

**17963 ORDER EHA 3079/2011, OF 8 NOVEMBER WHICH APPROVES THE BASIC REGULATIONS ON "OTHER FIXED ODDS BETS".**

The development, evolution and diversity of leisure activities is something that can be seen in all modern societies today, and is an area of growing economic importance. For this reason, the administration needs to pay specific attention to these activities and ensure they are regulated in accordance with their scale and social and economic impact.

Furthermore, the progressive spread of new communication technologies to all social areas is having an unquestionable impact on the leisure industry, where a sizeable group of users demonstrate a preference for practising leisure activities via remote connections.

The approval of Law 13/2011, of 27 May on the regulation of gaming, has established a regulatory framework for access to the operation and development of gaming activities at a national level and has enabled the market to be opened up to multiple operators.

This opening of the market results in permits that authorise gaming operators to operate the modes of gaming covered by the Law through general licences, on the one hand, and, on the other, to operate each individual type of game regulated by the Law through specific licences.

This Order fulfils the requirement for prior regulation which, for the awarding of specific licences, is set out in article 11 of Law 13/2011, of 27 May on the regulation of gaming, approving the Basic regulations for "Other fixed odds bets", defined as those for which the object of the bet is not related either to sport or horse racing which, through the awarding of the first specific licences, can be offered through a competitive bidding process.

This new regulation establishes a series of basic regulations that can be implemented by the National Gaming Commission and which will be complemented by the specific private rules that the different operators will have to draw up and propose together with their application for a specific licence and which will govern the gaming operations and the operator's relations with participants.

In short, they form the basis of a regulatory framework aimed primarily at protecting participants and public interests affected by gaming activities, particularly the protection of minors and dependent people, the prevention of gaming addiction and compliance with the provisions of Law 10/2010, of 28 April on the prevention of money laundering and terrorist financing.

Article 5 of Law 13/2011, of 27 May on the regulation of gaming, grants the Ministry of Economy and Finance the power to establish, by means of a Ministerial Order, the basic regulations governing each game.

By virtue thereof, I declare:

**Article 1. Approval of the Basic Regulation of "Other fixed odds bets".**

Approval is given for the state-wide basic regulation of "other fixed odds bets", defining as fixed odds bets, according to the definition given in article 3.c) of Law 13/2011, of 27 May on the regulation of gaming, as bets placed in relation to events that are neither sports events or horse races, but instead relate to society, the media, politics, the economy, shows, culture or other similar events, included in this Order as Appendix I. The terms established in this Order shall be understood without prejudice to the powers of the Autonomous Regions in relation to the planning and regulation of games and bets wagered in person in public establishments dedicated to recreational activities.

**Article 2. Limits on the guarantees associated with the specific licence for operating "Other fixed odds bets".**

Approval is given to the limits corresponding to the guarantees associated with the specific licence for operating "other fixed odds bets" which are included in the Order as Appendix II.

**Article 3. Financial limits on participation in "other fixed odds bets".**

Approval is given to the financial limits on participation in "other fixed odds bets", included in this Order as Appendix III.

**Final provision one. Authorisation of the National Gaming Commission.**

1. The National Gaming Commission is authorised to pass any rulings required to implement and apply this Order.
2. The National Gaming Commission is authorised to adopt as many provisions as are necessary to implement and execute the terms established in the basic regulations on "other fixed odds bets".

3. The National Gaming Commission is authorised to establish the procedure that regulates the awarding of specific licences and permits for occasional gaming activities, as provided for in this Ministerial Order and in the implementing regulations of Law 13/2011, of 27 May on the regulation of gaming. This procedure will establish the requirements that must be met by operators and the documentation proving they meet these requirements which will have to be presented.

**Final provision two. Entry into force.**

This Resolution will enter into force the day after its publication in the Official State Gazette.

Madrid, 8 November 2011.

THE VICE PRESIDENT OF THE GOVERNMENT FOR ECONOMIC AFFAIRS  
AND MINISTER OF ECONOMY AND FINANCE

Elena Salgado Méndez

## **APPENDIX I**

### **Basic regulations on "other fixed odds bets".**

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## **Chapter I. General provisions**

### **Article 1. Aim and scope of application.**

The aim of this Regulation is to establish the basic rules that operators have to comply with in order to develop and operate at a national level "other fixed odds bets", in accordance with the definition set out in article 3.c) of Law 13/2011, of 27 May on the regulation of gaming, and in drafting and producing their own specific rules, notwithstanding the powers corresponding to the Autonomous Regions regarding planning and regulating games and bets wagered in person in public establishments dedicated to recreational activities.

### **Article 2. Definitions.**

For the purposes of these basic regulations, the terms used herein will have the meaning established in this article.

*1. Other fixed odds bets.* These are bets in which participants wager against the gaming operator and win a prize if their prediction is correct; the prize amount is obtained by multiplying the wager by the spread previously set by the operator for that forecast. Bets are placed on the result of one or several events included in the programmes previously established by the gaming operator, or on facts or circumstances related to such events, which the gaming operator will have previously established in the corresponding programme.

*2. Minimum betting unit.* This is the minimum amount that can be wagered in each bet.

*3. Event.* This is an occurrence relating to society, the media, the economy, shows, culture, or similar, previously defined by the operator in the corresponding programme, that is carried out within the context of a contest or outside it, organised by persons, associations or entities independent of the operator, and that has an uncertain outcome beyond the control of the betting operator and the participants. An event can never be associated with the world of sport or horse racing or with competitions in which other animals other than horses are participating. Events on which fixed odds bets are placed must have a determinable result that provides all the parties involved in the bets with certainty about the outcome. Fixed odds bets can not be wagered on events that jeopardise the dignity of people, the right to honour, personal and family privacy and one's own image, or go against the rights of young people and children or against any rights or freedoms recognised within the Spanish Constitution.

*5. Suspended event.* This is an event that, once started, has been interrupted before reaching its scheduled conclusion. Suspended events may offer valid

results if the specific rules of the bets allow for this.

6. *Cancelled event.* This is an event which, for reasons not attributable to the gaming operator or participants, does not take place or which is held and its results are not considered in the bets.

7. *Postponed event.* This is an event which, for reasons not attributable to the gaming operator or the participants, does not take place at the time it is scheduled to do so. A postponed event, unless the specific rules of the game state otherwise and establish an event to replace it, means postponing the results of the bets.

8. *Other types of single fixed odds bets.* This is a bet on one result in a single event.

9. *Other multiple fixed odds bets.* This is where bets are placed simultaneously on two or more results in one or more events.

10. *Other conventional fixed odds bets.* This type of bet has to be placed before the event begins. In the case of multiple bets, all bets must be placed before the first event begins, in the chronological order of the content of the bet.

11. *Other live fixed odds bets.* These bets are placed while the event is taking place, either during the entire event or the part of the event established by the operator in their betting programme.

12. *Betting coefficient.* This is the figure that determines how much is to be paid out on a winning bet, multiplied by the amount wagered. Unless otherwise stated, the coefficient will include the sum of money initially paid out by the better who has won the prize. Each operator of "Other fixed odds bets" will set the coefficients associated with the bets they market, based on their initiative and the likelihood of the result occurring. These coefficients may vary over the course of the period in which the bets are placed. There will be just one coefficient set at any given moment for a specific bet.

## **Chapter II.**

### **Authorisations**

#### **Article 3. Authorisations required.**

Operators interested in developing and operating "Other fixed odds bets" must have a general betting license, as defined in article 3, letter c), of Law 13/2011, of 27 May on the regulation of gaming, awarded by the National Gambling Commission, and must apply for and obtain the corresponding specific license

for marketing "other conventional fixed odds bets" or for marketing other types of live fixed odds bets, in accordance with the procedure established for this purpose in the implementing regulations of Law 13/2011, of 27 May on the regulation of gaming.

#### **Article 4. Validity and extending specific licenses.**

1. The specific license for developing and operating "other fixed odds bets" will be valid for five years and the interested party may apply to extend the license for successive periods of the same duration until the general license by which it is covered expires.

2. The application to extend the specific license should be sent to the National Gambling Commission in the year before its expiration date and at least four months before it expires. Said application must show evidence of:

- a) Compliance with the requirements and conditions for obtaining said specific license.
- b) The uninterrupted use of the license for at least three fifths of the validity period of the specific license.
- c) Payment of the tax on gaming activities and the fees for the administrative management of the game.

For the purpose of paying and settling the fee for the administrative management of the game, established in article 49.5.d) of Law 13/2011, of 27 May on the regulation of gaming, the extension of a specific license shall be equivalent to awarding a new license.

3. In compliance with the conditions referred to above, the National Gaming Commission will award the requested extension and will agree to its entry in the General Register of Gaming Licenses unless it believes there are reasons relating to safeguarding public interests, protecting minors or preventing cases of gaming addiction that justify its refusal to award the requested extension.

#### **Article 5. Guarantees associated with the specific license.**

1. The National Gambling Commission may establish the general obligation to produce an additional guarantee associated with the specific license for developing and operating "other fixed odds bets".

The National Gambling Commission may, where applicable, pass a resolution to set the sum of the guarantee associated with the specific license for developing and operating "other fixed odds bets", which all operators will have

to provide, in accordance with the terms set out in Appendix II of Order EHA XXX/2011, of xxxx of xxxxxxxx, which approves the basic regulations for "other fixed odds bets".

2. The guarantee associated with the specific license for developing and operating "other fixed odds bets" is subject to compliance with the general obligations of the operator and, in particular, the specific obligations relating to the payment of gaming prizes for "other fixed odds bets" provided by the operator. Likewise it is subject to compliance with any other obligation that, in relation to the specific license in question, has been imposed by the National Gambling Commission, respecting the terms set forth in article 77 of Law 58/2003, of 17 December, the General Law on Taxation, within the framework of article 14 of Law 13/2011, of 27 May on the regulation of gaming, and its implementing regulations.

3. The additional guarantees referred to in this article will be constituted in the form and under the conditions established in the implementing regulations of Law 13/2011, of 27 May on the regulation of gaming.

### **Chapter III.**

#### **Relations between the operator and the participants.**

##### **Article 6. Specific rules of "Other fixed odds bets".**

1. The development and operation of "other fixed odds bets" will be governed by these basic regulations, by the provisions that, in the implementation of said regulations, are passed by the National Gaming Commission, by the terms of the specific license awarded and by the specific rules of each game produced and published by the operator.

2. In order to develop and operate "other fixed odds bets", the specific rules must be drawn up and published. These are private in nature and should be produced by the gaming operator, notwithstanding the supervisory powers of the National Gaming Commission.

The specific rules must establish the rules of "other fixed odds bets" provided by the operator, the prize programme and the principles governing the relationship between the operator and the participants.

3. The specific rules of "other fixed odds bets" must be published by the operator on their website and, using the techniques required by the medium used, they must be easily accessible to participants on a permanent basis and free of charge.

4. The operator should notify the National Gaming Commission of the date the



specific rules are published and of any changes made to these rules.

#### **Article 7. Participant claims.**

1. The operator must offer a customer service and must have a system for dealing with and resolving any possible complaints or claims made by participants or any other person who may be affected by the actions of the operator, and within the specific rules of the game, should establish the procedures and means to enable participants to present claims and, in particular, the address or addresses to which said claims should be sent, the time period for presenting claims and the time period in which the operator must respond.

The customer service and complaints and claim system should be easily accessible to anyone who may need to use it and should, at least, offer electronic access via the operator's website, which will record the date and time of receipt of any claims filed via this channel.

The customer service must be offered at least in Spanish.

2. The deadline for presenting claims will be established in the specific rules of the game, and should be no less than three months from the date of the event on which the bet was placed.

The operator should issue a communication to the claimant in which they must acknowledge receipt of the claim, and which should feature the identity of the operator and the time period in which the claimant will be informed of the decision reached regarding their claim.

The operator will reach a decision on the participant's claim within a period of one month from the date the claim is received at the address or addresses established for this purpose, and this will be communicated to the claimant.

3. If the claim has been resolved by the operator and the claimant has not been informed of the decision within the one-month period since the claim was received, the participant can send a claim to the National Gaming Commission, which will resolve the situation within two months from the date the claim is entered in their register, notwithstanding the opening of the corresponding sanction procedure if the operator has committed any of the infractions listed in Chapter VI of Law 13/2011, of 27 May on the regulation of gaming.

4. The expiration date of the prizes will be put on hold from the date the claim is received by the operator until the date on which the operator communicates their decision to the claimant or, where applicable, until notification is given of the decision reached by the National Gaming Commission.

### **Article 8. Obligations with regard to sharing information with participants**

Gaming operators must provide participants with complete and updated information, at least in relation to the following issues:

- a) Information on the gaming operator and, in particular, the licenses awarded by the National Gambling Commission and the validity of these, the trade name, business name, registered address and, where applicable, address of the Spanish representative.
- b) Information on the claims assistance system implemented by the operator referred to in the above article. The information must contain at least: postal and email address to which the claims can be sent, deadlines for presenting claims and, where applicable, standard forms and time period for communicating the decision. They must also provide information on the operator's duty to issue a reply for each claim received. The operator is obliged to inform claimants of the identity of the staff they will communicate with.
- c) Information on the specific rules of the betting games offered and on the means of participating in said games, which the operator makes available to the participants. This information must be truthful and easily available before participation begins and at any time during participation.
- d) Detailed information, where applicable, on all the circumstances that, in the opinion of the operator, may affect the outcome of the event or the facts or circumstances on which the predictions are based.
- e) Information on the circumstances that must be established a priori and which, if they should occur, will result in the suspension or cancellation of the bets; notwithstanding a suspension caused by any unforeseen or unforeseeable circumstances that may arise.
- f) Information on the events and on all aspects or facts of the events on which bets may be wagered, the different types of bets offered and on the applicable coefficient at any given moment for all the bets that may be placed.
- g) Information on the prizes that the participants can win, on the amount they have played or bet, and on the balance of their gaming account, if they are participating through a registered user account.
- h) Information for participants on the Responsible Gaming policies implemented by the operator.

Information on "other fixed odds bets", their name and the way they are presented should be offered in such a way so as to prevent them from resembling or being confused with any other bets or games, and to ensure the

participant is not confused about the nature of the bets.

The information given to participants by the operator must at least be provided in Spanish.

### **Article 9. Promoting games**

1. Under the terms established in article 7 of Law 13/2011 on the regulation of gaming, a gaming operator may advertise, sponsor or promote gaming activities and advertise or promote himself, in accordance with the following criteria:

- a) The advertising should be easily identifiable by the target audience.
- b) The advertising should be socially responsible, paying due attention to the protection of minors and other particularly vulnerable groups. Also, in the case of minors, they must avoid directing advertising at them or creating advertising which is particularly appealing to children and young people under the age of 18 and must ensure said people do not play a significant role in the promotional activity itself.
- c) If the advertising is broadcast via audio-visual means, they must also respect the provisions that apply to commercial and self-promotional communications contained in Law 7/2010, of 31 March, the General Law on Audio-visual Communication, and in particular the provisions of article 7 on the rights of minors. Equally, they must pay special attention to the times that the gaming advertising is broadcast and must take into account the age ratings of the programmes the adverts are broadcast alongside or are inserted into.

2. Furthermore, the operator may undertake promotional activities to promote the range of games they market and to offer bonuses for players to sign up or participate, provided said practices:

- a) Are not contrary to the provisions of these basic regulations or the regulations governing the game.
- b) Do not contravene the terms established in Law 34/2002, of 11 July, on Information Society Services and E-commerce and Law 7/2010, of 31 March, the General Law on Audio-visual Communication.
- c) Do not alter the dynamics of the game.
- d) Do not lead to confusion among participants regarding the nature of the game.

3. The operator is responsible for publishing on their platform the conditions of application and validity periods of all promotional initiatives they offer and the terms and conditions of said initiatives.

4. The National Gambling Commission can set a maximum limit on the amount an operator may spend on promotional initiatives and bonuses for participants under the terms established in article 7 of Law 13/2011, of 27 May on the regulation of gaming, and in the regulations that govern the implementation of said article.

5. Gaming operators may offer free gaming applications on their platforms, under the terms provided for in the regulations governing the implementation of Law 13/2011, of 27 May on the regulation of gaming.

#### **Article 10. Participation channels and methods.**

1. Participation in "other fixed odds bets", as provided for in article 1 of Law 13/2011, of 27 May on the regulation of gaming, may be carried out via electronic, online and interactive channels, wherein any potential in-person methods are incidental in nature.

2. Individuals may also participate via physical terminals which the operator may install once authorised to do so by the Autonomous Region responsible for the geographical location in which they intend to install said terminals, in accordance with the corresponding national and regional legislation on gaming and betting. These physical terminals must first be approved by the National Gambling Commission.

3. Fixed odds bets can be placed using any mechanism, installation, equipment or system that is able to produce, store or transmit documents, data and information, including any open or restricted communication networks such as television, internet, landlines and mobile telephony or any others, or interactive communication, either in real time or with time delay.

### **Chapter IV.**

#### **Playing "Other fixed odds bets".**

#### **Article 11. Aim of "Other fixed odds bets".**

1. The aim of "Other fixed odds bets" is to choose the correct prediction made in relation to the result of one or several events included in the programmes previously established by the gaming operator, or on facts or circumstances related to such events, which the gaming operator will have previously established in the corresponding programme.

2. In application of the specific rules of the game and of the programme established by the operator, the so-called other fixed odds bets may be single or multiple.

**Article 12. Cost of "Other fixed odds bets".**

1. The price of "other fixed odds bets" should be set by the operators in their specific rules and should be expressed in euros.

2. The National Gaming Commission may set a limit on the daily amount that a single participant may dedicate to participating in "other fixed odds bets". For this purpose, a day will be understood to be a calendar day running from midnight to midnight.

**Article 13. Formalising bets and cancelling events.**

1. "Other fixed odds bets" may be formalised and validated via the means established by the operator in their specific rules for the game, from among those listed in point no. 2 of article 10 of these Basic Regulations.

2. Other fixed odds bets must be formalised and validated within the time limit set by the operator in the specific rules of the game, which, in the case of conventional "other fixed odds bets", will be before the start of the event included in the betting programme.

In the case of multiple bets, conventional forms of "other fixed odds bets" must be formalised before the start of the first event, based on the chronological order of the content of the bet.

In the case of live forms of "other fixed odds bets", the period must conclude at the time stated by the operator in the programme of bets and in all cases before the end of the event on which the bets have been placed.

3. Using the same means used to place the bet, the operator should issue and provide each participant with a deposit slip or receipt for every bet made. The deposit slip or receipt should contain at least the identification of the bet wagered, the amount bet, the event in which they are participating, where applicable, the type of bet, the prediction made, the coefficient assigned to the bet at the time it was placed and the exclusive and unique security number or alphanumerical code that enables it to be identified.

4. Each one of the so-called fixed odds bets placed will be linked to the coefficient which is valid for that bet at the time it is placed and will not be affected by any subsequent changes that may be made to the coefficient.

5. Within the specific rules of the game, the operators will make provisions for occasions on which the events established in the betting programme are suspended, cancelled or postponed and for the replacement of those included in the programme, where applicable. They will also list the occasions on which bets may be upheld or cancelled as a result of suspensions, postponements or replacements. In all cases they must ensure the right to payment of any prizes participants have obtained through bets wagered on features or circumstances of events which have been substantiated prior to the suspension or cancellation.

6. The full sum corresponding to participation in bets which, once formalised, are cancelled by the operator in application of their specific rules should be refunded or made available to participants in the form established in said specific rules, always at no additional cost to the participants and with no additional obligations.

7. The National Gaming Commission may set obligations requiring operators to establish mechanisms to ensure time limits on participation in bets.

Additionally, in order to safeguard public interests, protect minors or prevent gaming addiction, the National Gaming Commission may set limits on the marketing hours of live bets.

#### **Article 14. Gameplay, determining and awarding prizes.**

1. The so-called "Other fixed odds bets" should be carried out in accordance with the terms of the specific rules of the game, the provisions established by the National Gaming Commission in this regard and the corresponding programme of bets set by the operator, which should be communicated to the National Gaming Commission at least 10 days before participation begins. This programme must list the events and the parts or aspects of these events on which bets can be wagered. The programme must also clearly state which events or aspects of events live bets can be wagered on.

On viewing the programme, the National Gaming Commission may agree, for justified reasons, to suspend the programme or, where applicable, ask the operator to make any changes needed to ensure participants' and public interests are protected. Under no circumstances can bets be wagered on the following types of events:

a) Events that jeopardise the dignity of people, the right to honour, personal and family privacy and one's own image, or which go against the rights of young people and children or against any rights or freedoms recognised within the Spanish Constitution.

b) Events in which the result is not sufficiently certain to be verified by an impartial third party.

c) Events in which it is not clearly proven that the betting operator can not influence the event to determine the result.

2. The operator of "other fixed odds bets" is responsible for establishing a programme of events on which bets can be wagered and for informing participants of the period during which bets can be wagered.

Under no circumstances can the operator offer bets on events that are not in the programme communicated to the body referred to in the previous paragraph.

3. The prizes for "other fixed odds bets" shall be determined by the results of the events listed in the betting programme.

A bet will be understood to have won a prize when the predictions made in the bet are the same as the valid result, in accordance with the specific rules of the game.

4. Once the event or events on which the bet has been wagered are completed, the operator will inform participants of the valid results using the means established in the specific rules of the game. Wherever possible, and where the channel enables suitable communication with the participant, the operator will communicate the results using the same means used by the participant to place their bet.

In the case of events that are organised by a company, person or public or private entity in general, where the organiser publicly and clearly issues the result of the event or the aspect of the event on which bets have been wagered, the result determined by the organiser will be considered the valid result.

If not, the result will be determined by the operator based on written, graphic, testimonial evidence, etc. and should preferably come from public sources. Wherever possible, this evidence should be accessible to participants for consultation via the organiser's web page. If this is not possible, the results should be shown by any other consultation means accessible to participants. To resolve any potential discrepancies, the operators should offer within their specific rules the requirement to subject these to the decision of a mediation and arbitration system, carried out by impartial entities located in Spain, notwithstanding the supervisory powers of the National Gaming Commission.

Operators of "other fixed odds bets" will have to submit to the National Gaming Commission or to the arbitration or mediation institution determined by said

Commission, all the information and documentation they have available to determine the result of an event, if requested to do so by the Commission.

5. Once the valid result of the event or events on which the bets have been wagered are known, the operator should proceed to allocate prizes to the participants who have won prizes based on their correct prediction of the valid results of the events.

6. The valid results of the event should be published by the operator on their website within the 24 hour period following the event. The published results should be accessible at least from the date of their publication until the last calendar day which, in accordance with the specific rules of the game, has been set for filing claims, by virtue of point 2 of article 7 of these Basic Regulations.

7. The National Gaming Commission will establish the procedures and obligations for communicating the valid results of events and allocating prizes and, where applicable, any additional publication obligations required to better protect participants and public interests.

#### **Article 15. Paying prizes.**

1. Prize winners are any participants who have placed a bet which, in accordance with the valid result of the event or events on which the bet was wagered and with the specific rules of the game, has won a prize.

2. The operator must pay the prizes won in "other fixed odds bets" from the moment the result of the event or events on which the bets were wagered are known, and they must pay the prizes to the winning participants in accordance with the terms and conditions of the specific rules of each game.

The payment of prizes should begin following the publication of the results of the events referred to in point 6 of article 14 of these Basic Regulations.

3. The authorised operator will pay the prizes as provided for in the specific rules of the game and, in their absence, by the same payment means used by the participant to participate. Under no circumstances should payment of the prize entail any costs or additional obligations for the prize winning participant.

The right to receive payment of the prize will expire on the date set in the specific rules of the game and should not be less than three months from the day after the conclusion of the final event in the betting programme.

4. The National Gaming Commission will establish any additional procedures and obligations deemed necessary in relation to the payment of prizes in order to better protect participants' and public interests.



## **APPENDIX II**

### **Limits on the guarantees associated with the specific licence for operating "Other fixed odds bets".**

#### **One.**

By means of a resolution, the National Gaming Commission will establish the sum of the guarantee associated with the specific licences for developing and operating "other fixed odds bets" and which will be set at between five and twelve percent of the net taxable income of the operators for the activity subject to the specific licence in the year immediately preceding the current one. For this purpose, the net income of the operator will be understood in accordance with the terms set out in article 48.6 of Law 13/2011, of 27 May on the regulation of gaming. During the initial period of specific licences, payment of a guarantee is not required. The initial period of the specific licences is calculated in accordance with the applicable terms of the implementing regulations governing Law 13/2011, of 27 May on the regulation of gaming.

### **APPENDIX III**

#### **Financial limits on participation in other fixed odds bets.**

##### **One. Deposit limits.**

The amount deposited in the gaming account should be in accordance with the limits set by the National Gaming Commission, under the terms provided for in Law 13/2011, of 27 May on the regulation of gaming, and its implementing regulations.

Translated