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Submitted digitally on www.svar.regjeringen.no

Høringssvar til Hvitvaskingslovutvalgets utredning NOU 2016:27

Kindred Group plc (“**Kindred**”) welcomes the opportunity to comment on the consultation organized by the Minister of Finance on the second interim report of the anti-money laundering act committee (NOU 2016:27), including the accompanying proposal for a draft act on measures against money laundering and terrorist financing (the “**Draft Act**”).

Kindred is one of the largest online gambling and B2C digital service companies in Europe with over 15 million registered adult customers. Kindred is established within the EEA and holds licenses from 11 EEA member states, including Denmark, United Kingdom, Malta, Italy, Estonia, France, Germany and Belgium. Kindred employs over 1200 FTE across different offices in the EEA and it is listed on Nasdaq Stockholm Large Cap with primarily institutional stakeholders, including some state owned pension funds. In the recent past, also the Norwegian Oil Fund and the Nobel Fund were owners of Kindred. Kindred offers online gambling and related digital services such as live streaming, through 13 brands, including Unibet, Maria Casino, Stan James and the iGame brand portfolio. Over the last years, Kindred has invested more than 2 billion NOK in its digital platform to ensure a safe and secure environment for our registered customers. More information on the Kindred Group, including our sustainability¹ or annual report, can be found on www.kindredgroup.com.

Besides being part of a strictly regulated environment, various national legal frameworks and licensing requirements, Kindred always adheres to the latest and highest standards on customer protection, anti-money laundering and counter-terrorist finance. In 2016 alone, Kindred was subject to 27 independent regulatory audits. The audits included one for compliance with the European Commission’s Recommendation 2014/478/EU on consumer

¹ <http://kindredgroup.com/sustainability/>



protection and responsible online gaming² and one in the field of anti-money laundering and counter-terrorist finance compliance (AML/CTF).

Since its foundation in 1997, Kindred has been committed to combat money laundering and the financing of terrorism. Kindred advised the FATF in relation to the 3rd AML Directive³ and we have provided digital expert input to the EU Commission in relation to the 4th AML Directive.⁴ As a data driven company, Kindred has the ability to create a digital fingerprint of our customers' behaviour allowing us to detect, monitor and follow-up on potential suspicious activities which enhances our ability to create a safe gambling environment for each customer on an individual basis. Kindred, adopting a zero tolerance policy on fraud, also shares information on anti-money laundering, match fixing and fraud issues. In 2016, Kindred filed 182 Suspicious Activity Reports (SAR) to competent national authorities. If Kindred were to receive a request from competent national authorities for information or other assistance, Kindred will cooperate with that request as per legal requirements. Any such request can be addressed to aml@kindredgroup.com.

Overall, Kindred therefore supports the objectives of the Draft Act and believes it represents a crucial instrument to strengthen the regime to effectively combat money laundering in Norway. Kindred supports that the AML obligations in the Draft Act apply consistently to all gambling providers in Norway.

The Draft Act seeks to implement expected EEA rules corresponding to the 4th AML Directive. In accordance with the 4th AML Directive, the Draft Act seeks to extend the definition of "obliged entities" to include all providers of gambling services⁵, not just casinos as was previously the case under the 3rd AML Directive. Gambling services are in the 4th AML Directive defined as services which involve "*wagering a stake with monetary value in games of chance*",⁶ including casinos, betting services, remote gaming, amusement arcades, bingo, and lotteries as well as public houses and clubs which offer gaming machines.

The Draft Act also proposes to grant the Ministry of Finance the power to "*issue regulations, which wholly or partly exempt providers of gambling services from the provisions of this law based on a risk assessment.*"⁷

² See Kindred Group Plc press release of 16 January 2017: Kindred Group leads the online industry by becoming the first operator to successfully complete an external audit against the official 2014 EU Recommendation on Consumer Protection and Responsible Gambling (2014/478/EU) www.kindredgroup.com

³ Directive 2005/60/EC on preventing the use of the financial system for money laundering and terrorist financing (the "**3rd AML Directive**")

⁴ Directive (EU) 2015/849 on preventing the use of the financial system for money laundering and terrorist financing (the "**4th AML Directive**")

⁵ Article 2(1) and Article 3(14) of the 4th AML Directive

⁶ Article 3(14) of the 4th AML Directive

⁷ Article 4(6) of the Draft Act



Kindred believes this broad delegation to the Ministry of Finance does not comply with the obligations in the 4th AML Directive.

1. The exemption should only apply in strictly limited and proven low-risk circumstances as part of fact based policy making

According to Article 2(2) of the 4th AML Directive, Member States may (with the exception of casinos) exercise discretion and grant an exemption to certain gambling services from some or all of the AML requirements. While the Risk Based Approach (RBA) remains the corner stone of AML/CTF policy, the 4th AML Directive clearly states that such an exemption should be considered only in “*strictly limited and justified circumstances*”.⁸ According to Article 2(2), Member States are therefore only allowed to use the exemption “*on the basis of the proven low risk posed by the nature and, where appropriate, the scale of operations of such services*”.⁹ Among the factors considered in the risk assessment, Member States shall assess the degree of vulnerability of the applicable transactions, including with respect to the payment methods used.¹⁰

Whereas the 4th AML Directive states that Member States may only exempt gambling services from the AML obligations in strictly limited and proven low-risk circumstances, the Draft Act allows – in its current wording – the Ministry of Finance to exercise this discretion solely “*based on a risk assessment*” without any further specification. The broad discretion for the Ministry of Finance to grant exemptions is beyond the conditions set forth in the 4th AML Directive.

Under the current regime in Norway, none of the gambling operators is subject to any anti-money laundering obligations. According to Article 4(6) of the current Anti Money Laundering Act, the Ministry of Finance may adopt regulations applying the AML obligations for “*undertakings operating gaming activities*”. Such regulation has, however, still not yet been issued.¹¹

In the most recent year for which figures are available, 2015/16, the total turnover from gambling services in Norway is in the order of 100 to 110 billion NOK whereas the gross gaming revenue (the stakes minus the prizes) is approximately 12 billion NOK (both online and land based market).¹² While all online business models have certain inherent technological advantages to detect and audit transactions (no cash, digital fingerprint, audit trail and big data capacity), a land-based environment can be more vulnerable to suspicious activity. Especially with regard to retail games (land-based), where there is a high volume of cash transactions,

⁸ Recital 21 of the 4th AML Directive

⁹ Article 2(2) of the 4th AML Directive

¹⁰ Article 2(2) of the 4th AML Directive

¹¹ The first interim report of the anti-money laundering act committee (NOU 2015:12), chapter 3.2.2.

¹² Based on numbers from H2 Gambling Capital, Kindred’s knowledge of the market and the 2015 annual statistics report from the Norwegian Gaming and Foundation Authority (<https://lottstift.no/wp-content/uploads/2016/12/Norske-pengespel-2015.pdf>).



high level of player anonymity and the issuance of transferable value instruments¹³, no discretionary exemptions should be granted.

Whenever risks (typologies and/or fact-based cases) are identified, the effectiveness of mitigation strategies and processes should be incorporated in the final risk assessment. While Kindred Group acknowledged that no (online) business model is immune, it firmly holds that as a regulated online business, subject to a high regulatory standards and external supervision, the AML/CTF risk for online gambling is low. In this context, Kindred refers not only to the findings of the EC expert workshop meeting on AML and online gambling¹⁴, but as well to the recent risk assessment conducted by the UK Gambling Commission.

“Having considered responses to the consultation and taken into account the UK’s National Risk Assessment (NRA), which deems gambling to be low risk relative to other regulated sectors, the Government has decided to utilise the powers provided within the directive to exempt gambling sectors which are lower risk”¹⁵

Recommendation 1: Against this background and in fully compliance with the Risk Based Approach principle, we recommend that

(1) Article 4(6) of the Draft Act further specifies that the power of the Ministry of Finance to grant an exemption as part of the national risk assessment (NRA) only applies in strictly limited, non-discriminatory and proven low-risk circumstances in line with the applicable provisions in the 4th AML Directive.

(2) seen the inherent nature of new technologies, the NRA should acknowledge the benefits of online business models based upon digital fingerprint, audit trail, big data and exclusive use of EEA regulated non-cash financial services.

2. The exemption should only apply to identified services and not operators

According to the Draft Act, the Ministry of Finance has the power to exempt “*providers of gambling services*” from the AML obligations. However, the 4th AML Directive states that the possibility of an exemption only applies for “*providers of certain gambling services*” and not providers of gambling services as such.¹⁶

¹⁴ EU Commission Action Plan on Online Gambling: Workshop 4: On-line Gambling and prevention of fraud and money laundering (Brussels, 1/7/2011) <http://ec.europa.eu/DocsRoom/documents/9746>

¹⁵ <http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/General-compliance/AML/Anti-money-laundering.aspx>. UK Gambling Commission, 15 March 2017

¹⁶ Recital 21 and Article 2(2) of the 4th AML Directive



It is clear from the 4th AML Directive that the exemption should be decided on the level of the specific gambling service and not the provider as such. Most providers of gambling services offer many different games, such as lotteries, bingo, casino and sports betting. In order for the anti-money laundering regulation to be effective in Norway, an appropriate assessment for each gambling service is central. If operators were to be excluded from the scope of AML/CTF, and this irrespective of the service provided, they will become interesting targets to be used by criminals to launder the proceed of crime. Any treatment of services should also be in a consistent and non-discriminatory manner.

Recommendation 2: Against this background, we recommend that Article 4(6) of the Draft Act further specifies that the power of the Ministry of Finance to grant an exemption only applies to certain identified gambling services – and not providers as such.

If we can provide any further information or if any of the points made here would benefit from further explanation, please do not hesitate to contact the undersigned. If you wish, Kindred Group would be more than willing to use its digital experience as part of sustainable policymaking based upon digital market reality and e.g. give a live demonstration of its back office tools to ensure a safe and secure player environment.

We thank you in advance for your kind consideration and awaiting your response remain.

Yours sincerely,

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