

## SCHEDULE 1

# Presentation Minister at Sigma

15 November 2022, 10:50 – 11:20

### A. Introduction

Good morning! A pleasant day to all who have taken the time to attend this presentation today.

#### **WELCOME**

Allow me to briefly introduce myself....

My name is Javier Silvania and on June 14, 2021, I took office as the Minister of Finance of Curaçao. My responsibilities include the Tax Administration, Customs, the Financial Investigation Unit of Curaçao (FIU) and the Central Bank of Curacao and Sint Maarten. Before taking office, I was regularly consulted as an expert advisor at the Ministry of Finance.

I received my master's degrees in tax law and tax economics from Tilburg University in the Netherlands and I have over 20 years' experience in the tax field. I worked for many years at the Tax Authority, both in the Netherlands and in Curaçao and have been the program director of fiscal tax and economics at the University of Curacao. I'm also co-founder of a certified professional education institution in Curaçao and Suriname.

#### **CURACAO**

In Curaçao the motto of the political party of which I am a member is: "mi kurason ta bati pa Kòrsou" which in English literally translates to: My heart beats for Curaçao.

Curaçao, an island of about 150,000 inhabitants, is located in the southern Caribbean Sea just 70 kilometers off the Venezuelan coast. Curaçao is the largest of the six islands in the Caribbean that make up the Dutch Caribbean.

Unlike many other Caribbean islands, tourism is not the only well-developed sector. The Curaçao economy is quite diversified: logistics, the international financial sector, transnational education, and oil processing are also important economic pillars.

#### **Curaçao gaming legislation**

Curaçao is moving toward more innovative regulation of the online gaming industry as part of a broader process to modernize the country's gaming laws. Since taking office as Minister of Finance, the legislative process related to the regulation and modernization of gaming offered from Curaçao has been one of my priorities.

My presence today, at Sigma one of the most prestigious conferences, is one of the many steps we will take to put our island on the international map as an important player in the online gaming industry.

My policy as the Minister of Finance is based on Accountability. In my opinion, being accountable means being transparent with all stakeholders. Informing and listening to feedback is essential for transparency and to eliminate misunderstandings. I understand that it is impossible to satisfy the needs of all those involved but we strive to come up with the best and most acceptable framework. I will certainly focus on that during this presentation....

## **LOK**

The first step is to arrive at a new draft of *the National Ordinance on Games of Chance*. I will hereinafter refer to the law as *the LOK*.

I started with the LOK almost immediately after I took office in 2021.

These guidelines and policies are now in the process of being further refined, in close cooperation with the stakeholders, with whom I personally meet monthly. The introduction of the LOK aims to increase direct and indirect revenues from the online gaming sector for Curaçao, particularly through the introduction of a renewed and efficient system of licensing fees and other levies.

By imposing a substance requirement on the entities in the gaming sector that fall under the scope of the LOK, we can realize two important policy objectives of the new LOK:

1. Gaming companies in Curacao will be held directly accountable thanks to the supervision of the CGA.
2. We are creating more employment opportunities for locals and international specialized workers. It is anticipated that additional employment will be created in IT, business support, administration, and compliance, amongst others.

Curacao offers residence permits, including the expat permit. Curacao is currently restructuring its immigration laws and policies to facilitate easier immigration for investors and specialized workers. I have heard often enough that we also shall lose operators and therefore revenue with the introduction of the new legislation. I am aware of that. My position on this matter is that we will continue to work with all bona fide organizations that want to establish themselves on our island. We certainly will not miss rogue organizations who want to hide their business activities through Curacao. Our focus is on improving our global reputation in this sector. The government will have more control and will work closely with a gaming authority that will be responsible for licensing, control, and supervision.

In conclusion, we are working hard to achieve a modernized gaming sector with emphasis on online gaming in Curaçao. My presence here today is a demonstration that the Government of Curacao has now taken control of the sector. This is one of many steps we are taking in the upcoming months to put our island on the international map as an important player in the online gaming industry.

Let us briefly get into the upcoming changes to our legislation. As you all know we are working on a new law for online gaming in Curaçao.

## **B. Legal framework**

*Let's look at the legal framework*

### **1. New modernized gambling legislation with a new regulator**

With the LOK the government of Curaçao is currently realizing a complete reform and modernization of its (online) gambling legislation through the LOK. The LOK is still in draft form and its final content when it enters into force may differ from the current draft.

The LOK will be a framework for the regulation of all games of chance, with general provisions that apply to all kinds of gaming activities that are offered in or from Curaçao. The LOK regulates amongst others:

- gambling activities
- issuance, suspension, and withdrawal of licenses
- responsible gambling
- the establishment of a new gaming authority
- supervision and enforcement

Given the current focus on online gaming, a national decree, containing general measures, has now also been drawn up to further regulate the online gaming sector.

### **2. CGA**

As mentioned earlier, the LOK will introduce the CGA as a regulator for the whole Curaçao gambling industry. The CGA will be tasked with licensing, enforcement, and the supervision regarding all games of chance.

### **3. B2C and B2B license**

Based on the LOK, it will not only be possible for the CGA to grant licenses to B2C-operators, but also to B2B-suppliers that provide critical services or goods related to games of chance, such as game providers, platform providers and payment services providers.

The B2B-license will be optional.

### **4. Actual presence in Curaçao**

Online gaming and supplier licenses will only be granted to legal persons that are legally established in Curaçao and provide their services from Curacao by having an actual local presence.

Upon obtaining a license, the operator or supplier must provide permanent and full-time work to at least one local key person. Within five years after the LOK has entered into force, the licensed operator or supplier must provide permanent and full-time work to at least three local key persons. Examples of key persons are directors, managers, operations officers, compliance officers.

The license holders must also acquire or lease (part of) an immovable property, located in Curaçao that is an appropriate business space, and which is provided with usual facilities for the sole purpose of carrying out the business activities under the gambling license.

It is the intention to introduce these measures during a transitional period of five years, including a temporary exemption from the above requirements for start-ups.

In Curaçao, legal entities are incorporated through a notarial deed issued by a civil notary. Nonresidents can establish a legal entity by proxy. The incorporation can take place within a couple of days. The costs associated with the incorporation are generally around USD 1800.

### **5. Fees**

The fees have not yet been finalized. But for me the most important thing is that the fees are competitive and affordable for the operators and suppliers who are willing to operate under the LOK.

The fees will be adjusted in case an operator or supplier meets the requirements of a startup which will be included in the law. Among others this will include the duration of being into business and the number of years of the UBO's being active in the sector.

Operators and suppliers which already comply with local presence requirements during the five-year transition period, will be eligible for a deduction of the license fees until the end of the five-year transition period.

## **6. Licenses**

### Transitional license procedure for existing operators

A significant number of operators are currently operating under one of the licenses granted to four of the main license holders based on the current online gaming legislation. It is one of the government's priorities to safeguard the current businesses carried out by existing operators that can and are willing to comply with the new online gaming legislation. The government would like to see their continued operations from Curaçao in the future.

For this reason, the current draft of the LOK contains a transition period for operators that currently offer online gambling services under an existing Curaçao license.

The transition terms are as follows commencing at the time the law enters into force:

1. The master license holders will in principle be able to continue its operations under the current license for the duration of another 18 months to facilitate the transition of current operators to operate under their own license.
2. To continue its activities as an operator under such master license, the operator is required to apply for its own operator license under the LOK within three months after the LOK enters into force.
3. The operator may then continue its operations under the existing license, as long as the existing 'master' license remains valid, its relationship with the license holder remains intact and a license on the basis of the LOK has not yet been granted or denied.
4. Once the CGA decides on the license application of the operator, the operator can either continue its activities under its own issued license or has to cease its activities immediately if the CGA denies its license.

### Procedure for license applications of transitioning and new operators

The CGA will inform an applicant within two weeks whether its application is complete or requires adaptation.

CGA must take a decision within six weeks after receipt of the application to either:

1. grant a normal license
  - a. A normal license is granted if the operator meets all the requirements and is valid for the duration of five years.
2. grant a provisional license for the duration of six months with a possible extension of six months, or
  - a. a provisional license is granted if the applicant failed to comply with minor or easily meetable requirements.

- b. a provisional license may be granted to prevent an operator already operating based on a Curaçao license, from having to cease operations when the transition period of 18 months passes, pending the application process for a new license.
- 3. deny the license application
  - a. If the applicant disagrees with a decision of the CGA, for example if the license application has been rejected, the applicant can lodge an objection with the CGA or appeal to the court. The same applies if the CGA fails to take a timely decision on the application

A provisional license will in any case not be granted if the due diligence and fit and proper tests conducted on the applicant were unsuccessful.

### **7. Non-transferability of the license and responsibility of the license holder**

All licenses granted by the CGA will be non-transferable nor can they be used to provide other parties to operate as a gaming operator under such license. The current master license and so-called sub license structure will no longer be allowed. License holders will be personally responsible for the execution of their license as well as for the obligations associated with it. This does not imply the prohibition of white labeling.

### **8. Payments**

#### Local payment institution

I am very aware of the challenges which the sector encounters regarding the payment of local costs. The council of ministers has approved to continue the process of establishing a local financial institution that will provide the gaming sector with a possibility to make local payments without the need of a bank account at a regular bank. More details on this special financial institution will follow.

#### Crypto

Crypto currency is currently not yet regulated in Curacao and is therefore not prohibited. The LOK will contain a clause permitting the sector to make and receive payments in crypto, which will be applicable until crypto regulations enter into force.

### **9. Online registration portal**

In the interest of a smooth transition, it is the intention to introduce a registration of existing operators through an online portal prior to entering into force of the LOK. The details for the online registration portal and the requirements to register on the portal shall be published shortly.

### **10. Implementation LOK**

Implementing the new gambling legislation is one of the main priorities of the government of Curaçao. It is expected that the LOK and the national decree on online gaming will be launched in the second quarter of 2023.

## **C. TAX REGIME APPLICABLE TO ONLINE GAMING CURAÇAO**

From a tax perspective, Curaçao also offers some attractive tax facilities for companies, including online gaming operators. In this context, I will elaborate on some of these facilities.

### **1. Investment tax incentive**

For companies intending to build a premises in Curaçao, the so-called Investment tax incentive can be applied. This entails an exemption of most taxes for a period of up to ten years.

This tax incentive is available to companies active in certain designated sectors. We are currently working on a national decree, which will make this tax incentive applicable to the online gaming sector as well.

To enjoy the benefits of the tax incentives, amongst others, the following conditions must be met:

- the establishment requires an investment of around 3 million USD
- the company will provide permanent and full-time work to at least ten locals

### **2. Expatriate regime**

When attracting highly qualified foreign personnel, an application for the Expatriate regime can be filed with the tax authorities, resulting in wage tax exemptions for these personnel.

### **3. Sales tax**

Based on current legislation, sales tax is due with respect to transactions performed by operators in Curaçao. B2C service from online gaming operators to their foreign customers is in principle exempt from sales tax. The foregoing does not automatically apply to B2B transactions. We are currently working on a specific sales tax exemption for the online gaming sector

## **Closing**

This is what I wanted to share with you today. I trust this was helpful and hope this benefits you in your current or future business in Curacao.

Thank you for being present and I would like to see you at our table in the VIP Lounge.