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DRAFT ROYAL DECREE AMENDING ROYAL DECREE 1614/2011 OF 14 NOVEMBER 2011 IMPLEMENTING LAW 13/2011 OF 27 MAY 2011 ON THE REGULATION OF GAMBLING AS REGARDS GAMBLING LICENCES, AUTHORISATIONS AND REGISTERS, FOR THE INTRODUCTION OF A SYSTEM FOR JOINT DEPOSIT LIMITS PER PLAYER, AND ROYAL DECREE 176/2023 OF 14 MARCH 2023 ON THE DEVELOPMENT OF SAFER GAMBLING ENVIRONMENTS

I

Law 13/2011 of 27 May 2011 on the regulation of gambling established the regulatory framework for national gambling activity and online gambling. This law, in addition to offering legal certainty to operators and participants, has among its main objectives the protection of certain groups that are considered vulnerable, the prevention of addictive behaviour and, in general, the protection of consumers.

In the field of the protection of participants in gambling activities, the measures adopted in the implementing regulations for the aforementioned law stand out, including Royal Decree 1614/2011 of 14 November 2011 implementing Law 13/2011 of 27 May 2011 on the regulation of gambling as regards gambling licences, authorisations and registers, which includes provisions relating to the control of access to gambling, to the information that operators must provide to the participant about their gambling activity, to the limits of participant deposits and to the General Register of Gambling Access Bans, and Royal Decree 958/2020 of 3 November 2020 on commercial communications of gambling activities, as well as Royal Decree 176/2023 of 14 March 2023 on the development of safer gambling environments.

II

Among the most relevant protection measures contemplated since the beginning of the regulation of this activity in Spain is one related to the establishment of limits on deposits that participants can make with online gambling operators at national level.

The current regulation of deposit limits is established in Article 36 of the aforementioned Royal Decree 1614/2011 of 14 November 2011. That provision provides that gambling operators must establish financial limits for deposits that they may receive on a daily, weekly or monthly basis from each of the participants in the different games, with Annex II to the Royal Decree establishing a number of maximum amounts which may not be exceeded by the deposits made by players in those periods of time.

These limits, as configured, are established independently for each operator, which means that the total amount of deposits that a participant in the gambling market can make ultimately depends on the number of operators with which they participate and with which they have a gambling account. Thus understood, the current model of deposit limits is not fully satisfactory from the perspective of consumer protection and a safe gambling policy that puts the participant in gambling activities at the centre of its interest.

Therefore, in light of the situation described and the knowledge that the gambling regulatory authority has accumulated in the exercise of its supervisory functions, this Royal Decree introduces a deposit limit system, which is complementary and independent of the currently existing model, applicable to all participants in online gambling activities, whereby all deposits made by a participant in each of the operators with which they have an account are taken into consideration, in such a way that participants cannot exceed the established deposit limit in a certain period of time. To this end, Royal Decree 1614/2011 of 14 November 2011 is amended, introducing a new Article 36a.

The new model, called the System for Joint Deposit Limits per Player, is designed as an additional and complementary tool to the current one provided for in Article 36 of the aforementioned Royal Decree. The addressees, in line with the general orientation of the measures adopted in the field of safe or responsible gambling, are all participants in gambling activities, although, by its very nature it shall have among its main beneficiaries those participants who have accounts with several operators.

The Royal Decree also approves Annex III, which is introduced in Royal Decree 1614/2011 of 14 November 2011, establishing the joint daily and weekly deposit limits to be implemented, upon its entry into force, for all participants registered with the operators. These limits shall be fully

available to players, who can modify them in the way they deem most appropriate or even, if they so wish, delete them.

The system for joint deposit limits per player shall be managed by the gambling regulatory authority, which shall make available to players and operators the technical tool that allows its proper functioning. This option offers multiple operational and functional advantages, since it guarantees that there is adequate coordination between the different actors involved (participants and operators), since the regulatory authority is the only actor that has access to the necessary information. From this perspective, it eliminates the disadvantages derived from the inevitable sharing of information that such a system requires for its proper functioning, as well as the legal reluctance and limitations that may exist if the public authority responsible for supervision does not take direct action. Likewise, the problems derived from the possible processing of personal data that other models may entail are minimised, since only the regulatory authority shall have access to this type of data in its management and supervision of the functioning of the system.

In conclusion, the introduction of this measure is intended to deepen player protection, in line with the public policy of strengthening the measures on responsible or safe gambling adopted in Royal Decree 958/2020 of 3 November 2020 on commercial communications of gambling activities, and in Royal Decree 176/2023 of 14 March 2023 on the development of safer gambling environments.

III

In addition, this Royal Decree aims to update certain specific aspects of Royal Decree 1614/2011 of 14 November 2011 and of Royal Decree 176/2023 of 14 March 2023.

Thus, in paragraph One of the first article amending Royal Decree 1614/2011 of 14 November 2011, Article 13 is amended to introduce a point clarifying the scope that the permanent representative in Spain of an operator has for the purposes of notifications. Paragraph Three amends Article 43, removing mortgages on real estate located in Spain as a form of guarantee. Paragraph Four amends the tenth additional provision, on electronic processing, in order to make it mandatory for participants in gambling activities to interact, by electronic means, with the deposit limit system of the gambling regulatory authority. In this sense, it should be noted that in the case of participants in gambling activities at national level, taking into account the nature of the gambling activity subject to Law 13/2011 of 27 May 2011 on the regulation of gambling (particularly that which is carried out through electronic, computer, telematic and interactive channels), they are a

group that is made up of natural persons who have access to and availability of the electronic means necessary to carry out the online gambling activity and, therefore, have the necessary technical capacity to interact with the new system. In addition, paragraph Five modifies the amounts of the guarantees in Annex I of Royal Decree 1614/2011 of 14 November 2011.

In turn, Article 2 amends Royal Decree 176/2023 of 14 March 2023, so that the information portals of gambling operators, in the section on 'Safer Gambling', shall include an explicit reference to the system of deposit limits established by this Royal Decree.

The single additional provision is intended to update the amount of the guarantees in order to ensure that their real value is maintained. The single transitional provision provides for a period for testing and for information for participants, prior to the entry into force of the system, to ensure that it is fully operational when it is implemented. Finally, the first final provision introduces the power of regulatory development, and the second final provision governs the entry into force.

IV

This Royal Decree is in accordance with the principles for sound regulation referred to in Article 129 of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations, particularly the principles of necessity, effectiveness, proportionality, legal certainty, transparency and efficiency. Thus, in accordance with the principles of necessity and effectiveness, this Royal Decree is justified by the need for the regulatory development of a provision related to the measures for safe or responsible gambling, by making available to participants in gambling activities a protection instrument that is new and complementary to the existing protection instruments. In this sense, this Royal Decree pursues a general interest, since it seeks, in line with measures adopted in other Royal Decrees, to firmly strengthen consumer protection by looking after those who participate in this activity and, more broadly, to guarantee public health through the prevention of addictive behaviour. In addition, it is in line with the principle of proportionality, since this Royal Decree is an essential regulation, given that there are no other measures that impose fewer obligations than those provided for in this Royal Decree, and that unnecessary or ancillary administrative burdens are avoided. The regulation is also consistent with the legal system and promotes its certainty and clarity, thus respecting the principle of legal certainty. This initiative complies with the principle of efficiency, since it does not entail

unnecessary administrative burdens. Similarly, the drafting stage encouraged participation from those potentially affected by the Royal Decree through the public information procedure.

Furthermore, this Royal Decree has been presented to the Gambling Policy Board, in accordance with Law 13/2011 of 27 May 2011. It has also been submitted to the report of the Consumers and Users Council, the Spanish Data Protection Agency and the National Markets and Competition Commission.

This Royal Decree has undergone the procedure provided for in Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services, and Royal Decree 1337/1999 of 31 July 1999 regulating the disclosure of information in the area of technical rules and regulations and regulations related to Information Society services.

By virtue thereof, at the proposal of the Minister for Social Rights, Consumer Affairs and 2030 Agenda, with the prior approval of the Minister for Digital Transformation and the Civil Service, in agreement with the Council of State, and after deliberation by the Council of Ministers at its meeting on XXXXXXXX,

THE FOLLOWING IS DECREED:

Article 1. *Amendment of Royal Decree 1614/2011 of 14 November 2011 implementing Law 13/2011 of 27 May 2011 on the regulation of gambling as regards gambling licences, authorisations and registers.*

One. Article 13(1) is amended to read as follows:

‘1. Participation in the procedure for the granting of general licences for the operation and marketing of games that are not of an occasional nature is open to legal persons in the form of a public limited company or similar corporate form in the European Economic Area, which have as their sole corporate purpose the organisation, marketing and operation of games.

Where the legal person does not have a registered office in Spain, a permanent representative must be appointed in Spain with the capacity to receive notifications for all purposes, both physically and electronically.’

Two. A new Article 36a *System for joint deposit limits per player* is inserted with the following wording:

‘36a. System for joint deposit limits per player.

1. The gambling regulatory authority shall establish financial limits for the collective deposits that each participant may make into all gambling accounts associated with user registrations held with any of the gambling operators. These limits shall be those set out in Annex III.

By means of a resolution, and after the appropriate technical and legal reports, the gambling regulatory authority may amend the said Annex III.

2. For the configuration, control and management of the economic limits applicable to the collective deposits of participants in gambling activities, the gambling regulatory authority shall develop a system of limits for collective deposits per player.

This system shall be applied as a complement to and independently from the systems for the control and management of deposit limits established by gambling operators pursuant to Article 36.

Gambling operators shall be required to have the necessary technical means for the connection between their deposit limit control and management systems and the system for joint deposit limits per player of the gambling regulatory authority, as well as to take into account the information derived therefrom prior to the possible acceptance of deposits in the accounts of participants registered on their gambling platforms. In this sense, gambling operators may not accept deposits made by a participant which, according to the information provided by the system for joint deposit limits per player, exceed the established limits, and they must inform the participant of this.

The gambling regulatory authority may establish templates for the format and content of the message for sending this information, which shall be mandatory for gambling operators.

3. The system for joint deposit limits shall be managed by the gambling regulatory authority, which shall have the status of data controller for the processing of personal data that is carried out. This system shall aim to provide participants in gambling activities with an additional tool with which to improve the management of their deposit activity when they

have accounts with several operators, and, thus, to promote better protection of their interests.

The communication of personal data between operators and the gambling regulatory authority, as well as the processing of personal data carried out in the system, have their legitimising basis in the performance of a task carried out in the public interest or in the exercise of official authority.

The processing of personal data revealing ethnic or racial origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data and data relating to the health, orientation or sex life of individuals, as well as any other data that is irrelevant or unnecessary, is prohibited.

The gambling regulatory authority shall establish appropriate procedures to maintain the privacy of users' personal data in accordance with current regulations on the protection of personal data. In this regard, all processing of personal data of natural persons shall be carried out in strict compliance with the provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and other legislation on the protection of personal data.

The gambling regulatory authority shall only process the participant data that is necessary for the proper functioning of the system for joint deposit limits per player, and in particular the following: name and surname(s), identification document used to register on the operator's platform, date of birth, gender, email address and telephone number, the established aggregated deposit limits and their effective dates, as well as deposits and deposit cancellations made by the participant. The data shall be deleted once the purposes that justified their processing have been fulfilled.

In any case, the gambling regulatory authority must inform users about the conditions governing the processing of their personal data and the purposes for which the processing is carried out, as well as their rights in accordance with regulations in force on the protection of personal data.

4. The system for joint deposit limits per player shall allow participants to set financial limits for all their deposits at amounts lower than those generally set out in Annex III.

These limit modifications must be implemented immediately by the system.

5. Likewise, the system shall allow each participant to expressly modify the amounts of the economic limits for all their deposits, beyond those established in Annex III, or even the elimination of any economic limit.

The new limits, or the elimination of them, shall be effective 3 days after the request for modification of limits has been made.

6. The removal or increase of the limits set by the participant in accordance with paragraph 5 may not be requested unless 3 months have elapsed since the last increase of those limits.

7. Participants in gambling activities shall modify the limits in accordance with paragraphs 4, 5 and 6, through a specific function for this purpose in the system for joint deposit limits per player.

8. The gambling regulatory authority may issue any provisions necessary for the development and implementation of this Article.'

Three. Article 43(1) is amended to read as follows:

'1. Guarantees may be provided in the following forms:

a) Cash, deposited in the account established for this purpose by the National Gambling Commission, and in the form it has established.

b) Guarantees issued by credit institutions or mutual guarantee schemes duly authorised to carry out their activity in Spain.

c) Suretyship insurance granted by insurance companies duly authorised to carry out their activity in Spain.'

Four. The tenth additional provision is amended to read as follows:

‘Tenth additional provision. Electronic processing.

1. The procedures regulated in this Royal Decree may be processed through electronic means in accordance with the provisions of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations and its implementing regulations. These procedures shall be accessible to interested parties through the website of the gambling regulatory authority at national level.

2. In view of the characteristics and technical capacity attributable to the group of persons participating in gambling activities at national level carried out through websites, applications or other electronic, computer, telematic or interactive channels, and by application of the provisions of Article 14.3 of Law 39/2015 of 1 October 2015 on the Common Administrative Procedure of Public Administrations, the interaction of participants in gambling activities with the system for joint deposit limits per player provided for in Article 36a shall take place through the electronic means provided for this purpose by the gambling regulatory authority.’

Five. Paragraphs 1 and 2 of Annex I are amended to read as follows:

‘1. The amount of the guarantees referred to in Chapter III of Title II of this Royal Decree as regards gambling licences, authorisations and registers, linked to general licences during their initial period, shall be EUR 2 400 000 for each general licence granted, except for the gambling modality referred to in Article 3(e) of Law 13/2011 of 27 May 2011 on the regulation of gambling, which shall be six hundred thousand euros. For this purpose, the calculation of the initial period begins on the date of application for the general licence and ends on 31 December of the year following that in which it was granted.

The amount linked to the individual licences shall not be taken into account for the calculation of the amount of the guarantee during the initial period.

2. In the years following the initial period, the amount linked to all the general licences held by the operator, regardless of their modality, shall be EUR 1 200 000, except in the event that the operator only holds a general licence for the gambling modality referred to in Article 3(e) of Law 13/2011 of 27 May 2011 on the regulation of gambling, in which case the amount shall be EUR 300 000.

The amounts referred to in the previous subparagraph, without prejudice to the paragraph Four, shall in turn be considered as the minimum amount of the operator's guarantee.'

Six. A new Annex III is inserted with the following content:

'ANNEX III

Limits for the system for joint deposit limits per player

Deposit limits.

1. The limits for the deposits referred to in paragraph 1 of Article 36a of Royal Decree 1614/2011 of 14 November 2011 implementing Law 13/2011 of 27 May 2011 on the regulation of gambling as regards gambling licences, authorisations and registers, shall be as follows:

a) EUR 600 for the daily amount.

b) EUR 1 500 for the weekly amount.

2. For the purposes of this Annex, 'day' means the calendar day between 00:00 and 24:00; 'week' means between 00:00 on Monday and 24:00 on Sunday.'

Article 2. *Amendment of Royal Decree 176/2023 of 14 March 2023 on the development of safer gambling environments.*

Article 9(2)(d) is amended to read as follows:

d) Deposit limits, how they work and how to modify them. This information shall include both information on the limits that gambling operators must establish for deposits that they may receive on a daily, weekly or monthly basis from each of the participants in the different games, and information on the system for joint deposit limits of the gambling regulatory authority.

Single additional provision. *System for updating established guarantees.*

Upon the entry into force of paragraph 5 of Article 1 amending paragraphs 1 and 2 of Annex I to Royal Decree 1614/2011 of 14 November 2011 regarding the amount of guarantees, any entities that have guarantees for an amount lower than that provided for in the aforementioned Article must update them, in the manner and within the time limits established in Chapter III of Title II of Royal Decree 1614/2011 of 14 November 2011 and in its implementing regulations.

Single transitional provision. *Period for testing and for information for participants.*

Nine months before the entry into force of the provisions of this Royal Decree relating to the system for joint deposit limits per player, the gambling regulatory authority shall make available to operators a trial version of the system.

During this period, both gambling operators and the regulatory authority shall carry out any actions necessary for the proper functioning of the system, as well as for registered participants to have proper knowledge of it. The gambling regulatory authority may require the cooperation of operators to raise awareness of the functioning of the system.

First final provision. *Regulatory development authority.*

The minister for Social Rights, Consumer Affairs and 2030 Agenda is empowered to issue any provisions necessary for the development and implementation of the provisions of this Royal Decree.

Second final provision. *Entry into force.*

This Royal Decree shall enter into force 12 months after its publication in the 'Official State Gazette'.

The following shall be exempt from the provisions of the preceding paragraph:

- a) Paragraph Five of Article 1, which shall enter into force on 1 January of the year following the publication of the Royal Decree in the 'Official State Gazette'.
- b) Paragraphs One and Three of Article 1, which shall enter into force on the day following the publication of the Royal Decree in the 'Official State Gazette'.

