



# ***ANTI MONEY LAUNDERING AND COUNTER TERRORISM FINANCING***

**THEMBA MARASHA  
NATIONAL GAMBLING BOARD**

***10<sup>th</sup> GRAF ANNUAL CONFERENCE***

***12 - 14 MAY 2014***

**Protea Hotel The Ranch Resort - Polokwane  
South Africa**

## **APPROACH OF THE PRESENTATION**

LOOK INTO THE REQUIREMENTS OUTLINED BY THE ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING LEGISLATION IN SA AND IDENTIFY THE IMPLEMENTATION CHALLENGES AS SELF ASSESSMENT AND FOR CONSIDERATION BY GRAF MEMBER STATES WHO ARE IN THE PROCESS OF DEVELOPMENT OF ANTI-MONEY LAUNDERING AND FINANCING OF TERRORISM LEGISLATION

# ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

## BACKGROUND ON SOUTH AFRICA

### LEGISLATION TO FIGHT MONEY LAUNDERING AND FINANCING OF TERRORISM

- **PREVENTION OF ORGANISED CRIME ACT, 1998**
- **FINANCIAL INTELLIGENCE CENTRE ACT, 2001**
- **PROTECTION OF CONSTITUTIONAL DEMOCRACY AGAINST  
TERRORIST AND RELATED ACTIVITIES, 2004**

## ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

### HOW IS THE LEGISLATION IMPLEMENTED AND ADMINISTERED

- **DEDICATED AUTONOMOUS ORGAN OF STATE (NOT GOVERNMENT DEPARTMENT) CALLED THE FINANCIAL INTELLIGENCE CENTRE WHICH ACCOUNTS TO GOVERNMENT**
- **CREATED SUPERVISORY BODIES (i.e REGULATORS OF INDUSTRIES THAT ARE CITED IN THE ANTI-MONEY LAUNDERING LEGISLATION) TO SUPERVISE AND ENSURE COMPLIANCE**
- **PROSECUTION OF COMPLIANCE TO THE REQUIREMENTS OF THE ACT IS WITH THE CENTRE WHILE PROSECUTION OF THE CRIME LEFT WITH THE JUDICIARY**



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## STATUS OF SOUTH AFRICA

- **THE ONLY MEMBER OF FATF IN AFRICA (AMONGST 35 OTHER MEMBERS)**
- **A MEMBER OF EASTERN AND SOUTHERN AFRICAN ANTI-MONEY LAUNDERING GROUP (ESAAMLG)**
- **ASSESSED IN 2004, BY FATF AND DUE FOR NEXT REVIEW IN 2016 FOR CONTINUOUS MEMBERSHIP**

# ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

## **LICENSEE'S OBLIGATIONS UNDER THE FIC ACT.**

1. TO IDENTIFY CLIENTS AND OTHER PERSONS (KYC) ;
2. TO KEEP RECORD OF BUSINESS RELATIONSHIPS AND TRANSACTIONS
3. TO GIVE ACCESS TO INFORMATION
4. TO REPORT CASH TRANSACTIONS ABOVE PRESCRIBED LIMIT, AS A TRADING TRANSACTION AND AS CASH OR ELECTRONIC TRANSFER IN OR OUT OF THE COUNTRY

## ANTI-MONEY LAUDERING AND COUNTER TERRORISM FINANCING

### **LICENSEES OBLIGATIONS UNDER THE FIC ACT cont.**

5. TO REPORT SUSPICIOUS AND UNUSUAL TRANSACTIONS
6. TO REPORT ELECTRONIC TRANSFER OF MONEY IN EXCESS OF A PRESCRIBED LIMIT TO OR FROM THE COUNTRY
7. TO FORMULATE AND IMPLEMENT INTERNAL RULES
8. TO PROVIDE TRAINING AND APPOINT A PERSON RESPONSIBLE FOR COMPLIANCE WITH THE PROVISIONS OF THE ACT

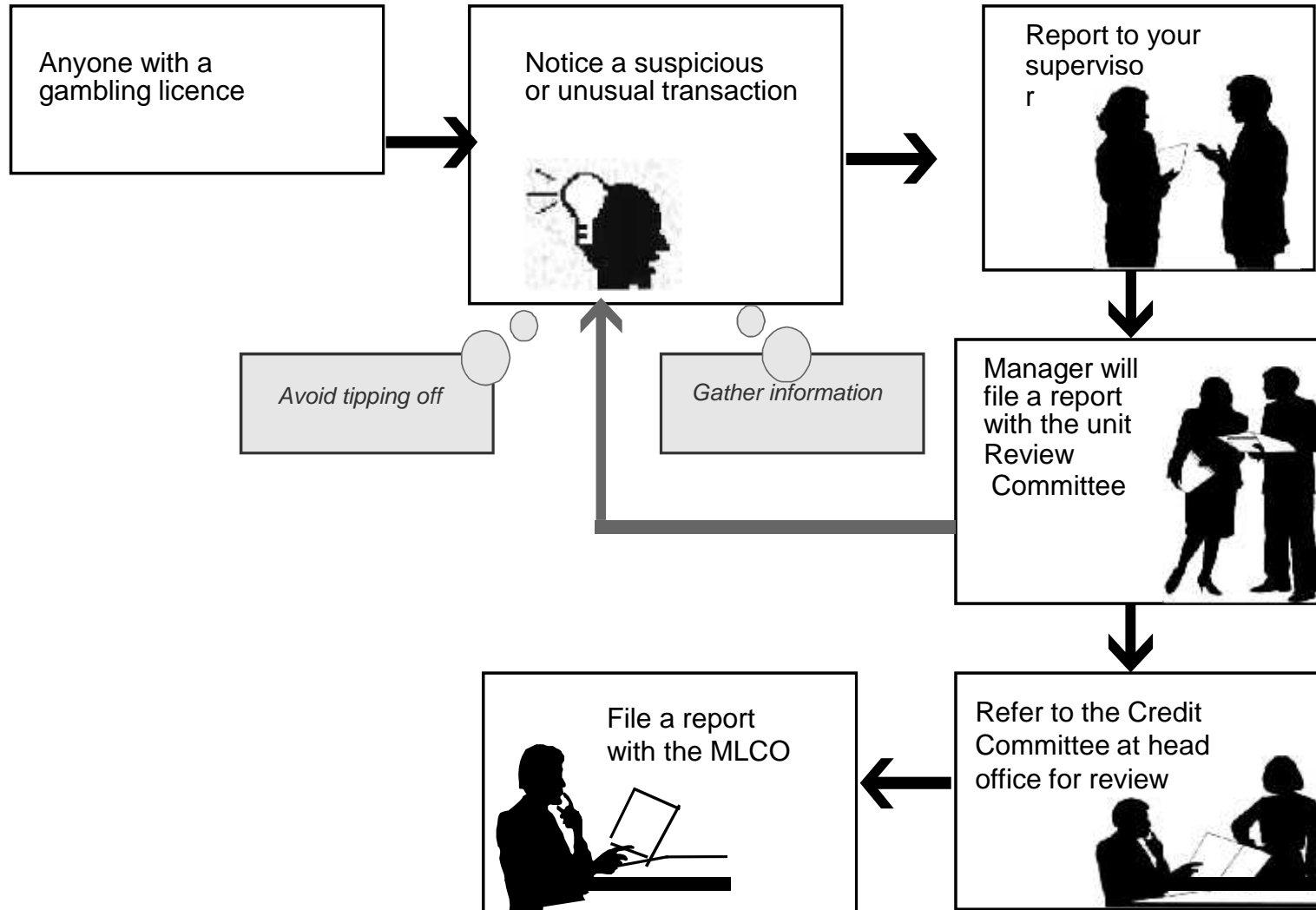
## ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

### WHAT WERE LICENSEES DOING PRIOR TO THE INTRODUCTION OF THE ANTI-MONEY LAUNDERING AND FIC ACT?

- TRASHOLD REPORTING BY CASINO'S AND NO OTHER FORMS OF GAMBLING BUSINESSES
- REQUIREMENTS IN TERMS OF PROCEEDS OF CRIME ACT (NOT SPECIFIC IN TERMS OF REQUIREMENTS )



# ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING



# ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

## IMPLEMENTATION CHALLENGES

- REVIEW AND ALIGNMENT OF RELATED LEGISLATION
- ALIGNMENT OF THE RESPECTIVE ACCOUNTABLE INSTITUTIONS REQUIREMENTS
- SECONDARY V PRIMARY IMPLEMENTATION OF REQUIREMENTS (KYC)
- SUPERVISION OF THE INDUSTRY – ROLES OF SUPERVISORS V THE CENTRE
- COLLABORATION BETWEEN ACCOUNTABLE INSTITUTION, SUPERVISORY BODIES AND ANTI-MONEY LAUNDERING ADMINISTRATOR
- AMBIGUITY IN LEGISLATION AND IMPLEMENTATION THEREOF
- ENFORCEMENT POWERS (SUPERVISOR V LAW ENFORCEMENT) – VIOLATION OF ANTI-MONEY LAUNDERING LAW v ACTUAL MONEY LAUNDERING
- PRACTICAL IMPLEMENTATION OF REQUIREMENTS V LAW

# ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

## IMPLEMENTATION CHALLENGES (CONT.)

- ONCE OF TRANSACTIONS BELOW THE THRESHOLD OR THAT DO NOT MEET THE REQUIREMENTS FOR REPORTING – IS THIS REALLY WATER TIGHT AGAINST ANTI-MONEY LAUNDERING
- TRAINING AND DEVELOPMENT OF INTERNAL RULE FOR COMPLIANCE PURPOSE (HOW EFFECTIVE ARE THESE IN ACHIEVING ITS INTENDED OBJECTIVE)
- ONE SIZE FITS ALL TRAINING FOR ALL EMPLOYEES AND FOR ALL CASINOs OWNED BY TE SAME GROUPS
- COMPLIANCE OFFICERS – THEIR ROLE V THE ACTUAL EMPLOYEES RESPONSIBLE FOR CURBING MONEY LAUNDERING
- OBJECTIVITY IN RISK BASED APPROACH - DO WE NEED TO CREATE GUIDELINES AND MATERIALITY LEVEL
- TRAINING OF LAW ENFORCEMENT AGENCIES AND REGULATORS STAFF
- RESPONSIBILITIES AND ACCOUNTABILITIES OF LOBBY GROUPs AND ASSOCIATIONS

## ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

### IMPLEMENTATION CHALLENGES (CONT.)

- AWARENESS OF ANTI-MONEY LAUNDERING REQUIREMENTS TO PUNTERS – MANDATORY OR SHOULD IT BE LEFT TO ACCOUNTABLE INSTITUTIONS TO IMPLEMENT (EG SIMILAR TO ADVERTISING REQUIREMENTS)
- HOW OBJECTIVE IS THE PROCESS OF REVIEW OF REPORTS BEING FILED BY AN EMPLOYEE – SHOULD THAT BE LEFT TO THE LWA ENFORCEMENT AGENCIES
- ARE WE PAYING ENOUGH ATTENTION TO FINANCING OF TERRORISM IN LINE WITH THE RISE OF THE LEVEL OF TERRORISM IN THE WORLD
- DO OUR TECHNICAL REQUIREMENTS OF MONITORING SYSTEMS INCLUDE ANTI-MONEY LAUNDERING REQUIREMENTS
- PEER REVIEW SIMILAR TO ACCREDITATION BODIES

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### **IMPLEMENTATION CHALLENGES (CONT.)**

- ISSUANCE OF GUIDANCE NOTES WHICH ARE NOT LEGISLATION AND MAY BE CHALLENGED IN COURT

## ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

### THE BIG QUESTIONS

- **ARE WE AWAITING ONE LICENSEE TO TAKE THIS LEGISLATION TO BE TAKEN ON REVIEW (e.g Declaratory order where there's ambiguity)**
- **SHOULD WE CONSIDER TO CRAFT LEGISLATION THAT HAS SPECIFIC SECTIONS DEALING WITH EVERY INDUSTRY TO RESOLVE THIS IMPASSE RATHER THAN TRYING TO CREATE EXEMPTIONS FOR SPECIFIC INDUSTRY ON THE GENERAL LEGISLATION**



## ANTI-MONEY LAUNDERING AND COUNTER TERRORISM FINANCING

***THANK YOU***

***Questions?***