

CHAPTER 7: RESPONSIBLE GAMING

Frank Catania, Sr., Esq., Gary Ehrlich, Esq., and Antonia Cowan, Esq.

This manuscript is a draft only and subject to further review and comment by the author and other parties. It is not for publication. All intellectual property rights associated with the manuscript are reserved. Nothing in this manuscript constitutes legal advice or may be used or relied upon as legal advice. Use of or reliance upon this manuscript does not create an attorney-client relationship between the author or UNLV or any other party.

Rationale and Focus

It is universally accepted by responsible regulators and operators that when a form of gambling – such as Internet (a/k/a online, remote, interactive, etc.) gambling - is legalized and made available, policies must be formulated and implemented to minimize the potential harm to the most vulnerable members of the public.¹ Such policies are generally embodied in “responsible gaming” provisions, *i.e.* requirements designed to ensure that legalized gambling – gaming² – takes place in a socially responsible manner.³

Although responsible gaming provisions vary among regulatory jurisdictions, the best coalesce around three core elements: (1) Providing sufficient information to allow individuals to understand the nature of the gaming activity and make informed decisions regarding their participation; (2) ensuring a fair, well-regulated and controlled gaming experience for all players;

and (3) minimizing the potential social, health-related, and economic harm to vulnerable players.⁴ Although these core elements are broad enough to encompass many of the issues addressed in other Chapters, this Chapter will focus on what is arguably the most significant aspect of responsible gaming: protecting at-risk customers from the consequences of problem or pathological gambling.⁵

Scope of the Issue

As indicated, the question to be addressed here is what policies should be implemented to minimize the potential harm from Internet gambling to problem or pathological gamblers. To answer this question, we must first define what is meant by “problem” or “pathological” gamblers, and then assess the dangers posed by Internet gambling specifically to this group.

Although there are no specific universally accepted definitions of “problem,” “pathological” or “compulsive” gambling, useful working definitions have been formulated the National Council on Problem Gambling (NCPG):

Problem gambling is gambling behavior which causes disruptions in any major area of life: psychological, physical, social or vocational. The term "Problem Gambling" includes, but is not limited to, the condition known as "Pathological", or "Compulsive" Gambling, a progressive addiction characterized by increasing preoccupation with gambling, a need to bet more money more frequently, restlessness or irritability when attempting to stop, "chasing" losses, and loss of control manifested by continuation of the gambling behavior in spite of mounting, serious, negative consequences.⁶

The American Psychiatric Society, in the revised version of its widely-used encyclopedia of mental illnesses to be published in 2013, has proposed that its previous diagnosis of “pathological gambling” as an impulse control disorder be renamed “gambling disorder,” reclassified with addiction disorders, and defined as follows:

Gambling Disorder

- A. Persistent and recurrent maladaptive gambling behavior as indicated by five (or more) of the following:
 - 1. is preoccupied with gambling (e.g., preoccupied with reliving past gambling experiences, handicapping or planning the next venture, or thinking of ways to get money with which to gamble
 - 2. needs to gamble with increasing amounts of money in order to achieve the desired excitement
 - 3. has repeated unsuccessful efforts to control, cut back, or stop gambling
 - 4. is restless or irritable when attempting to cut down or stop gambling
 - 5. gambles as a way of escaping from problems or of relieving a dysphoric mood (e.g., feelings of helplessness, guilt, anxiety, depression)
 - 6. after losing money gambling, often returns another day to get even (“chasing” one’s losses)
 - 7. lies to family members, therapist, or others to conceal the extent of involvement with gambling

8. has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling
 9. relies on other[s] to provide money to relieve a desperate financial situation caused by gambling
- B. The gambling behavior is not better accounted for by a Manic Episode.⁷

It is estimated that 1% of adults meet the existing criteria for the more serious pathological or compulsive gambling (or gambling disorder), while an additional 2-3% would be considered problem gamblers.⁸ Studies conflict on whether problem and pathological gambling rates are higher among online gamblers.⁹

There is little evidence to support a conclusion that Internet gambling directly *causes* problem gambling.¹⁰ Nevertheless, a number of specific features of online gambling have been suggested as having the potential to facilitate problem gambling, including: its 24/7 availability; its faster speed of play; the variety of games offered; the smaller permissible bet size; players' anonymity and isolation; the possibility of players gambling while impaired or under the influence; and players' decreased perception of the value of money.¹¹ On the other hand, because of the nature of Internet gambling, operators have the technological ability to deliver measures that reduce potential risks in effective and innovative ways.¹²

Evolution of Global Best Practices

As Internet gaming has exploded globally, Internet gaming regulation has also expanded and evolved. Generally, online gaming regulatory jurisdictions are viewed as falling into one of three distinct groups or tiers: “Tier 1” jurisdictions are focused on maximum player protection and compliance; “Tier 2” jurisdictions are characterized by a more flexible approach aimed at attracting a higher number of operators; and “Tier 3” jurisdictions are those that allow companies to conduct Internet gambling in a mostly unregulated environment.¹³

Tier 1 jurisdictions include, but are not limited to, the United Kingdom (UK) and those on the UK’s so-called “White List,” *i.e.* a list of countries whose licensed operators are permitted to advertise within the UK. To be included on the UK White List, the licensing jurisdiction must be approved by the UK, which requires either a European Union connection (Alderney, Isle of Man, Gibraltar, Cyprus, and Malta) or a demonstration that the licensing jurisdiction has a regulatory system sufficient to ensure the suitability, solvency and social responsibility of its licensed gaming operators (Tasmania, and Antigua and Barbuda).¹⁴ Tier 1-quality regulations are also embodied in the standards employed by private trade organizations such as e-Commerce and Online Gaming Regulation and Assurance (eCOGRA), and the European Gaming and Betting Association (EGBA).¹⁵

Although all Tier 1 jurisdictions have some requirements addressing responsible gaming, no two sets of regulations are identical, and reasonable minds can and do differ over details. For

example, Gibraltar mandates that licensees have: a direct “conspicuous link” on the gaming website to a problem gambling treatment organization, with compulsive gambling warnings at the entry page of the gambling site; a self-exclusion policy; and a designated person to formulate responsible gambling policies and train staff.¹⁶ Gibraltar operators must also ensure that systems are in place to: Warn gamblers not to gamble beyond their means; “set controlled, daily deposit, time or gambling amount limits; and provide for self exclusion.”¹⁷

Alderney requires licensees to establish procedures to identify potential problem gamblers.¹⁸ If a licensee has “reasonable notice” that a customer is a problem gambler, the licensee must terminate the customer’s account and cease marketing activities. Other Alderney regulations mandate that the licensee provide self-limitations on customer game play, with a 24-hour “cooling off period,”¹⁹ and provide a player protection page that contains information on problem gambling and problem gambling services. Alderney operators are expected to spend a designated amount or percentage of gross gambling yield on problem gambling treatment.²⁰

The Isle of Man mandates several responsible gaming safeguards: Online gambling advertisements must have hyperlinks to Gamblers Anonymous or other problem gambling websites approved by the Gambling Supervision Commission;²¹ gaming operators must provide players with options to set a maximum bet per session or a set time and

seven days are required to increase the maximum bet limit; an operator's application must include provisions for account limits and for self-exclusion; and operators must contribute "a sum" to the government's "Problem Gambling Fund."²²

Pursuant to the Gambling Act of 2005, the UK established a Gambling Commission, which has issued regulations setting forth minimum requirements for the protection of problem gamblers. An online operator must provide information at regular intervals on "the licensee's policies in relation to, and experiences of, problem gambling." They must establish policies for how they will contribute to problem gambling research and public education on the risks of gambling, and "how they will contribute to the identification and treatment of problem gamblers." UK licensees must also develop self-exclusion procedures with a six-month minimum, and ensure that self-excluded customers are barred from all accounts with the operator.²³

The differences aside, the features shared by Tier 1 jurisdictions and the leading industry groups suggest certain global "best practices" in the area of responsible Internet gaming. These best practices may be viewed as the baseline standards necessary for socially responsible Internet gaming regulation.²⁴ However, as is the situation with many Internet gaming regulations that are framed in general terms, the *specific* means by which responsible gaming standards are implemented is generally left to the operators themselves, subject to the approval of the regulators.²⁵

Player Limits

Research suggests that mechanisms allowing players to establish their own limits – either of time, money, or both – are viewed favorably by online gamblers.²⁶ It has been theorized that the very act of establishing limits may induce problem gamblers to reassess their behavior.²⁷

Although limits can also be established by the operator, in most cases such limits are self-imposed by players using whatever procedures have been established for that purpose.²⁸ Limits which have as their purpose the assistance of problem gamblers, as opposed to the prevention of money laundering or other criminal activity, are the focus of this section.

The eCOGRA Generally Accepted Practices (eGAP), which set forth the policies and procedures required to obtain the eCOGRA seal of approval, is economical in its player-limits mandate:

The operator shall provide players with the option to set their own deposit limits per day, week and month.

Operators shall deal with requests to decrease deposit limits immediately. Player requests to increase previously set deposit limits shall only be effective after a minimum waiting period of 24 hours.

There shall be a clear link from the deposit page to the facility to set deposit limits and/or to the Responsible Gambling page.²⁹

These provisions suggest three features required for an effective player deposit limit procedure.

First, its availability should be made known to the player, and it should be easy to initiate. Second, the options should be flexible. Finally, player deposit limit requests should be effective immediately, while requests to increase previously established limits should require a delay or “cooling off period” of some length.

But what if a player who has already deposited money in an account wishes to limit the volume or frequency of gambling activity? A regulation of Antigua and Barbuda addresses that scenario by providing that “[a] player may, by notice to the licence holder, set a limit on the amount the player may wager.”³⁰

While instructive, this provision raises the question of what precisely is meant by “set[ting] a limit on the amount the player may wager.” That issue is addressed in greater detail in the statutes of Alderney, which state in part:

(1) A registered customer may, by written notice to a ... licensee, set a limit on his gambling activity with that licensee in accordance with one or more of the means specified in paragraph (2).

(2) A limit may be set under paragraph (1) in relation to the amount a customer -

(a) may deposit during a period of time specified in the notice;

(b) may lose by way of a maximum amount that may be lost by reference to -

(i) a number of gambling transactions; or

(ii) a period of time, as specified in the notice;
or

(c) may wager.

(3) A limit set under paragraph (2)(c) may be set -

(a) in relation to a single gambling transaction or any number of gambling transactions;

(b) by way of a maximum limit that may be wagered over a number of gambling transactions specified in the notice or effected during a period of time specified in the notice; or

(c) at zero.

....

(5) A ... licensee who has received a notice under paragraph (1) from a customer setting his limit in accordance with paragraphs (2)(c) and (3)(c) at zero shall not directly market or otherwise publicise its gambling services to that customer whilst the customer's limit continues at zero.

(6) A licensee who has received a notice under paragraph (1) shall not, directly or indirectly, encourage the customer who has set that limit to raise or remove it.

(7) A customer who has set a limit under this regulation may change or remove the limit by further written notice to the ... licensee.³¹

These and similar provisions,³² along with the relevant literature and empirical data,³³ suggest the following best practices regarding player limits:

- **Gambling sites should have reasonable, posted default limits on the amount players may deposit per day, week and month. Any decreases**

to the default limits requested by a player should be given effect immediately, while any increases requested by a player should require a waiting period of at least 24 hours.

- **Players should be also provided with clear notice of, and easy access to, a mechanism to establish and pre-set wagering or loss limits.**
- **Such wagering or loss limits should be available by time, gambling transaction, or any other reasonable criteria.**
- **Any decreases to such pre-set wagering or loss limits requested by a player should be given effect immediately, while any increases requested by a player should require a waiting period of at least 24 hours.**
- **The gambling site should refrain from advertising or other marketing to a player during any period in which that player has established any deposit, wagering, or loss limits.**

Self-Exclusions and Time-Outs

Self-exclusion³⁴ programs, *i.e.* those which allow players to bar themselves from play at a specific gambling site, are common in Tier 1 jurisdictions and in standards promulgated by the leading trade groups.³⁵ A related concept is the “time-out” or “cooling off period,” a mechanism to allow players to bar themselves from playing for a specific time period. This can be used either as a measure for players desiring an immediate break from gambling or as a means by which players can manage their gambling during particularly tempting or risky periods (*e.g.*, days immediately following the

receipt of paychecks or before or during major sporting events such as March Madness, the Superbowl, World Cup, etc.).³⁶

Self-exclusion and time-out programs are generally viewed favorably and used frequently by online gamblers.³⁷ The research concerning such bans suggests their overall effectiveness.³⁸

Specific issues involving self-exclusion and time-out programs are numerous, and include the following:

1. How should the availability and details of the programs be communicated to players?
2. How should a player register for the programs?
3. What options should be offered regarding the length of the self-exclusion or time-out?
4. How should the self-exclusion or time-out be enforced?
5. Should a player be permitted to modify a previously selected self-exclusion or time-out and, if so, how?
6. Should the regulatory authority be involved in the modification process?
7. Should third parties, *i.e.* parties other than the player, be permitted to initiate exclusion or time-out programs and, if so, how?
8. What should happen if a player who has self-excluded or requested a time-out successfully circumvents the process and gambles, with wins or losses?

Although sparse, Antigua and Barbuda's regulation governing self-exclusion is typical:

A player may request to be self excluded from a licenced interactive gaming or interactive wagering site by means of a telecommunication device. Players that are self excluded

may not be reinstated for a period of six (6) months from the date of self-exclusion. Revocation of a self-exclusion must be requested in writing to the Commission after the six (6) month self-exclusion period has expired.³⁹

This regulation addresses the issue of registration (by means of a telecommunication device), the minimum period of self-exclusion (six months), and revocation of the self-exclusion (must be requested in writing to the Commission).

Although the six month minimum period for self-exclusion is a common choice, the longer the minimum, the more likely some problem gamblers will be reluctant to initiate the procedure. That issue would be mitigated by a time-out provision, if one were available. And the involvement of the Commission in the revocation process lacks any clear purpose, unless the Commission is prepared to evaluate whether the player's gambling problem has been overcome. This would be a difficult task even for a health care professional, and seems an impossible one for gaming regulators.

To date, Nevada is the only United States jurisdiction to adopt a full set of "interactive gaming" regulations, and its regulation governing self-exclusion, provides:

1. Operators must have and put into effect policies and procedures for self-exclusion and take all reasonable steps to immediately refuse service or to otherwise prevent an individual who has self-excluded from participating in interactive gaming. These policies and procedures include without limitation the following:
 - (a) The maintenance of a register of those individuals who have self-excluded that includes

the name, address and account details of self-excluded individuals;

- (b) The closing of the interactive gaming account held by the individual who has self-excluded;
- (c) Employee training to ensure enforcement of these policies and procedures; and
- (d) Provisions precluding an individual who has self-excluded from being allowed to again engage in interactive gaming until a reasonable amount of time of not less than 30 days has passed since the individual self-excluded.

2. Operators must take all reasonable steps to prevent any marketing material from being sent to an individual who has self-excluded.⁴⁰

This regulation makes explicit a few additional and beneficial features of a self-exclusion process.

First, it makes clear the obvious requirement that during any period of self-exclusion, further play from the self-excluded person must be refused; closing the interactive gaming account of the person who has self-excluded is an efficient method of enforcement. Second, it mandates employee training to ensure implementation of the self-exclusion policies. Third, it establishes a minimum self-exclusion period of 30 days. Finally, it specifies that no marketing material be sent to a self-excluded individual.

The eGAP Standards governing self-exclusion provide:

The Responsible Gambling page shall provide players with an option to set a “cooling off” exclusion period of at least 24 hours.

Best endeavours shall be made to prevent marketing to players during their “cooling-off” period.

The Responsible Gambling page shall provide players with an option to “self exclude” in accordance with the following:

The account shall be locked and any funds in the account paid out, subject to appropriate and necessary checks and verifications.

Best endeavours shall be made to ensure that the player does not receive any marketing material during the exclusion period.

Self exclusion due to a gambling addition shall be for a minimum period of 6 months.

A third party making an application for a player’s exclusion shall be properly identified. Based on the circumstances, the appropriate manager shall contact the player for whom the exclusion is being sought and take appropriate action.⁴¹

These standards allow for a time-out (cooling off) period of at least 24 hours without marketing, mandate advertisement of the self-exclusion program on a page with other responsible gambling information, set a minimum self-exclusion period of six months, and also establish a procedure under which a third party may initiate the self-exclusion process. This procedure may only be completed by an operator’s employee, who must first contact the player. But what happens then?

It seems unrealistic to expect an employee, even a highly trained one, to be able to ascertain from limited contact whether a player is a problem gambler. For that reason, the third party-initiated exclusion procedure appears

difficult to administer in practice, and is unlikely to be useful in any event since a problem gambler who has not affirmatively chosen to seek help can simply gamble elsewhere.

The responsible gaming regulations of Gibraltar address the mandated self-exclusion process in the following way:

- 5.1 Licence holders should have defined systems in place to enable customers to request to be self excluded. Such requests should be a deliberate and considered action by the customer and should be implemented by the licence holder as soon as practicable and in compliance with the defined procedure. Implementation should include confirming receipt of the request to self exclude via an identified e-mail account or the means of correspondence/communication used by the customer. Confirmation should include specific information on the process and consequences of self exclusion, including the point at which self exclusion has commenced.
- 5.2 In respect of those matters under the control of the operator, self exclusion should include the prevention of the use of all known existing accounts, and the prevention of the opening of new accounts by the customer using the same or very similar registration details, and the early removal of the customer from all gambling marketing databases, and as far as is reasonably practicable, all third party databases. The Gambling Commissioner will not normally regard self exclusion to be in place until it has been confirmed by the licence holder.
- 5.3 Subject to the Gambling Commissioner's further advice, self exclusion systems modelled on mainstream industry bodies' advice, and recognised by the Commissioner, such as GamCare, eCogra and RGA [Remote Gambling Association], will be regarded as effective systems for the purposes of this requirement.

- 5.4 The Gambling Commissioner recognises that self excluded persons may successfully circumvent a self exclusion agreement. Where this is found to have occurred, a record should be kept and the Commissioner should be advised. As a general policy, in respect of the return of deposits or payment of winnings to the customer, each case should be judged on its merits but the Commissioner would expect any “winnings” to be retained by the licence holder.
- 5.5 Licence holders are required to make information available to customers about responsible gambling practices, including self exclusion. For remote licence holders, in addition to a reference in the terms and conditions, a conspicuous link to responsible gambling information, including details of organisations dedicated to assisting problem gamblers, should be displayed on the website and on a page at the start of any gambling session, often referred to as the “lobby” or “entry” pages, or where username, password and other site access information is typically provided. Similarly, such a link should be provided at the end of the gambling session when the player uses the log out facility.
- 5.6 Responsible gambling facilities should be offered in the language(s) of the predominant users or intended users of the licence holders’ site(s). In the case of non remote licence holders, pamphlets providing appropriate advice should be available on the premises in places regularly accessed by customers.
- 5.7 Licence holders should designate a named individual of appropriate seniority to hold responsibility for ensuring that the licence holder’s responsible gambling policies are relevant, up to date and effectively communicated to all members of the organisation associated with providing gambling facilities.
- 5.8 Licence holders should ensure that systems are in place to warn customers not to gamble beyond their means to pay, and should have systems in place to take into account information (such as communications and contact by the customer or advice/information from financial institutions) that

indicates that the customer may be gambling beyond their means. Where this occurs the licence holder should initiate measures to assist the customer manage their gambling. This should include the generally available facility to set controlled, daily deposit, time or gambling limits, and self exclusion. The Commissioner will monitor local arrangements before considering whether specific standards for limits should be set.

5.9 Licence holders are expected co-operate with the Licensing Authority, Gambling Commissioner and other licence holders to develop techniques to identify and discourage problem gambling.⁴²

These unusually specific and detailed provisions add a few additional self-exclusion features for analysis.

First, they specify that “self exclusion systems modelled on mainstream industry bodies’ advice ... will be regarded as effective systems.” This is a benefit to operators, who need not “re-invent the wheel” regarding self-exclusion processes.

Second, they provide that where a self-excluded person successfully circumvents the self-exclusion agreement, any winnings by that person may be retained by the license holder. Precluding a self-excluded person from receiving any winnings as a result of circumventing the self-exclusion process is an effective way of deterring such conduct by the player by removing its economic incentive. However, allowing winnings to be retained by the operator seems counter-productive. At best, it constitutes an undue windfall to an operator who has failed to bar the self-excluded person. At worst, it gives the operator an incentive to *allow* self-excluded persons to gamble, in the hope of retaining

forfeited winnings.⁴³ A better approach would be to mandate that any forfeited self-excluded person's winnings go to the regulatory authority, preferably to fund programs addressing responsible or problem gambling.

Third, they reflect the obvious truism that, to be effective, responsible gaming information must be offered in the language of the player. Fourth, they mandate accountability by requiring a designated employee of the operator to be responsible for formulation, review, and enforcement of the operator's responsible gaming policies.

Finally, the provisions mandate a level of proactivity on the part of operators in identifying and assisting problem gamblers. This is difficult to accomplish in practice, however, as objective and precise criteria indicating that a "customer may be gambling beyond their means" are lacking.^{44,43}

These and similar provisions regarding self-exclusions and time-outs,⁴⁴ along with the relevant literature and empirical data,⁴⁵ suggest the following best practices:

- **Gambling sites should have comprehensive, staff-supported programs in place covering time-outs and self-exclusions, subject to periodic review and revision.**
- **Such programs should be: well promoted; in the appropriate language(s); preferably on registration or login pages; easily accessible by players; and administered by trained and knowledgeable operator staff.**

- **A strong enforcement process should be in place to prevent play by self-excluded players, and should be extended to all sites made available by the operator and/or subject to the jurisdiction of the regulator.**
- **Players should be informed of the enforcement process.**
- **The enforcement process should remove any incentive for self-excluded players to attempt to circumvent the ban by providing for the forfeiture of winnings.**
- **Any winnings forfeited by self-excluded players should not be retained by the operator, but instead should go to the regulatory authority, preferably to fund programs addressing problem gambling research, education, or treatment.**
- **Available time-out periods should be flexible, but no longer in permissible duration than the minimum self-exclusion period.**
- **Self-exclusion periods should have a minimum duration of between one and six months, with available options for a period of years or permanent ban.**
- **Time-outs or self-exclusions requested by a player should be effective immediately, and should be irrevocable during the period selected.**
- **The gambling site should refrain from advertising or other marketing to a player during any time-out or self-exclusion period.**
- **Reinstatement at the conclusion of the selected time-out or self-exclusion period (other than a permanent ban) should require an affirmative request by the player.**

- **Neither regulators nor operators should be required to engage in any particular assessment or render any independent judgment on whether a player who has requested reinstatement at the conclusion of a selected time-out or self-exclusion period (other than a permanent ban) should be reinstated.**
- **Requests by players for renewals of time-outs or self-exclusions should be treated in the same manner as initial requests.**
- **Third party-initiated exclusions are not recommended, as they are difficult to administer, raise complex legal issues, and are unlikely to be effective as they run counter to the accepted theory that a problem gamblers must personally recognize their problem and choose to seek help.**
- **These issues notwithstanding, an operator should contact any player about whom a concern has been expressed by a third party, if only to reiterate all relevant responsible gaming information, including the availability of player limits, time-outs, and self-exclusions.**

Other Miscellaneous Provisions

There are a number of other miscellaneous responsible gaming provisions which have been adopted in various jurisdictions or suggested by industry groups or researchers to help protect at-risk customers from the consequences of pathological or problem gambling. In no particular order, these suggested best practices include the following:

Information

- **Players should be provided with information in a prominent location and in the appropriate**

language(s) regarding: (1) the rules, odds, and nature of the gaming activity, the need to maintain responsible gambling behaviors, and the risks associated with gambling; (2) problem gambling, including self-diagnostic tools; and (3) the availability of resources to assist problem gamblers.⁴⁶

Reality Checks

- **Players should be provided with time reminders or other reality checks (e.g., a visible clock in real-time, pop-up messages notifying players when they have been playing for an extended period of time and asking whether they would like a break, running displays of bets, wins, losses, and account balances, etc.).⁴⁷**
- **Players should be afforded easy access to their account information (past or current) and gambling history (overall or for a specific period).⁴⁸**

Exclusion Issues

- **Tracking play to detect problem gambling is not recommended, as there is currently insufficient information to know either what the tracking criteria should be or what ensuing interaction with the player would be appropriate and effective.⁴⁹**
- **Nevertheless, if any objective outside criteria raise a suspicion of problem gambling, an operator should contact the player, if only to reiterate all relevant responsible gaming information, including the availability of player limits, time-outs, and self-exclusions.⁵⁰**

Funding of Problem Gambling Programs

- **As parties directly benefitting from online gambling, operators should be required or**

encouraged to contribute funds to organizations dedicated to problem gambling research, education, or treatment.⁵¹

Socially Responsible Behavior

- **An operator should appoint a designated senior management staff member to assume responsibility for the implementation and monitoring of responsible gaming practices.⁵²**
- **Relevant third party and business partner contractual terms and conditions should provide the operator the right to terminate the contract where any third party or business partner's conduct conflicts with the operator's responsible gaming program.⁵³**

Playing on Credit

- **Operators should not provide credit to players unless the regulatory authority permits such practice.⁵⁴**

END NOTES

¹ Smith and Rubenstein, "Socially responsible and accountable gambling in the public interest," 25 Journal of Gambling issues 54, 54-60 (2011), <http://jgi.camh.net/doi/pdf/10.4309/jgi.2011.25.5>; www.americangaming.org/social-responsibility/responsible-gaming.

² Although the terms "gaming" and "gambling" have distinct origins, they have come to be used interchangeably. www.americangaming.org/industry-resources/research/fact-sheets/gaming-vs-gambling. Solely in the interest of uniformity, the term "responsible gaming" will be used throughout this Chapter, with the

understanding that “responsible gambling” is used in many jurisdictions around the world as well.

³ See, e.g., Conditions and codes of practice applicable to remote gambling (United Kingdom Gambling Commission 2010), Social Responsibility Code Provision at 12, <http://www.gamblingcommission.gov.uk/pdf/Licence%20conditions%20and%20codes%20of%20practice%20-%20remote%20betting%20-%20October%202010.pdf>: “Licensees must have and put into effect policies and procedures intended to promote socially responsible gambling.”

The Standards of the European Gaming and Betting Association (EGBA)(2011) contain another typical statement of policy:

PRINCIPLE 1 – PROMOTE RESPONSIBLE GAMBLING AND BETTING

The EGBA Members are committed to promoting socially responsible gambling and betting, and working with customers, employees and relevant industry stakeholders to help manage and control problem gambling. EGBA Members will ensure that proper controls are established, implemented, and enforced, and that gambling and betting takes place in a responsible gaming and betting environment.

To the same effect is e-Commerce and Online Gaming Regulation and Assurance(eCOGRA) Generally Accepted Practices (eGAP) 1 (Responsible Gambling): “Seal holders are committed to promoting socially responsible gambling, and working with players, employees and relevant industry stakeholders to help combat problem gambling. Seal holders should ensure that proper controls are established, implemented and enforced, and that gambling takes place in a responsible environment.”

See also <http://www.americangaming.org/social-responsibility/responsible-gaming>.

⁴ See Preamble to Responsible Gambling mandatory Code of Practice for Tasmania (Tasmanian Gaming Commission 2012), [http://www.treasury.tas.gov.au/domino/dtf/dtf.nsf/LookupFiles/MandatoryCodeofPracticeFinal.pdf/\\$file/MandatoryCodeofPracticeFinal.pdf](http://www.treasury.tas.gov.au/domino/dtf/dtf.nsf/LookupFiles/MandatoryCodeofPracticeFinal.pdf/$file/MandatoryCodeofPracticeFinal.pdf); “Discussion Paper - What is responsible gambling?” (Australian Responsible Gambling Advocacy Centre 2010), <http://www.responsiblegambling.org.au/images/pdf/whatisresponsiblegambling.pdf>

⁵ See, e.g., Conditions and codes, *supra* note 3, at 12; www.americangaming.org/social-responsibility/responsible-gaming.

⁶ www.ncpgambling.org/i4a/pages/index.cfm?pageid=1. See also Responsible Conduct of Gambling (Tasmania 2012) at 23, [http://www.treasury.tas.gov.au/domino/dtf/dtf.nsf/LookupFiles/WorkbookV3.PDF/\\$file/WorkbookV3.PDF](http://www.treasury.tas.gov.au/domino/dtf/dtf.nsf/LookupFiles/WorkbookV3.PDF/$file/WorkbookV3.PDF) :

Problem gambling can result in:

- financial difficulties such as being unable to find enough money to pay bills and living expenses (e.g. rent, food, providing for others including children);
- psychological and emotional problems such as stress, anxiety, depression, anger, loss of self esteem and being unable to control one’s own behaviour;
- loss of time for work or study due to gambling;
- family and relationship difficulties, missing out on family commitments due to gambling activities and causing problems with relationships with others;
- physical health problems through loss of sleep, self neglect, poor diet, smoking and alcohol use/overuse; and
- legal issues and police involvement.

⁷ R 37, Diagnostic and Statistical Manual of Mental Disorders (DSM-V)(2012),

<http://www.dsm5.org/ProposedRevisions/Pages/proposedrevision.aspx?id=210>.

⁸ Sparrow, “Can Internet Gambling Be Effectively Regulated? Managing the Risks” at 61 (2009);
<http://www.ncpgambling.org/i4a/pages/Index.cfm?pageID=3315>.

⁹ *Compare* Responsible Gambling Standards for Remote Gambling Prepared for Nova Scotia Gaming Corporation at 8 (Centre for the Advancement of Best Practices 2009)(“Prevalence study research suggests that online gamblers are significantly more likely to have gambling problems compared to other gamblers.”) *with* Sparrow, *supra* note 8, at 62 (2009)(“[S]tudies specific to online gambling ... have indicated that online gambling does not inherently encourage excessive gambling.”) *and* Fontanills, “*Smaller Risk of Addiction in Web Gambling*,” *The Harvard Crimson* (April 19, 2009)(“A recent study conducted by the Harvard Medical School Division on Addictions suggests that the widespread availability of Internet gambling has not led to an increase in the number of people addicted to gambling. The study actually found that gamblers who visit gaming Web sites are more likely to self-regulate their betting behavior based on their pattern of wins and losses.”)

¹⁰ Responsible Gambling Standards, *supra* note 9, at 9.

¹¹ Responsible Gambling Standards, *supra* note 9, at 7-8; Sparrow, *supra* note 8, at 62-63. Additional factors are suggested in “Discussion Paper - Online Gambling: The State of Play” at 6 (Australian Responsible Gambling Advocacy Centre 2011),
http://www.responsiblegambling.org.au/images/pdf/rgac_discussionpaper_onlinegambling_state_of_play.

¹² Responsible Gambling Standards, *supra* note 9, at 9.

¹³ Wiebe and Lipton, “Overview of Internet Gambling Regulations” at 13-20 (2008),
<http://www.gamblingresearch.org/content/research.php?cid=3563&appid=3073>.

¹⁴ <http://www.onlinecasinowhitelist.com/>.

-
- ¹⁵ eCOGRA Generally Accepted Practices (eGAP)(2011), [http://www.ecogra.org/Documents/eGAP - Approved 30 March 2011.pdf](http://www.ecogra.org/Documents/eGAP_-_Approved_30_March_2011.pdf); EGBA Standards (2011), <http://www.egba.eu/pdf/EGBA-Standards-October-2011.pdf>.
- ¹⁶ Gibraltar Gambling Act of 2005, Section 27.
- ¹⁷ Gibraltar Regulatory Authority Code of Practice for the Gambling Industry at 11, 24 (2008).
- ¹⁸ Alderney Regulation 339.
- ¹⁹ Alderney Regulation 340.
- ²⁰ Alderney Standards and Guidelines at 40.
- ²¹ Isle of Man Online Gambling (Advertising) Regulations (2007).
- ²² Isle of Man Online Gambling (Regulation and Accounts) Regulations (2008), Section 5.
- ²³ Conditions and codes, *supra* note 3, at 10,12, and 16-20.
- ²⁴ *See generally* Internet Responsible Gambling Standards (National Council on Problem Gambling 2012)(suggesting standards and identifying other leading sources of responsible gaming practices), <http://www.ncpgambling.org/files/faq/Internet%20Responsible%20Gambling%20Standards%20April%2023%202012.pdf>; Responsible Gambling Standards, *supra* note 9 (same); Benchmarking Study (EGBA 2008) (same), http://www.egba.eu/pdf/EGBA_Benchmarking_Study_final_version.pdf.

²⁵ See, e.g., Nevada Interactive Gaming Regulation 5A.0.70, which provides in part:

Internal Controls for Operators of Interactive Gaming. Each operator shall establish, maintain, implement and comply with standards that the chairman shall adopt and publish ... Such minimum standards shall include internal controls for:

....

9. Promoting responsible interactive gaming and preventing individuals who have self-excluded from engaging in interactive gaming.

²⁶ See, e.g., Sparrow, *supra* note 8, at 70-71; Responsible Gambling Standards, *supra* note 9, at 14-16; “Social responsibility tools in online gambling: a survey of attitudes and behavior among Internet gamblers,” (abstract), <http://www.ncbi.nlm.nih.gov/pubmed/19594379>.

²⁷ Responsible Gambling Standards, *supra* note 9, at 17.

²⁸ *Id.* at 14-18.

²⁹ eGAP 1.09-1.11.

³⁰ Antigua and Barbuda Regulation 139(a).

³¹ Alderney Gaming Statutes, Section 237.

³² See, e.g., sources cited in note 24, *supra*.

³³ See, e.g., Sparrow, *supra* note 8, at 59-72.

³⁴ As pointed out in Responsible Gambling Standards, *supra* note 9, at 13n.1:

Self bans should not be confused with *self-exclusions*, which apply to land-based gaming operations. The difference in terminology reflects the distinct implementation challenges that apply to land based gambling versus Internet gambling.

Although this observation might be technically accurate, responsible gaming provisions regarding Internet gambling are virtually unanimous in utilizing the term “self-exclusion” as opposed to “self ban,” and that convention is followed in this Chapter.

³⁵ See, e.g., Responsible Gambling Standards, *supra* note 9, at 29; Internet Responsible Gambling Standards, *supra* note 24; Benchmarking Study, *supra* note 24; eGAP 1.14; EGBA Standards 1.15-1.20.

³⁶ Responsible Gambling Standards, *supra* note 9, at 13-14; Internet Responsible Gambling Standards, *supra* note 24 (suggesting time-outs of between one hour and 30 days, with longer periods available as a self-exclusion).

³⁷ See “Social responsibility tools,” *supra* note 26; Responsible Gambling Standards, *supra* note 9, at 13-14; Sparrow, *supra* note 8, at 70-71.

³⁸ Responsible Gambling Standards, *supra* note 9, at 13-14.

³⁹ Antigua and Barbuda Regulation 138.

⁴⁰ Nevada Regulation 5A.130.

⁴¹ eGAP 1.12-1.14.4.

⁴² Gibraltar Regulatory Authority, Code of Practice for the Gambling Industry, The Generic Code – v1.0.2009 (2008), Regulation 5, Responsible Gambling, Section 27.

⁴³ See generally Catania and Ehrlich, “When Crime Pays: A Gaming Regulatory Perspective on What To Do When a Minor or Other Prohibited Person Wins or Loses Money in a Casino,” 3 *Gaming. Law Rev.* 129 (1999).

⁴⁴ See, e.g., Internet Responsible Gambling Standards, *supra* note 24; Responsible Gambling Standards, *supra* note 9, at 29.

⁴⁵ See, e.g., Sparrow, *supra* note 8, at 59-72. See generally “From Enforcement to Assistance: Evolving Best Practices in Self-Exclusion” (Canadian Responsible Gambling Council 2008), http://www.responsiblegambling.org/articles/RGC_SE%20Review_FINAL.pdf.

⁴⁶ See, e.g., Internet Responsible Gambling Standards, *supra* note 24.

⁴⁷ See, e.g., *ibid.*; EGBA Standard 1.22.

⁴⁸ See, e.g., Internet Responsible Gambling Standards, *supra* note 24; eGAP 1.06.

⁴⁹ Responsible Gambling Standards, *supra* note 9, at 29.

⁵⁰ *Ibid.*

⁵¹ See, e.g., Conditions and codes, *supra* note 3, at 12; Alderney Standards and Guidelines at 40; Internet Responsible Gambling Standards, *supra* note 24; EGBA Standard 1.26.

⁵² See, e.g., Internet Responsible Gambling Standards, *supra* note 24; EGBA Standard 1.28.

⁵³ See, e.g., *id.*, 1.29.

⁵⁴ See, e.g., *id.*, 1.21; eGAP 1.16.