

## **MACAU ADOPTS NEW RULES APPLICABLE TO THE SUPPLY OF SLOT MACHINES AND RELATED EQUIPMENT**

by Luís Mesquita de Melo (Partner at MdME Lawyers – [www.mdme.com.mo](http://www.mdme.com.mo))

Over 10 years after the gaming market liberalization in the Macau Special Administrative Region, the Macau Government has for the first time enacted, in the form of an Administrative Regulation, a set of rules concerning the approval of gaming manufacturers, electronic gaming machines and related equipment and gaming systems being supplied to the Macau market.

Administrative Regulation 26/2012 (approved on November 16, 2012) was published in the Official Gazette on November 26, 2012, and came into force on the following day, November 27, 2012.

The legal definition of gaming equipment under the scope of Administrative Regulation 26/2012 includes all devices, programs or software that operate totally or partially by electronic and/or mechanical means and are conceived, adapted or programmed to run or store games of chance in which the player may receive a payment in cash or in equivalent tokens or values as the result of a bet placed.

Gaming equipment such as casino management software, playing cards, playing card shoes, card shufflers, playing chips, etc. do not fall under the scope of Administrative Regulation 26/2012.

The supply of slot machines and related equipment to the gaming concessionaries and sub-concessionaires, as well as slot machine distributors, is from now on reserved to approved (licensed) manufacturers. The responsibility to approve the gaming manufacturers, conduct suitability checks and to approve the electronic gaming machines and related systems and equipment being supplied in Macau lies with the Gaming Inspection and Coordination Bureau (DICJ), the gaming regulator in Macau.

There are four main principles that shape the legal framework of the new slot machine regulations: (i) the institution of an approval/licensing procedure for all gaming manufacturers doing business in Macau, (ii) a gaming manufacturer corporate suitability check, (iii) an approval process for all the slot machines and related equipment being supplied in Macau, and (iv) a set of on-going regulatory compliance obligations imposed on the gaming manufacturers.

From a government policy perspective, Administrative Regulation 26/2012 brought the gaming manufacturers regulatory framework closer to the model that was created for the licensed gaming operators within their gaming concessions/sub-concessions.

### **Institution of an Approval/Licensing Procedure for All Gaming Manufacturers Doing Business in Macau**

Any gaming manufacturer wishing to supply slot machines and related equipment to the gaming operators in Macau must be approved in advance by DICJ. This means that Administrative Regulation 26/2012 has indeed established, for the first time, a direct regulatory relationship between the gaming manufacturers and the Macau gaming regulator (DICJ). Prior to the

adoption of the Regulation, everything concerning the supply, approval and installation of slot machines was processed with DICJ through the six gaming concessionaires and sub-concessionaires.

In order to be approved/licensed as a gaming manufacturer by DICJ, an initial request must be submitted together with required detailed information that includes, but is not limited to: (i) the list of jurisdictions where the gaming manufacturer is authorized to do business, (ii) the certification by the jurisdiction elected as the main jurisdiction that the license is valid in that jurisdiction and that there are no pending administrative procedures against the gaming manufacturer for violations in the previous 12 months, (iii) description, by jurisdiction, of all the models of slot machines that the gaming manufacturer is authorized to supply, install, program and maintain, (iv) the organizational chart of the gaming manufacturer and of all its shareholders, with 5% or more of the share capital, up to the ultimate shareholder, and (v) the composition of the gaming manufacturer corporate bodies.

The gaming manufacturers operating in Macau that are not branches of overseas companies are required to operate under the form of a joint stock company with nominative shares. Only the manufacturers, and not the distributors (or agents), of electronic gaming machines are subject to this licensing/approval procedure.

### **Gaming Manufacturer Corporate Suitability Check**

The licensing procedure of gaming manufacturers involves a suitability check on the applicant and its shareholders and directors. The suitability check may, however, be waived following a request to that effect if the gaming manufacturer is already licensed in one of the following jurisdictions: Nevada, New Jersey and Mississippi in the United States; Australia; New Zealand; Great Britain; or Singapore.

For the gaming manufacturers that are not licensed in any of the above-referred jurisdictions, the suitability check will be conducted by DICJ taking in consideration the experience and reputation of the manufacturer and its products as well as the suitability and merit of its shareholders and directors.

### **Approval Process for All Slot Machines and Related Equipment Being Supplied in Macau**

All slot machines being supplied in Macau must be approved by DICJ. The electronic gaming machines must comply with the minimum standards set forth in Administrative Regulation 26/2012 and also with the Mandatory Gaming Machine Standard approved by DICJ's Instruction 1/2012 and the Electronic Gaming Machines Technical Standards, Version 1.0, in effect from February 10, 2012.

This specific compliance requirement went into effect as of January 1, 2013. All electronic gaming machines being supplied after this date must fully comply with Administrative Regulation 26/2012.

Along with the approval request, each gaming manufacturer is required to submit a list of approved technicians to install, program, repair, adapt, modify, provide technical assistance or maintain the slot machines and related equipment, including their qualifications, professional experience and training plans.

All contracts for the supply of electronic gaming machines must be in writing, governed by Macau law and submit to the exclusive jurisdiction of the courts of Macau. Whenever the payments to a single gaming manufacturer exceed MOP 1 Million, the gaming operators are required to file such supply agreements with DICJ within 15 days from execution.

### **Ongoing Regulatory Compliance Obligations**

Administrative Regulation 26/2012 imposes a number of periodical and occasional disclosure obligations concerning material information in relation to the gaming manufacturer's business activity.

The gaming manufacturers are now required to submit an annual corporate and business update including, but not limited to: (i) a list of all the jurisdictions in which the gaming manufacturer is authorized to conduct gaming activities; (ii) a document issued by the regulator in the jurisdiction chosen as the primary certification validating the authorization granted in such jurisdiction, the conditions to which it is subject, if applicable, and any procedures for administrative offense(s) of a similar nature, started within the previous 12 months; (iii) information, by jurisdiction, on the models of gaming devices which are authorized to manufacture, supply, assemble, install, program, repair, adapt, modify, perform or provide technical maintenance; and (iv) a list of legal proceedings instituted against the gaming manufacturer with detailed information about the decision likely to materially impact its business.

Each gaming manufacturer is also required each January to provide to DICJ detailed information of its activities in Macau during the previous calendar year, including the number of models and gaming devices supplied to each gaming operator, the site of installation and the identification of the gaming devices supplied to a distributor. Furthermore, any defect or malfunction detected in an electronic gaming machine or any violation of intellectual property rights must also be reported to DICJ within 30 days from being acknowledged by the gaming manufacturer.

### **Other Relevant Provisions**

Any *inter vivos* transfer or creation of encumbrances over the ownership of shares representing the share capital of the gaming manufacturer or other rights relating to such shares and any act involving the granting of voting rights or other shareholders' rights to persons other than the original owners are subject to Government approval.

Administrative Regulation 26/2012 now makes absolutely clear that gaming revenue sharing arrangements between a gaming concessionaire/sub-concessionaire and a gaming manufacturer are not allowed and may result in the revocation of the gaming manufacturer's approval granted by DICJ.

Finally, the gaming manufacturer and the gaming concessionaires/sub-concessionaires are jointly and severally liable for any damages or losses caused to any player or even to the Macau Government as a result of an electronic gaming machine defect or malfunction.

Although Administrative Regulation 26/2012 came into full force and effect on November 27, 2012, there is a grace period of six months for the gaming manufacturers to adapt and comply with the new regime with respect to the corporate structure, compliance undertakings and suitability verification. However, compliance action should be commenced immediately to assure the ability to either continue or commence doing business in Macau.

Crafted with a considerable influence from the Australian model, after a long legislative process initiated back in 2004/05, only time will tell if the legislative options materialized in this gaming regulatory enhancement will actually provide for a more credible and transparent gaming market regarding the supplying of electronic gaming machines. At the end of the day, the success of the new regulations will depend mostly on the way they will be enforced.

*For additional information concerning Macau's new gaming equipment manufacturer regulations, contact Luis Mesquita de Melo at [lmm@mdme.com.mo](mailto:lmm@mdme.com.mo).*