betting, for example, if money were wagered on three horses which placed first, second and third in a given race.

As with retail bookmakers, Tote operators at racecourses are not currently obliged to perform any customer due diligence checks. However, industry has expressed the view that if such checks were to be required this would not have a significant impact on daily operations due to the fact that they would not be required frequently.

There may be a potential risk of ML attempts by customers accessing Tote betting via international business but such customers are dealing directly with a local agent and therefore CDD responsibilities rest with that agent rather than with the Tote operator. The Tote engages in an accounts settling process with such agents on a regular basis.

### **Established and Potential Mitigants**

The danger of takeover or infiltration by criminal elements is mitigated to a great degree by the fact that the Tote is a semi-state enterprise, authorised by different legislation to commercial bookmaking. Its operations are governed by two state boards (HRI and IGB) whose members are appointed by the Minister for Agriculture, Food and the Marine in accordance with the Guidelines on Appointments to State Boards. Oversight is provided by the Department of Agriculture, Food and the Marine. The scrutiny which accompanies this structure significantly mitigates against criminal infiltration.

The relative scarcity of large scale wagers is another mitigant, although as the figures above illustrate such bets can occur.

Other mitigants include: a small, finite number of bets which can be made; that it is not possible to bet in-race; that the Tote does not accept pre-paid cards; and that while HRI does operate self-service terminals, it is not possible to receive cash without human interaction.

The same transaction tracking which is possible with online bookmakers is also possible with the Tote’s online account holders.

Upcoming legislation, the Courts and Civil Law (Miscellaneous Provisions) Bill 2017, which will prohibit those under 18 from betting on the Tote, may also prove to be of assistance as this will require Tote

operators to be prepared to check customer identification. Therefore any possible future requirement to perform CDD checks for AML purposes may prove to be less of a burden than it might be otherwise if staff training is already going to be required for age verification purposes.

### ***Residual risk***

Taking into account all of the above, the risks attached to the Tote may seem to be slightly less than for other forms of betting. Nonetheless, as the operators themselves have acknowledged, the possibility of laundering exists and it can also be seen that transactions at the €2000 threshold can occur. Therefore the residual risk rating for the Tote (both HRI and IGB) is considered to be *medium-low*.



# **Non-Betting, Non-PMC Gambling Services**

## **Legislative Background**

### ***Gaming and Lotteries***

The Minister for Justice and Equality has regulatory oversight for the Gaming and Lotteries Act 1956 (as amended). It regulates gaming and lottery activities in the State (with the exception of the National Lottery). Bingo is deemed to be a lottery for the purposes of the Act.

Gaming licences are issued by Revenue, along with licences for gaming machines.

Lottery permits are issued by An Garda Síochána and lottery licences by the District Court.

### ***National Lottery Act 2013***

The Minister for Public Expenditure and Reform is responsible for the regulation of the National Lottery in accordance with the National Lottery Act 2013. The National Lottery has a dedicated regulator. This Act also sets the monetary prize limits for those lotteries licensed under the Gaming and Lotteries Act.

### ***Gambling Control Bill***

The General Scheme of new gambling legislation was published in 2013. The 'Gambling Control Bill', as proposed, would replace present legislation, in particular the Betting Act 1931 and the Gaming and Lotteries Act 1956 (it will not replace the National Lottery Act 2013). The Bill proposes setting up an Office for Gambling Control Ireland (OGCI). The OGCI would have the primary responsibility for the regulation and control of gambling in Ireland. This will include licensing gambling and the subsequent inspection and compliance reporting.

It remains the intention of the Department of Justice and Equality to proceed with gambling legislation at the earliest opportunity and the preparation of the Gambling Control Bill continues on that basis. However, it will require some significant updating to take account of developments since 2013. The preparation of legislation will be a major and complex undertaking to take into account the breadth of this sector and the significant cross-border and electronic on-line operations. The Department of Justice and Equality is actively engaged in further consideration and research, including consultations with relevant stakeholders.<sup>21</sup>

In the meantime a draft bill has been published, the Courts and Civil Law (Miscellaneous Provisions) Bill 2017, which contains a number of provisions relating to the organisation and regulation of lower value lotteries and raffles as well as gaming machines. There will be an increase in stake and prize amounts for the lottery sector (e.g. a maximum prize of €30,000 for any one lottery). There is a proposed increase to €750 in the maximum prize permitted for gaming machines. The minimum age for all gambling will be standardised at 18, as per the section on Totalisator betting above.

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<sup>21</sup> Dáil Debates, Thursday 18<sup>th</sup> May 2017, Questions on Promised Legislation, <https://www.kildarestreet.com/debates/?id=2017-05-18a.74#g90>

# Sectoral Risk Assessments

## Lotteries

### **Nature and scale**

In Ireland, lotteries are generally prohibited by the Gaming and Lotteries Act 1956 except in certain limited circumstances, and are primarily intended for charitable and philanthropic purposes. These lotteries may be permitted by either An Garda Síochána<sup>22</sup> or the District Court<sup>23</sup>. The number of such lotteries is difficult to estimate as records of permits and licences for these are not centrally held. However, the size of weekly prize pots in these lotteries is restricted to €5,000, where a permit is issued by a Garda superintendent, and €30,000, where a lottery licence is granted by a district court<sup>24</sup>.

The Minister for Public Expenditure and Reform is responsible for the regulation of the National Lottery in accordance with the National Lottery Act 2013 (which also sets the prize amounts for other lotteries referred to above) and under this Act the National Lottery also has a dedicated regulator.

Premier Lotteries Ireland has been the operator of the National Lottery since 2014. The games offered include scratch cards and draw-based games, e.g. Lotto and EuroMillions. According to the latest (2015) report of the Regulator of the National Lottery:

*The Operator has reported that, in 2015, 1.4 million people played Lottery games on a regular basis, representing more than 40% of the adult population. Ticket sales for 2015 amounted to €670.4 million (2014: €687 million). Sales for draw based games were €482.5 million, while scratchcard sales were €187.9 million. During the year, the retail channel grew by 8% to 4,000 outlets.<sup>25</sup>*

In addition, prizes amounted to €381.1m or 56.85% as a percentage of sales.

Online players increased from 140,000 to over 225,000 from 2014 to 2015 and earned €23m in prizes.

### **Risk Scenarios and ML/TF Vulnerabilities**

According to the EU's Supra-National Risk Assessment:

*The relatively low return to players makes direct purchase of lottery tickets a costly and unattractive form of money laundering. Direct purchase of lottery tickets to win a prize is therefore not considered a likely risk scenario. On the contrary, the modus operandi of purchasing a winning ticket - a perpetrator purchases a lottery ticket from the winner (possibly through collusion with the sales agent) and cashes the prize with a receipt is more viable scenario reported by LEAs.<sup>26</sup>*

As per the EU assessment quoted above, the most likely method by which ML would be attempted in this sector would be by the purchase of winning tickets if a would-be launderer could identify the holder of a winning ticket. For most lotteries in an Irish context, which are local lotteries, the amounts in question would be too small to make this an attractive method of laundering money.

The National Lottery, with its much larger prize amounts, is a more attractive option for this approach. However, in cases where this has occurred in other countries it seems that appropriate checks were not

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<sup>22</sup> Section 27, Gaming and Lotteries Act 1956

<sup>23</sup> *Ibid* Section 28

<sup>24</sup> Section 51, National Lottery Act 2013

<sup>25</sup> RNL Annual Report 2015, p. 5

<sup>26</sup> EU Supranational Risk Assessment on money laundering and terrorist financing 2017 Annex II, p.172

performed, i.e. verification of identity, payment to that individual's account, etc., or that the identities of winners may have been inappropriately disclosed by lottery operators.<sup>27</sup>

Online play on the National Lottery has a minimal risk due to the necessity to register an account and to verify identity before payment.

Criminal ownership or infiltration is a risk in every gambling sub-sector but with lotteries it is less so due to their local and limited focus and licensing requirements and, for the National Lottery, due to the oversight of an independent Regulator.

While the supra-national risk assessment deems the risk of TF not to be relevant for the assessment of lotteries, it is worth noting that there has been public discussion of unlicensed lotteries being operated in Ireland, which would be a potential TF risk.<sup>28</sup> While this is an issue for law enforcement and those charged with the licensing of lotteries, there is no evidence from law enforcement or the Department of Justice and Equality that this is currently an area of concern with regard to TF.

### ***Established and Potential Mitigants***

According to the EU's Supra-National Risk Assessment (June 2017):

*Lotteries.... present a moderate level of ML/TF risks. Lotteries have developed a certain level of controls, in particular to address risks associated with high winnings....Cases where lotteries are used to launder proceeds of crimes have been reported. However, it requires planning and expertise that may limit the intent and capability of organised crime organisations to use it. The specific modus operandi with purchasing of winning tickets appears though to be a more viable and reported scenario.<sup>29</sup>*

An important mitigant for lotteries in Ireland is their strict regulation and the confined circumstances in which lottery permits and licences may be granted. In addition, the limits on prize amounts make them an unattractive method for attempting laundering.

The online environment of the National Lottery requires registration which is self-certifying and primarily designed to prevent underage play. It is possible that underage players could provide false information but then the necessary verification procedures would prevent the claiming of prizes above €500. There are also limits to online play amounts.

As described above, the most likely method by which ML would be attempted in this sector would be by the purchase of winning tickets and this in turn is most likely to be attempted with tickets of the National Lottery due to the size of prizes. The National Lottery, as with other lotteries described in the SNRA, has verification procedures in place (for winning tickets worth more than €15,000) for confirming the identity of anyone presenting a winning ticket. Retail players winning €15,000 or more, and online players winning €10,000 or more, must collect their prizes at PLI's head office in Dublin. They must sign a claim form and produce proof of identification before receiving a cheque made out to them.

The code of practice which sales agents must agree to, and the training which they undergo as part of this agreement, act as mitigants in this regard. Both PLI and the retailer are prohibited from revealing a winner's identity without their permission and in practice only do so once prizes have been paid out. Further, the experience of the Lottery operator is that the majority of winners wish to remain anonymous.

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<sup>27</sup> Baltimore Sun, 27<sup>th</sup> April 2011

<sup>28</sup> Irish Independent, 8<sup>th</sup> May 2017

<sup>29</sup> SNRA Annex 2, p. 173

The licence for operating the National Lottery also provides for a Regulator of the National Lottery who monitors its operations from a number of perspectives and has the authority to investigate any complaints so as to safeguard its integrity. The Office of Regulator also has enforcement powers, ranging from issuing a direction to revoking the Licence and including powers in relation to financial sanctions. Legislation provides for financial sanctions of up to €500,000 through application to the High Court or up to €250,000 if the Operator agrees that the matter be dealt with by the Regulator.<sup>30</sup>

Concerns have also been raised about the use of raffles to launder the proceeds of crime. However, raffles are considered a form of lottery and require Garda approval. The Courts and Civil Law (Miscellaneous Provisions) Bill contains provisions to further improve regulation in this area.

### **Residual risk**

While taking into account the EU supra-national rating, lotteries in Ireland are not thought to present a serious risk of money laundering due to their strict regulation, the confined circumstances in which lottery permits may be granted and the relatively small scale of prizes. The National Lottery does have a potentially higher risk but this is strongly mitigated by the presence and remit of its independent Regulator, the requirements of its licence, the code of practice for sales agents and the reluctance of Lottery winners to be publicly named.

The residual risk of ML/TF for lotteries is therefore considered to be *Low*.

## **Bingo**

### **Nature and scale**

As mentioned above, in Ireland bingo is considered to be a lottery for the purposes of the Gaming and Lotteries Act 1956 and therefore is licensed in the same way as other lotteries. As with lotteries, it has not been possible to estimate the exact scale of bingo in Ireland as there is not a centralised record of lottery licences or permits. However, the prize limits would be as per lotteries above.

### **Risk Scenarios and ML/TF Vulnerabilities**

The risk scenario is described thus in the SNRA:

*A perpetrator purchases cards - traditionally with cash - on which a random series of numbers are printed. Players mark off numbers on their cards which are randomly drawn by a caller (employed by the gambling operator), the winner being the first person to mark off all their numbers. A winning card could be purchased for a higher amount, like a lottery ticket or betting slip.*

In addition, and as per other forms of gambling, there is a risk of infiltration/criminal ownership in which case the owners would control which numbers are 'called' as part of the game and therefore present winnings as legitimate income.

In spite of this, according to the Supra-National Risk Assessment, land-based bingo is seen as presenting a low level of ML/TF risks due both to its relatively low stakes and winnings and to the chance element inherent in the activity:

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<sup>30</sup> Regulator of the National Lottery presentation to Oireachtas, 11 March 2015

*[...] bingo is not considered by LEAs and other competent authorities as an attractive scenario to launder proceeds of crime. The chance component of bingo makes it rather unattractive and highly insecure. There are few indicators that criminals have the capabilities and intent to use it, and in any case, it would likely be for very low amounts of winning.<sup>31</sup>*

In keeping with those findings, there is a lack of reported ML/TF incidents involving bingo from across the EU. In Ireland specifically, law enforcement agencies have not raised it as a problem area.

### **Established and Potential Mitigants**

The mitigants for this form of gambling are similar to those for lotteries – strict regulation and confined circumstances in which licences/permits are granted.

A mitigant which may be worth pursuing in future is the training of staff involved in bingo in AML procedures, specifically awareness of the danger of criminal infiltration.

### **Residual risk**

Considering the chance element and the relatively low level of possible winnings, as well as it not being raised as a problem area by law enforcement, the residual risk of ML/TF for bingo is therefore considered to be *Low*.

## **Poker (land-based)**

### **Nature and scale**

Poker in Ireland mainly takes the form of games run by Private Members' Clubs (PMCs). These can be either in the form of tournaments or cash games facilitated by a club. Since PMCs are classified as designated persons, they are already subject to AML measures.

Where poker takes place outside PMCs it is in the form of occasional tournaments, e.g. the Irish Poker Open, with prizes in the region of €200,000 - €600,000 for first place. Such tournaments are not currently subject to a regulatory regime which obliges organisers to apply AML/CTF controls, hence funds staked or won by competitors could be illicit.

### **Risk Scenarios and ML/TF Vulnerabilities**

The EU SNRA does suggest that the peer-to-peer gambling nature of poker, and the possibility for deliberate losses/winnings to another player, makes poker attractive to money laundering, however it also remarks that this requires some expertise and planning:

*A perpetrator purchases chips at the casino (or at the relevant licenced premises) at a dedicated point of sale (for cash or anonymous pre-paid cards) and these chips may be transferred to another player through deliberate losses (fold on a winning hand to ensure that the accomplice receive the chips). Chips are converted into cash or transferred in another way to the customer.*

The horizontal risk of infiltration or takeover exists here also:

*A perpetrator (organised crime organisations) may also seek to infiltrate the organisational structure of the licensed premises where poker games or tournaments are organised (e.g. casinos or private clubs) or directly or indirectly apply for a licence to organise a poker tournament, which may be open or on invitation only.<sup>32</sup>*

As per the SNRA, there is no evidence from Irish law enforcement of a TF threat from poker.

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<sup>31</sup> SNRA Annex 2 p. 161

<sup>32</sup> SNRA Annex II, p. 176

### ***Established and Potential Mitigants***

As PMCs in Ireland are classified as designated persons, the risks highlighted in the SNRA are mitigated by this designation and the measures which it imposes upon such clubs. This provides protection against the danger of criminal infiltration or ownership as well as the risk of peer-to-peer collusion as described above. In addition, poker tournaments operated by PMCs are considered to be less vulnerable to money laundering than cash games due to the fact that players compete to win structured cash prizes per tournament.

While tournaments which are not hosted by registered PMCs are currently unregulated, the nature of playing for a structured cash prize reduces the risk of laundering money due to the high chance of a loss of stake. In addition, that stake-loss risk is increased by the relatively low entry fees typically required to 'buy in' to the tournament (usually a figure well below the threshold for CDD) which players of unknown skill levels may enter. The risk centres on the potential for criminal infiltration by way of tournament 'rigging' to provide seemingly legitimate winnings or if participation were restricted to those attempting to launder money. Regulation of such tournaments would be a help in preventing this.

In spite of this, the point made in the SNRA must be borne in mind – that significant expertise and planning would be required to use poker for ML purposes.

### ***Residual risk***

While the SNRA describes the ML threat from poker as significant, in an Irish context the game is mostly restricted to PMCs, which are already designated persons for AML purposes. If taking place outside of PMCs, it is possible that any winnings from poker may not be legitimately laundered. However, regulation of tournaments outside PMCs would help to further mitigate the risks outlined above. In addition to these factors are the risk of loss of stake, the relatively small amounts required to enter tournaments and the expertise required to 'rig' a game or tournament. Further, there is little evidence from LEAs of poker being used for ML.

In light of all these factors, the residual risk rating for land-based poker is *Low*.

## **Gaming and Amusement Machines (outside casinos)**

### ***Nature and scale***

The Gaming and Lotteries Act 1956 effectively prohibits the provision of gaming services, although with a confined exception for gaming that occurs in PMCs (dealt with in the NRA) and gaming halls with gaming machines. Gaming is illegal unless it takes place in a premises for which a Gaming licence is held (S.19 of the Gaming and Lotteries Act 1956).

For gaming, a premises must have a gaming licence - the licence can either cover a period of 3 months (€175) or up to 12 months (€630). In order to obtain a gaming licence, a person must apply to the District Court for a certificate of authorisation. The Court will not grant a certificate if there is a local authority prohibition on gaming in the area and the court may attach conditions to the certificate (e.g. limiting hours of operation, number of machines and the amounts of stakes and prizes). In addition, each machine used for gaming must hold a gaming machine licence. This must cover either 3 months (€145) or up to one year (€505) and the licence must be displayed. Licences are not transferable from one machine to another.

The licensing of 'Amusement Halls and Funfairs' may be determined by a local authority or local District Court. Certain very limited (and low-stakes) gaming may take place in these venues with the appropriate licence. To operate machines, the trader must hold an Amusement Machine Permit. The applicant must be tax cleared and pay excise duty of €100 and the permit specifies the number of amusement machine licences applied for.

Each amusement machine must have a licence. Amusement machines, however, should not allow wagering on any game. An amusement machine licence can either cover 3 months (€38) or 12 months (€125) and the licence must be displayed. Licences are not transferable from one machine to another.

Revenue is responsible for issuing gaming and amusement machine licences and for detecting unlicensed or improperly licensed machines. Local Authorities may prohibit gaming in certain areas by rescinding Part III of the Gaming and Lotteries Act 1956. Any issue relating to a premises covered by a gaming licence, or gaming machines operated in prohibited areas, is a matter for An Garda Síochána.

For the year up to August 2017 there had been 69 gaming licences and 6,830 gaming machine licences issued in Ireland along with 147 amusement machine permits and 6,907 amusement machine licences<sup>33</sup>

Concerns have been raised by gaming industry representatives<sup>34</sup> over whether the licence figures accurately reflect how many such machines are in operation in Ireland and how many are unlicensed or wrongly licensed, with Dublin city centre cited as an example of a municipality whose local authority has disallowed gaming and yet in which arcades are believed to be operating such machines. There are also reports of gaming machines paying out amounts in excess of what is licensed for.<sup>35</sup> However, at the moment such reports are only anecdotal in nature. If evidence exists of these activities then it is expected that it will come to light in the course of the normal work of LEAs. Similarly, if LEAs receive information regarding ML/TF in this area then this will inform future revisions of this risk assessment.

### **Risk Scenarios and ML/TF Vulnerabilities**

According to the Supra-National Risk Assessment (June 2017):

*Gaming machines do not appear to be an attractive option for ML purposes due to the inherent chance element, amounts of stakes and winnings combined with the time and efforts required to launder any significant amounts of money. However, certain types of gaming machines allow deposits of higher stakes and/or winnings; or to stake only a small part of the amount requesting a pay-out of the remaining funds (into a bank account or in cash with a receipt). In this context, although the level of ML threat may vary in between different types of gaming machines (low/high stakes and/or winnings) it is generally considered as moderately significant.<sup>36</sup>*

Therefore, risk potential for gaming machines is dependent on the nature of the machine and the stakes allowed. Gaming machines, such as 'ticket in ticket out' machines, that convert deposited cash into vouchers and can be used as a value transfer mechanism increase the risk of money laundering as the proceeds of crime could be stored, transferred, and converted back to cash without arousing suspicion of money laundering.<sup>37</sup> Fixed odds betting terminals (FOBTs), with the potential to deposit large amounts of cash, wager a small amount and withdraw the remainder with a receipt 'legitimising' it, have been shown to be vulnerable to ML in the UK. There, they are primarily located in bookmakers' premises and such location is prohibited in Ireland. However, anecdotal accounts of their use in other premises have been reported<sup>38</sup>.

As of October 2017, the draft Courts and Civil Law (Miscellaneous Provisions) Bill 2017 will increase the permissible maximum stake to €10 and the maximum amount of winnings on gaming machines to

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<sup>33</sup> Figures provided by Revenue

<sup>34</sup> GLAI submission to Minister for Finance 2016, p.5

<sup>35</sup> Information provided by Department of Justice and Equality

<sup>36</sup> SNRA Annex 2, p. 169

<sup>37</sup> NRA 2016, p. 70

<sup>38</sup> Information provided by Department of Justice and Equality

€750. This Bill, once passed, will serve to further mitigate the risk of ML by restricting the amounts which can be staked or paid out within realistic limits.

As per the SNRA, there is no evidence from Irish law enforcement of a TF threat from gaming machines.

### ***Established and Potential Mitigants***

While there has been some evidence of unlicensed or wrongly licensed machines in operation in Ireland, this is not currently considered to be a significant avenue for ML or TF by Irish law enforcement authorities. The existence of a licensing regime acts as a mitigating factor against criminal infiltration or takeover. It is also possible that the lack of a licence or use of an incorrect licence would make such machines a non-viable method of laundering money as the proceeds would not in fact be properly legitimised or 'cleaned' if done through illicit machines or unlicensed gaming halls or casinos.

Nonetheless, reports of unlicensed or wrongly licensed machines, while anecdotal in nature, are concerning. More quantitative data is required to determine the accuracy of these reports and therefore to assess whether any such concern is justified. Compiling a more comprehensive range of such data is one of the recommended actions in Ireland's recent Mutual Evaluation Report by the Financial Action Task Force. Since, as mentioned above, it is expected that any operation of illicit machines will come to light in the course of normal LEA work and will in turn inform future revisions of this risk assessment, it is also expected that such work by LEAs will add to the range of quantitative data available for the next revision.

### ***Residual risk***

This sub-sector is not currently considered to be a significant avenue for ML or TF by Irish law enforcement authorities. Anecdotal accounts of unlicensed or wrongly licensed machines being in operation, as well as of machines paying out amounts greater than licensed for, warrant further scrutiny. However, there is a lack of hard evidence to support these claims. Therefore at the time of writing, in light of the licensing requirements and the general unattractiveness of gaming machines as a method of ML in comparison to other avenues, the residual risk of ML/TF for gaming and amusement machines (outside casinos) is considered to be *Low*.

## **Online gaming**

The SNRA does not distinguish between different gambling activities which take place in the online environment. As it says:

*A further division into different online gambling products has not been considered necessary, at this stage, for this purpose as the relevant risks, threats and vulnerabilities appear to be primarily linked to the nature of online transactions generally rather than to specific forms of online gambling.*<sup>39</sup>

Therefore for the purposes of this assessment the analysis of online bookmaking done above will suffice for providing a risk rating as it deals with the threats, mitigants and residual risk which remain the same regardless of specific gambling activity. It has already been stated that online bookmaking is deemed to hold a residual risk rating of *medium-low* and therefore this rating should apply to all other online gambling service providers.

The only exception to this is the online activity of the National Lottery due to the mitigants described above which warrant a risk rating of *Low* for that specific form of online gambling.

Online bookmaking was legislated for in the Betting Act of 2015 but since there is a legislative distinction in Ireland between betting and other forms of gambling, future regulation of online gambling services other than bookmaking (and apart from those of the National Lottery, as described above) would act as a mitigating factor which may help to further reduce the risk in this sub-sector.

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<sup>39</sup> SNRA Annex 2, p.153



Ongoing monitoring of technological and other changes in this area will also be necessary. As per the SNRA:

*The unauthorised market, risks and control thereof is outside the scope of this exercise, based on the assumption that it is not possible to directly launder money through an illegal activity (winnings would remain illegal). However, regulators and obliged entities should be aware of online techniques which may make it possible to disguise the true identity of users and sources of money while creating the appearance of legitimate transactions and thus allowing the money to be used in future transactions in legal markets.*<sup>40</sup>

## Conclusions

With regard to the Irish betting sector firstly, the overall level of risk of ML/TF activity is considered to be *Medium-Low*. While there are differences in scale, vulnerability, mitigants and where precisely risk lies, all forms of bookmaking are still deemed to fall within the range of the *Medium-Low* rating. At the moment there is little evidence of large scale, professional ML activity in the betting sector. However, the potential remains. This potential could be further mitigated by the introduction of various voluntary and/or legislative measures. Furthermore, the risk of TF occurring through the betting sector in Ireland is seen to be low to non-existent.

As described above, all forms of online gambling, except for those of the National Lottery, are deemed to carry a residual risk of *medium-low*.

Although there are some potential vulnerabilities and risks associated with the gambling sub-sectors of lotteries, bingo, poker and gaming and amusement arcades, the residual risk of money laundering or terrorist financing in any of these areas currently appear to be low. There are some indications that tickets or receipts for winnings could be used for transferring or holding value. However, this is less prevalent than in other gambling services, such as PMCs or bookmakers.

Similarly, some concerns have been voiced by law enforcement authorities and the industry that certain services or machines may be operated illicitly. However, this would fall into the area of illegal gambling and fraud rather than true ML, due to the inability to truly legitimise proceeds of crime through such channels. In any event, the evidence provided by law enforcement and licensing authorities at this time does not indicate significant ML or TF operations occurring through these methods.

While there are differences in risk, scale and mitigating factors in each of these sub-sectors, with poker and gaming machines in particular being worthy of future review, at the moment they all fall within the range of *Low* risk.

## Suggested Actions

The purpose of this risk assessment is to assist in the transposition of the EU's 4<sup>th</sup> Anti Money Laundering Directive (4AMLD). Recital 21 of 4AMLD suggests that:

*“The use of gambling sector services to launder the proceeds of criminal activity is of concern. In order to mitigate the risks relating to gambling services, this Directive should provide for an obligation for providers of gambling services posing higher risks to apply customer due diligence measures for single transactions amounting to EUR 2 000 or more. Member States should ensure that obliged entities apply the same threshold to the collection of winnings, wagering a stake, including by the purchase and exchange of gambling chips, or both.”*

The above recital sets out a potential approach to higher risk providers of gambling services in the EU, some aspects of which, or all of which, could be applied to the betting sector or sub-sectors thereof and

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<sup>40</sup> Ibid., p. 154

to the online sector, in accordance with the residual risk rating of *Medium-Low*. Therefore in accordance with 4AMLD it is suggested that providers of gambling services in the bookmaking and online sub-sectors, including the operators of the Tote, be classified as 'designated persons' for AML/CFT purposes.

In accordance with Article 2.2 of 4AMLD it is suggested that providers of services in the other gambling sub-sectors of lotteries, bingo, land-based poker and gaming and amusement arcades be exempted from the above obligations for now due to their residual risk rating of *Low*.

However, all sectors will remain subject to further review as this risk assessment is updated, particularly with regard to changes in legislation, technology and payment methods. Continued engagement between authorities, policy-makers, and industry representatives should help to address any outstanding vulnerabilities and introduce any necessary reforms in this area to reduce levels of ML/TF risk. This will be necessary in order to maintain an up-to-date risk assessment for the gambling sector, particularly as technologies and payment methods continue to change. Filling any gaps in our knowledge of day-to-day gambling operations will also be required for this.

With regard to all gambling sub-sectors, it is considered that elements of the proposed Gambling Control Bill and the establishment of the Office for Gambling Control Ireland (OGCI) could further enhance AML/CFT oversight and enforcement in this area, further reducing risk and allowing the authorities to work together with the industry to minimise the potential for ML or TF in this sector. It remains the intention of the Department of Justice and Equality to proceed with gambling legislation at the earliest opportunity and the preparation of a Gambling Control Bill continues on that basis. However, it will require some significant updating to take account of developments since 2013. The preparation of legislation will be a major and complex undertaking to take into account the breadth of this sector and the significant cross-border and electronic on-line operations. The Department of Justice and Equality is actively engaged in further consideration and research, including consultations with relevant stakeholders.<sup>41</sup>

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<sup>41</sup> Dáil Debates, Thursday 18<sup>th</sup> May 2017, Questions on Promised Legislation, <https://www.kildarestreet.com/debates/?id=2017-05-18a.74#g90>

## ANNEX: Risk Matrix

Sub-Sector	Scale	Product/Service	Pay-Out	Regulation	Risk Factors	Mitigating Factors	Residual Risk
<i>Lotteries</i>	Small, except National Lottery	National lottery, limited smaller charitable lotteries	Potentially high for National Lottery, potentially very low for other, wide range	Regulator for National Lottery, Garda and/or Court for charitable lotteries	Potential high pay-out, transferability of winning tickets	Strong licensing and regulation, loss of stake, fraudulent lotteries not ML	<b>Low</b>
<i>Bingo</i>	Small	Small scale charitable bingo, subset of lotteries	Low to medium	Garda and/or Court, as charitable lottery	Few, potential for unlicensed bingo	Scale, impractical as ML avenue, unlicensed not ML	<b>Low</b>
<i>Poker</i>	Small	PMCs and tournaments outside of PMCs	Potentially high, wide range	Some regulated as PMCs	Peer-to-peer payment of winnings, criminal infiltration	PMC Regulation, illegal poker not true ML, scale	<b>Low</b>
<i>Gaming machines</i>	Small	Machines present in licensed gaming halls	Low to medium	Licensing regime for machines and halls, inspection of machines	Improperly licensed machines, transfer of tickets, use of multiple machines	Licensing regime, illegal machines not ML, scale	<b>Low</b>
<i>Amusements</i>	Small	Machines in gaming and amusement halls	Low to non-existent	Licensing regime for machines and halls, inspection of machines	Improperly licensed machines	No wagering, licensing regime, illegal machines not ML, scale	<b>Low</b>
<i>Online (betting and gaming)</i>	Large	Online bookmakers and betting exchanges, online gaming services.	Potential high, wide range	Revenue licence required for bookmakers and betting intermediaries.	Potentially high pay-out, ability to hedge bets.	Transaction tracking, account verification, loss of stake.	<b>Medium-Low</b>
<i>Retail and On-course bookmaking</i>	Large	Betting in shops and at racecourse.	Potential high, wide range	Revenue licence required plus HRI permit for on-course.	Cash transactions, no CDD required.	Anti-fraud measures	<b>Medium-Low</b>
<i>The Tote</i>	Large	Betting online, at racecourses and in some shops.	Potentially high although mostly low.	Semi-state entities, HRI and IGB.	Cash transactions, no CDD required.	Generally low stakes, less appealing than fixed-odds.	<b>Medium-Low</b>