

THE POSSIBLE REGULATION OF THE CSR OF GAMING ENTERPRISES IN MACAU: MAINTAIN THE CURRENT WAY AND PURSUE SUSTAINABLE DEVELOPMENT

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In Macau, the gaming industry has brought unparalleled prosperity and stability to society since the privilege of running gaming operations was granted to six casino giants by the concession system in 2002, including three gaming enterprises from Las Vegas, Nevada. However, in the light of Article 13 (2) in the Law No. 16/2001, “Legal Framework for the Operations of Casino Games of Fortune,” the gaming licenses will expire in 2022. Meanwhile, the government will draft the new concession contracts and deliberate the issue of whether the six casino operators can continue their business in Macau. Due to the dominant position of the gaming industry in the economy, the issues surrounding the renewal of the gaming licenses are identified as the most significant problem that the Macau government must properly address. To this end, the government has regarded corporate social responsibility (“CSR”) performance of casino operators as an important factor for deliberation and is likely to draft a provision of CSR in the new contracts. This article attempts to explore the possible regulation of CSR assumed by the gaming enterprises by referring to the CSR reports disclosed by the casinos and a range of governmental policies as well as the actual needs of the society, concluding that regulation of CSR should be limited and meet the reasonable needs of society to lead to the sustainable development of the gaming industry.

Key words: *Corporate Social Responsibility, Gaming Industry, Gaming Enterprises, Casino Operators*

The gaming industry has existed for more than three centuries in Macau; however, the economic boom happened after it returned to the People’s Republic of China (PRC) and, inter alia, the liberalization of casino licenses. In February 2002, Macau opened its doors for foreign corporations to conduct casino

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operations as part of its modernized gaming regulatory system.¹ The first three gambling licenses, which are usually dubbed “gaming cards (dupai 赌牌)” in the Chinese language, were awarded to the Sociedade de Jogos de Macau (SJM), the Wynn Resorts (Macau) Co., Ltd. (Wynn), and the Galaxy Casino, S.A. (Galaxy) by way of the concession. From 2002 to 2006, another three gaming corporations—the Venetian Macau, S.A, controlled by the Sands China Ltd. (Sands), the MGM Grand Paradise, S.A. (MGM), and the Melco Resorts (Macau), S.A. (Melco— respectively gained the privilege of gaming operation from the Galaxy, the SJM and the Wynn through the sub-concession. So far, the gaming industry of Macau has formed the oligopoly of the six casino giants.²

Nevertheless, as stated in Article 13 (2) of the Law No. 16/2001 “Legal Framework for the Operations of Casino Games of Fortune” passed by the Legislative Assembly of Macau in August 2001, the concession, granted by the Government of Macau Special Administrative Region to operate casinos, could last no longer than 20 years. Therefore, the gaming cards of the six casino operators will expire in 2022.³ At that time, the Macau government will decide whether the gaming licenses can be renewed and draft the new concession contracts with the gaming corporations. Given the substantial dependence on the gaming industry in the economy, the issues surrounding the renewal of the gaming licenses are identified as the most significant event on the agenda that the Macau government must properly deal with.

To resolve this problem, the Chief Executive, Mr. Ho Iat Seng, said that although the corporate social responsibility (“CSR”) practice of the casino operators will not be completely connected to the final decision on the renewal of gaming license, the government will definitely treat it as a main factor for consideration.⁴ In view of that, the operation of the gaming sector is directly related to the long-term stability and development of Macau society. The government, to the maximum possible extent, would add the clause of CSR to the new concession contracts, so as to regulate the further CSR activities of the casino operators.⁵

¹ See *Macau Gaming Summary*, UNLV CTR. FOR GAMING RSCH., <https://gaming.unlv.edu/abstract/macau.html> (last visited March 10, 2021).

² Kareem Jalal, *Who Are the Oligopolists?*, INSIDE ASIAN GAMING, May 2008, at 6.

³ The Macau government stated that after comprehensive analysis and consideration, it decided to approve the application of granting and subcontracting of the casino or other forms of gaming operations of Macau Gaming Co., Ltd. and MGM Grand Palace Co. Ltd., extending the gaming sub-concession expiration date to June 26, 2022.

⁴ Liu Jingsong, *Discussion on Performing the Corporate Social Responsibility of Gaming Enterprises*, MACAU DAILY, April 15, 2020, at 3.

⁵ *Id.*

This situation has inspired research into the CSR practice in Macau, most of it coming from a business or management perspective,⁶ such as the measurement of CSR, the benefits from integrating CSR considerations into strategic planning,⁷ and the CSR disclosure or the responsible gaming.⁸ Some studies show that better performance on the corporate social initiatives is positively associated with good corporate governance⁹ and leads to better financial performance, more favorable employment choice,¹⁰ the enhancement of profit, reputation, risk and crisis management¹¹ and a stable social environment.¹²

⁶ Jian Ming Luo et al., *Corporate Social Responsibility in Macau's Gambling Industry*, 17 J. QUALITY ASSURANCE HOSP. & TOURISM 237, 237 (2016); Tiffany C.H. Leung, *An Initial Exploration of Corporate Social Disclosure and Responsible a Gambling Disclosure in Macau's Gambling Industry*, CORP. SOC. DISCLOSURE 153, 154 (Carlos Noronha ed. 2015).

⁷ Caroline Flammer & Jiao Luo, *Corporate Social Responsibility as an Employee Governance Tool: Evidence from a Quasi-experiment*, 38 STRATEGIC MGMT. J. 163, 163 (2017).

⁸ Fanny Vong & IpKin A. Wong, *Corporate and Social Performance Links in the Gaming Industry*, 66 J. BUS. RES. 1674, 1674 (2013); Jian Ming Luo et al., *Measuring Corporate Social Responsibility in Gambling Industry: Multi-Items Stakeholder Based Scales*, 9 SUSTAINABILITY 1, 1 (2017); Tiffany C. H. Leung & Rob Gray, *Social Responsibility Disclosure in the International Gambling Industry: A Research Note*, 24 MEDITARI ACCT. RES. 73, 74 (2016); Lia Nower & Kyle R. Caler, *Widening the Net: A Syndemic Approach to Responsible Gambling*, 64 SUCHT 1, 1 (2018); See generally R. Wood, R.T.A. & M. Griffiths, M.D., *Understanding Positive Play: An Exploration of Playing Experiences and Responsible Gambling Practices*, 31 J. GAMBLING STUD. 1715, 1715 (2014); Sally Monaghan, *Responsible Gambling Strategies for Internet Gambling: The Theoretical and Empirical Base of Using Pop-up Messages to Encourage Self-awareness*, 25 COMPUTERS HUM. BEHAV. 202, 203 (2009); Gui-Hai Huang, *Responsible Gaming Policies and Practices in Macao: A Critical Review*, 2 ASIAN J. GAMBLING ISSUES & PUB. HEALTH 49, 50 (2011).

⁹ Marty Stuebs & Li Sun, *Corporate Governance and Social Responsibility*, 57 INT'L J. L. & MGMT. 38, 38 (2015).

¹⁰ Bryan Hong et al., *Corporate Governance and Executive Compensation for Corporate Social Responsibility*, 136 J. BUS. ETHICS 199, 199–92 (2015); Ali Fatemi et al., *Valuation Effects of Corporate Social Responsibility*, 59 J. BANKING & FIN. 182, 182 (2015); Fanny Vong & IpKin A. Wong, *Corporate and Social Performance Links in the Gaming Industry*, 66 J. BUS. RES. 1674, 1677 (2013).

¹¹ See generally HyeMi Lee et al., *The Impact of CSR on Casino Employees' Organizational Trust, Job Satisfaction, and Customer Orientation: An Empirical Examination of Responsible Gaming Strategies*, 33 INT'L J. HOSP. MGMT. 406 (2013).

¹² Pauline J. Sheldon & Sun-Young Park, *An Exploratory Study of Corporate Social Responsibility in the U.S. Travel Industry*, 50 J. TRAVEL RES. 392 (2011).

However, less attention has been paid to the legal and regulatory framework, because common to many definitions¹³ is an assumption that CSR is a form of voluntary obligation of corporations. This article attempts to explore the possible regulation of the CSR activities of casino operators in the new concession contracts, so as to figure out some valuable experience on the regulatory path for the gaming industry of other economies. It firstly discusses the important and special role played by the CSR in the gaming industry. The second part seeks to expound the motives of government for regulating the CSR activities. Further, we try to establish the framework of feasible regulation of CSR in the new contracts, involving the definite scope and the supervisory system of CSR. In the fourth section, it describes the current CSR strategies employed by the six casino giants and develops the evaluation method on the CSR performance. Finally, this article proposes a new CSR model that could realize the sustainable development of the gaming industry by referring to the policies of the government and the actual needs of Macau society.

I. THE IMPORTANCE AND PARTICULARITY OF CSR FOR THE GAMING INDUSTRY

Before discussing the regulation of the CSR, it is necessary to illustrate the significant role played by the CSR for the gaming industry. The gaming industry, in its essence, is ethically and morally questionable, which can be articulated by the clear facts that the permissions of the industry, worldwide seen, are only a few exceptions. It is one type of the controversial industries, such as the alcohol or the tobacco industry, which deliver the “products, services or concepts that for reasons of delicacy, decency, morality or even fear elicit reactions of distaste, disgust, offence or outrage when mentioned or openly presented.”¹⁴ Amid the evolution of the gaming industry and the increasing amount of gaming facilities, people raised their concerns on the issues created by gambling activities. The most common concern is problem gaming, an addiction characterized by one’s desire to continuously gamble and the difficulties in limiting the time and the money spent on gaming despite the devastating consequences for life.¹⁵ In addition, the rapid expansion of the gaming industry leads to a set of social

¹³ Matthew Liu et al., *Do Customers Prefer Casinos with CSR? An Empirical Study*, REDISCOVERING THE ESSENTIALITY OF MKTG. 919, 919 (2016).

¹⁴ Aubrey Wilson & Christopher West, *The Marketing of Unmentionables*, 50 HARV. BUS. REV. 91, 92 (1981); Mirella Yani-de-Soriano et al, *Can an Industry Be Socially Responsible If Its Products Harm Consumers? The Case of Online Gambling*, 110 J. BUS. ETHICS 481, 481 (2012); Adam Lindgree et al., *Guest Editorial: Corporate Social Responsibility in Controversial Industry Sectors*, 110 J. BUS. ETHICS 393, 393 (2012).

¹⁵ NAT’L CTR. FOR RESPONSIBLE GAMING, GAMBLING & HEALTH IN THE WORKPLACE (2012); GAMING INSPECTION & COORDINATION BUREAU, RESPONSIBLE GAMING (2016), <http://www.dicj.gov.mo/web/en/responsible/responsible01/content.html#1>.

problems, which, concretely speaking, can be described as gaming-related crimes caused by problem gamblers sprawling into the local communities and affecting the life quality of local citizens.¹⁶ As the casino operators have absorbed huge profits from their gaming business in Macau, they are responsible for resolving these issues triggered by gambling activities.¹⁷

CSR, which at its core, is the duty of a company to perform desirable activities for modern society, address and capture the most important concerns of the public regarding business and society relationships,¹⁸ was essential for the gaming enterprises to reduce the negative social influence brought by the gambling business.¹⁹ If the casino operators can undertake CSR to help any person or entity affected by their gaming business,²⁰ it can be morally justified to a certain extent. In one word, CSR plays a paramount role for the moral justification of the gaming industry.

The other issue we cannot ignore is the particularity of CSR in the gaming sector. According to the stakeholder theory,²¹ a corporation should integrate the needs and aspirations of all their stakeholders such as investors, governments, employees, communities, customers or suppliers into their corporate strategies. Because of the special problems caused by the gambling business in society, casino operators should, in addition to the CSR assumed by ordinary corporations, take corresponding measures to fix these issues by considering the

¹⁶ XuQiyuan Li Zhendong, *Moderate Diversification of the Macau Economy: Research Based on the Impact of the Gaming Industry*, 3 J. MAC., GAMING INSPECTION & COORDINATION BUREAU MAC. SAR STUD. 1, 8, GAMING INSPECTION & COORDINATION BUREAU MACAO SAR, 9 (2015).

¹⁷ Jason Buhi, *Corporate Social Responsibility, Casino Capitalism, and the Constitution of Macau*, 37 PAC. BASIN L.J. 1, 2 (2020).

¹⁸ Archie B. Carroll, *Corporate Social Responsibility: Evolution of a Definitional Construct*, 38 BUS. & SOC'Y, 268, 270 (1999).

¹⁹ Choong-Ki Lee et al., *The Impact of CSR on Casino Employees' Organizational Trust, Job Satisfaction, and Customer Orientation: An Empirical Examination of Responsible Gambling Strategies*, 33 INT'L J. HOSP. MGMT. 406, 407 (2013).

²⁰ JESSALYNN R. STRAUSS, CHALLENGING CORP. SOC. RESP.: LESSONS FOR PUBLIC RELATIONS FROM THE CASINO INDUS. 2 (2015).

²¹ Lance Moir, *What Do We Mean by Corporate Social Responsibility?*, 1 CORP. GOVERNANCE 16, 16 (2001); William D. Schneper & Mauro F. Guillén, *Stakeholder Rights and Corporate Governance: A Cross-National Study of Hostile Takeovers*, 49 ADMIN. SCIENCE Q., 263, 263 (2004); see Ronald K. Mitchell et al., *Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts*, 22 ACAD. MGMT. REV. 853 (1997) (for the stakeholders model for corporate governance); see also Ruth V. Aguilera & Gregory Jackson, *The Cross-National Diversity of Corporate Governance Dimensions and Determinants*, 28 ACAD. MGMT. REV. 447 (2003); see also Mark J. Roe, *Political Preconditions to Separating Ownership from Corporate Control*, 53 STAN. L. REV. 539 (2000).

demands of the local enterprises and community, the interest of the employees and participating in the responsible gaming activities.²²

II. MOTIVES FOR REGULATING THE CSR ACTIVITIES

Even if CSR possesses special significance for the gaming industry, CSR always functions as a voluntary regime whereby a business monitors and ensures its compliance within the spirit of the law, including local ethical standards as well as developing national or international norms. At present, the legislation does not involve itself much in CSR issues, and Macau lacks a comprehensive CSR code. The united CSR administrations lack a clear standard of regulation as well. The current regulation on the six casino operators mainly relies on the reporting and disclosure of the financial information of casino operators²³ and the taxing and distributing powers of the government.²⁴ Ultimately, the articulation of most CSR strategies is roughly a voluntary obligation and under the discretion of the board of the gaming corporations. However, Macau government would probably regulate the CSR practice by drafting a CSR clause in the new concession contracts. This part seeks to expound the motives of the government for the regulation.

First, the fact that the economy is extremely dependent on the gaming sector in Macau, constitutes the most fundamental reason for the government to monitor the CSR activities. With the glorification of “Monte Carlo of the Orient” and

²² See Jian Ming Luo et al., *Corporate Social Responsibility in Macau's Gambling Industry*, 17 J. QUALITY ASSURANCE HOSP. & TOURISM 237, 240–42 (2016) (“Leadership, Vision and Values,” “Workforce Activities,” and “Community Activity” as the most popular CSR practice areas in Macau).

²³ GAMING INSPECTION & COORDINATION BUREAU MAC., LICENSE CONTRACT OF MACAO SPECIAL ADMIN. REGION FOR THE OPERATION OF GAMES OF FORTUNE OR CHANCE OR OTHER CASINO GAMES (Apr. 3, 2002) http://www.dicj.gov.mo/web/en/contract/SJM/2002_BORAEM014S2Sup.html (article 23(7) provides that the concessionaire should present to the Gaming Inspection and Coordination Bureau all documents that carry bank accounts and relevant balance of the concessionaire in each December).

²⁴ Buhi, *supra* note 17, at 11–12. (“The effective tax rate on casinos is about 38%, a figure that comprises a 35% tax on gross gaming revenue, and a mandatory 1.4% (for SJM) and 2.4% (for everyone else) contribution to the local Infrastructure/Tourism/Social Security Fund and a mandatory 1.6% contribution to the Macau Foundation (The Macau Foundation is an organization aims to promote, develop and study cultural, social, economic, educational, scientific, academic and philanthropic activities, including activities aimed at the promotion of Macau.)”); see *Macau Gaming Summary*, UNLV CTR. FOR GAMING RSCH., <http://gaming.unlv.edu/abstract/macau.html> (last visited on Mar. 22, 2020); see also Tiffany Cheng Han Leung & Robin Stanley Snell, *Attraction or Distraction? Corporate Social Responsibility in Macao's Gambling Industry*, 145 J. BUS. ETHICS 637, 643 (2017).

“Las Vegas of the East”, a series of data can demonstrate the dominant status of the gaming sector. According to the recent investigation of the Gaming Inspection and Coordination Bureau (DICJ), the gross revenue from games of fortune in 2018 and 2019, respectively, reached 302,846 and 292,455 billion MOP.²⁵ Referring to the Central Account – Budgetary Execution Data compiled by the Financial Services Bureau, the gaming tax revenue from January to September in 2019 reached 85.660 billion MOP, which contributed 87.63% of the total fiscal revenue of Macau government.²⁶ Since the stability of the society depends upon the success of the gaming industry, the government intends to intensify the regulation of gaming enterprises.

Furthermore, from the absence of regulation, as the government concerns, it may have occurred to the society that the operators in the gaming industry engage in CSR activities symbolically rather than substantively.²⁷ If there is a lack of supervision over CSR practices, the casino operators do not have such impetus from the government to implement CSR programs.²⁸ Instead, they are motivated by desires to establish their brands and attract customers²⁹ by viewing CSR as an opportunity to generate media attention.³⁰ As the Chief Executive at the press conference on March 24th, 2020 expressed, he was deeply disappointed with the gaming corporations when the government had difficulty searching for hotels for isolation purposes and urged them to realize that their obligation covers not only donations but also represents the common responsibility to the society and the government. Upon the pressure from the government, the Sheraton Hotel under the Sands City Center became the No. 12 hotel for isolated medical observation.³¹ This event indicates that the government is probably motivated to establish a regulatory mechanism to make sure that the casinos will undertake CSR seriously and faithfully, especially when society is confronted with the immense difficulties and enormous challenges.

Last but not the least, for the casino operators, the regulation of CSR performance may allow their morally questionable business to be tolerated by

²⁵ *Monthly Gross Revenue from Games of Fortune*, GAMING INSPECTION & COORDINATION BUREAU MAC. SAR, http://www.dicj.gov.mo/web/cn/information/dadosestat_mensal/2018/index.html (last visited on Mar. 22, 2021).

²⁶ GOV'T OF THE MAC. SPECIAL ADMIN. REGION FIN. SERVS. BUREAU, CENTRAL ACCOUNT–BUDGETARY EXECUTION DATA, <https://eserv4.dsf.gov.mo/financialReport/centralBudgetEXE.aspx?lang=zh> (last visited on Feb. 23, 2021).

²⁷ Leung & Snell, *supra* note 24, at 637.

²⁸ *Id.*

²⁹ Buhi, *supra* note 17, at 22.

³⁰ Jian Ming Luo, GuoQiong Huang, & Chi Fung Lam, *Barriers to the Implementation of Corporate Social Responsibility in Gaming Industry*, 20 J. OF QUALITY ASSURANCE IN HOSPITALITY & TOURISM 528, 534 (2019).

³¹ *Sands Finally Fulfills its Social Responsibilities and Lends Sheraton for Isolation* [金沙終盡社會責任借出喜來登作隔離], ALLINMEDIA [濠博新聞] (Mar. 28, 2020), <https://www.allinmedia.com.hk/2020/03/28/>.

Macau society to some extent. In reality, the social acceptance towards the gaming enterprises and its employees in Macau is quite limited, regardless of the tremendous economic profits contributed by the gaming industry. If their achievements on CSR performance can be recognized by the public through a monitor and supervision system, the gaming corporations can increase its social acceptance in Macau.

III. THE FRAMEWORK OF POSSIBLE REGULATION OF THE CSR OF CASINO OPERATORS

The regulation of the CSR of gaming enterprises mainly embraces two questions – the scope and the supervisory system of CSR. When it comes to the scope of social responsibilities, the Chief Executive stated that the government is unable to clarify the CSR of gaming corporations until they initiate the consultation on the modification of the gaming-related laws in the future.³² He also emphasized that the government and society should not unilaterally impose the obligations on the casino operators.³³ These words show that the CSR of gaming enterprises involves such complicated interests that the government cannot mention any concrete rules assertively but has to resolve the problem on the basis of the common understanding between the six casino giants and the society. To this end, it is feasible that the CSR clause would frame the scope of CSR based on the current CSR activities, and form the supervisory and evaluation mechanism as well as pursue the sustainable development of the gaming industry in the next twenty years.

First, it is desirable that amid the renewal of the gaming license, the achievements associated with the existing CSR practice (expounded in the next part) could be adopted in the new concession contract, so as to create the rules on CSR for the six gaming corporations or the other corporations that may be accessible to the gaming sector of Macau in the future. It is widely accepted that the vigorous evolution of Macau's gaming industry during the past eighteen years is not easily come by and can be partly attributed to the excellent and sophisticated business operation of the casino operators (Sands, MGM and Wynn) from Las Vegas. With rich experience related to the casino business and the advanced corporate governance system, they have greatly improved the operation of the gaming industry in Macau and made appreciable contributions in the area of CSR.

³² Newsletter, Government Information Bureau, Chief Executive Responds to the Parliamentary Inquiry (Apr. 21, 2020) (regarding the Social Consultation in the Future on the Definition of the Social Responsibility of Gaming Companies).

³³ *The Chief Executive of Macau and the Gaming Enterprises "Bury the Hatchet"*, WORLD GAMING INFO. (Apr. 22, 2020), <https://www.wgi8.com/news/news48906.html>.

Second, in order to keep the society informed on the CSR performance of gaming enterprises and avoid the formalization and hollowness of these activities, the new concession contract should establish the monitor and evaluation system. Currently, the DICJ is responsible for monitoring the business and the performance of legal and contractual obligations of casino operators.³⁴ Thus, if the new contract clearly integrates the CSR clauses, the DICJ will be in charge of supervising the CSR practice of gaming corporations. For the supervisory purpose, the casino operators should disclose their annual CSR reports comprising the contents required by the CSR clause and submit the reports to the DICJ which evaluates these reports and presents suggestions for the further improvements. For evaluating the CSR performance, unfortunately, the government and the scholars have not formulated the mature solution yet. In this regard, this article tries to propose following suggestions. On the one hand, for some CSRs, whose performance can be directly assessed by figures, the DICJ could check the data disclosed by the CSR reports. On the other hand, for other CSR activities whose performance effects cannot be obviously observed by actual data, the DICJ could evaluate them by scoring their scale and frequency disclosed by the CSR reports.

Third, to make the sustainable development of the gaming industry come true, the CSR clauses could highlight the expansion of the midfielders and non-gaming business as a CSR of casinos, and the balance actual demands of Macau society and the long-term progress of the gaming industry, rather than getting obsession with the local protectionism and imposing the unjustifiable and inefficient or even unfair CSR on the casino operators.

IV. THE EXISTING CSR PRACTICE OF CASINO OPERATORS AND ITS EVALUATION SYSTEM

Generally speaking, during the past eighteen years the gaming enterprises have played a paramount role in participating and organizing CSR activities as well as shown a growing interest in the CSR reporting and disclosure.³⁵ As the gaming operators with the longest history in Macau, the SJM, founded by Mr. Ho Hung-sun, the SJM, sheds light on the charity and community activities, responsible gaming, supporting Macau's local small- and medium-sized enterprises (SMEs), promoting the local recruitment and making donations to Macau society and Chinese Mainland.³⁶ The Galaxy, which has gradually

³⁴ *Introduction to DICJ*, DICJ, (July 7, 2020), <http://www.dicj.gov.mo/web/cn/introduction/index.html>.

³⁵ Liu Jingsong, *Discussion on Performing the Corporate Social Responsibility of Gaming Enterprises*, MACAU DAILY (Apr. 15, 2020).

³⁶ The last point is proved by the extensive donation to various organizations in the Mainland, including relief aid for victims of natural disasters like earthquakes. *Corporate Social Responsibility*, SJM HOLDINGS LTD., <https://www.sjmholdings.com/en/corporate-social-responsibility/supporting-the-community> (last visited June 30, 2020).

acquired the leadership of market in recent years, has followed the understanding of the SJM on the CSR, and in particular, paid more attention to the evolution of cultural, art and sports activities and the growth of youth in Macau.³⁷ The Melco and the gaming enterprises (the Sands, the MGM and the Wynn), from the Las Vegas of Nevada, US, are used to incorporating the CSR performance into their sustainability reports and ameliorating their corporate governance system to ensure the CSR performance.³⁸ They have set up some professional institutions, such as the sustainability committee³⁹ or the environmental, social, and governance (ESG) taskforce⁴⁰ under the board, in charge of developing, implementing, and monitoring the ESG policies, practices and mechanisms. In addition to the traditional CSR of the SJM and the Galaxy, they weight significantly on the employees' welfare and the environmental protection. This section will concentrate on these CSR activities and their evaluation measures.

A. Support the Local SMEs

In Macau, the over-concentration on the gaming sector, in some manner, force other local businesses to be difficult to recruit or retain talents, who are usually attracted by a more lucrative employment package, such as wages, working environment, meals, and health insurance offered by casinos.⁴¹ Thus, supporting the growth of local SMEs is identified as a significant CSR of the casino operators. It has been clearly declared by the former Chief Executive, Mr. Fernando Chui Sai On, who put forward that the government would strengthen the regulation of gaming industry and attempt to urge this industry undertake more social responsibility such as providing assistance to the development of local SMEs at the Question and Answer Session in the Legislative Council on

³⁷ For example, the Galaxy organized some national education activities, promoting the spirit of "Love the Motherland and Loving Macau". GALAXY ENT., CORP. SOC. RESP. ANN. REP. 6-7 (2019).

³⁸ The CSR tends to emphasize long-term value over short-term gain and require the board to concentrate on long-term profitability rather than short-term gain and decide how to allocate value when circumstances require a trade-off among constituencies, if certain constituencies would prefer a short-term gain. ALI Principles of Corporate Governance: Analysis and Recommendations § 2.01 cmt. f (1994).

³⁹ WYNN MACAU LTD., SUSTAINABILITY PRINCIPLES 1, <http://en.wynnmacaulimited.com/static-files/0ec17e36-508e-4344-afcc-236825c7cda0> (last visited May 20, 2021).

⁴⁰ MELCO INT'L DEV. LTD., ENV'T., SOC. & GOV'T. REP. 5 (2018), https://www.melco-group.com/doc/english/report/e0200_190426_ESG.pdf.

⁴¹ Gaming Inspection and Coordination Bureau (DICJ), Responsible Gaming (2016), <http://www.dicj.gov.mo/web/en/responsible/responsible01/content.html#1>, (last visited July 7, 2020).

August 9th, 2018.⁴² Declared by the Policy Address for the Fiscal Year 2020 (Policy Address), the government will accelerate the SMEs' growth driven by the gaming enterprises.⁴³

To comply with the government's policy, the gaming enterprises have taken two steps to assist the growth of local SMEs. First, they have prioritized purchases from the local SMEs and worked consistently with the local businesses to build long-term partnerships. In this respect, the American casino giants have displayed their achievements in figures. In 2019, among more than 2,500 suppliers in the procurement and supply chain of Sands, 78% of suppliers were local suppliers,⁴⁴ and 80% of MGM's total procurement spending went to local enterprises.⁴⁵

Second, the casino operators have also shared their successful and sophisticated business and management experience with local SMEs through several partnership programs. For example, in July 2018, the MGM co-organized the Young Entrepreneur Seminar with the Macau Youth Entrepreneur Association. The Seminar welcomed over 150 participants and provided the necessary information to young entrepreneurs about starting up a business in Macau, the regulations and the subsidies relating to SMEs.⁴⁶ To assess these CSR activities, the DICJ could review the quantity, amounts and percentage of local procurements in total purchase expenditures, and the scale and frequency of the activities arranged to share successful business and management experience with local SMEs.

B. Charitable and Community Activities

Without any doubt, the six casino giants have acquired tremendous profits from their business in Macau. Due to the philosophy of "what is taken from the community is to be used for the good of the community," the charity and community activities constitute an essential component in the CSR of gaming

⁴² *Macau Gaming License Bidding Plans to Introduce Gaming Corporate Responsibility Indicators*, HONG KONG & MACAU NEWS (Aug. 10, 2018, 14:34), <http://www.chinanews.com/ga/2018/08-10/8596045.shtml>.

⁴³ HO LAT SENG, POL'Y ADDRESS FOR THE FISCAL YEAR 2020 28 (2020), https://www.policyaddress.gov.mo/data/archive/en/2020_policy.pdf.

⁴⁴ SANDS CHINA LTD., 2019 SUSTAINABILITY REP. 28 (2020), <https://investor-hk.sandschina.com/static-files/8a30e2b9-94e2-462f-8710-ac4b67db251e>.

⁴⁵ MGM RESORTS INT'L, 2019 ANN. REP. 68 (2020), https://s22.q4cdn.com/513010314/files/doc_financials/annual/2019/2019-MGM-Annual-Report.pdf ("Our success in achieving greater supplier diversity has been evident since we set up our MGM SME Advisory Committee in 2015. At present, over 25% of our total procurement spending goes to local SMEs and 80% of our total procurement spending goes to local Macau enterprises.").

⁴⁶ *Support for Local Business and SMEs*, MGM CHINA HOLDINGS LTD., <https://en.mgmchinaholdings.com/sustainability-Support-for-local-business-SMEs> (last visited Jul. 7, 2020).

enterprises. First, they have initiated considerable donations⁴⁷ and input many volunteers with appreciable working time to help the people in need, in order to gain influence within the local community and enhance the reputation of the company.⁴⁸ For example, in 2017, more than 800 Galaxy volunteers participated in over 40 activities and engaged in community services for over 2,240 hours,⁴⁹ and the Sands spent over 63% of its total pledge of 30 million MOP for typhoon relief efforts.⁵⁰ In 2018, the Melco devoted over HK\$85 million charitable and in-kind donations and had 22,942 employees participate in CSR activities.⁵¹

In particular, to fight against the Covid-2019 pandemic, the casino operators have presented various donations covering money and medical materials to the government and the local community associations.⁵² Indeed, on March 5th, the Galaxy announced that it would invest HK\$100 million for subscribing the SME Special Social Responsibility Bond issued by the Bank of China (Macau Branch) to alleviate the negative impact of the pandemic on the local enterprises. The funds raised by the Bonds will be used to finance the special loans for SMEs to survive in the Covid-2019 pandemic, and guarantee the epidemic prevention related to the healthcare and medical equipment manufacturing, in order to effectively enhance the economy recovery.⁵³

⁴⁷ GALAXY ENT., 2019 CORP. SOC. RESP. ANN. REP. 50 (2020).

⁴⁸ *Corporate Social Responsibility*, SJM HOLDINGS LTD., <https://www.sjmholdings.com/en/corporate-social-responsibility/supporting-the-community> (last visited Jul. 7, 2020).

⁴⁹ GALAXY ENT., 2017 ANN. REP. 29 (2017), <https://www.galaxyentertainment.com/en/corp/supporting-the-community>.

⁵⁰ GALAXY ENT. LTD., 2017 SUSTAINABILITY REP. 9 (2017), http://media.corporate-ir.net/media_files/IROL/23/233498/2018/E101.pdf.

⁵¹ MELCO INT'L. DEV. LTD., 2018 ENV'T, SOC. AND GOVERNANCE REP. 13 (2019), https://www.melco-group.com/doc/english/report/e0200_190426_ESG.pdf.

⁵² *SJM Partners with Community Associates to Support Macau's Neediest Through Donation of Daily Necessities*, SJM HOLDINGS LTD., <https://www.sjmholdings.com/en/corporate-social-responsibility/csr-events/item/855-sjm-partners-with-community-associations-to-support-macau's-neediest-through-donation-of-daily-necessities> (last visited May 21, 2021); *GEG Donates One Million Masks to Macau, Zhuhai and Hengqin*, GALAXY ENT., <https://www.galaxyentertainment.com/en/media/photo-album/521/915> (last visited May 21, 2021); *Sands China Donated 30,000 Bottles of Sanitizer to Macau Social Service Organizations During Pandemic*, SANDS RESORTS MACAO (Feb. 24, 2020), [https://en.sandsresortsmacao.com/press-release/2020-02-24/Sands-China-Donating-30000-Bottles-of-Hand-Sanitiser-to-Local-Community-Groups-to-Help-Combat-Novel-Coronavirus.html?_ga=2.](https://en.sandsresortsmacao.com/press-release/2020-02-24/Sands-China-Donating-30000-Bottles-of-Hand-Sanitiser-to-Local-Community-Groups-to-Help-Combat-Novel-Coronavirus.html?_ga=2.;); *MGM Group Provides Personal Protective Equipment To Fight Epidemic*, MGM CHINA HOLDINGS LTD., <https://cn.mgmchinaholdings.com/media-releases?item=303> (last visited Jul. 7, 2020).

⁵³ Mao Lei, *GEG Macau Subscribes for BOC's HK\$100 Million Social Responsibility Bond*, PEOPLE'S DAILY ONLINE-HONG KONG & MACAU CHANNEL (Mar. 6, 2020), <http://hm.people.com.cn/n1/2020/0306/c42272-31620387.html>.

Second, it is quite notable that not only the SJM and the Galaxy, but also the Wynn, a casino operator from US, regards the charitable donations to the Chinese Mainland as an indispensable element of their social obligations. The Wynn declared in its Sustainability Report of 2019 that it is looking forward to continuing playing its role in reducing the poverty in Chinese mainland.⁵⁴ To celebrate the 70th anniversary of the founding of the PRC and the 20th anniversary of the return of Macau to the motherland, the Wynn hosted a national education seminar “Me and My Motherland”.⁵⁵

Third, since the gaming corporations have a strong incentive to develop deep business roots in the local community so as to maintain a long-term presence in Macau,⁵⁶ they have also allocated the efforts into enhancing the youth education, the cultural and sports activities. On the one hand, the CSR activities concerning the youth education focuses on increasing their knowledge and understanding of national education.⁵⁷ On the other hand, the cultural and the sports activities are all efforts to promote the diversity of economy in Macau. In this field, the Galaxy has played the leading role by organizing and sponsoring many sport events, nurturing sport talents and boosting the tourism.⁵⁸

For the evaluation, the DICJ could review the amounts and frequency of charitable donations, the number and working hours of volunteers, and the scale and frequency of the community activities, the cultural and sports activities organized and participated by casino operators.

C. Responsible Gaming

Responsible gaming (“RG”) has been a recurring issue in Macau’s Chief Executive Report since 2007 and appeared in many annual reports of the six

⁵⁴ WYNN MACAU, LTD., 2019 SUSTAINABILITY REP. 33 (2020) http://en.wynnmacaulimited.com/system/files-encrypted/nasdaq_kms/assets/2020/07/20/9-40-26/WML%202019%20Sustainability%20Report%20EN_Final.pdf.

⁵⁵ *Id.* at 34.

⁵⁶ Jason Buhi, *Corporate Social Responsibility, Casino Capitalism, and the Constitution of Macau*, 37 PAC. BASIN L.J. 1, 13 (2020).

⁵⁷ For instance, the third “Wynn Cup – Macau Primary School Student National Education Drawing Competition” award ceremony, held in April 2019, encouraged the students to strengthen their knowledge and understanding of the motherland, upholding their national pride and sense of belonging. WYNN MACAU, LTD., *supra* note 54 at 38.

⁵⁸ For example, Galaxy sponsored the Macau Squash Open 2019 with aims to strengthen the visibility of the sport among the public and the “FIVB Women’s Volleyball Nations League – Macau 2019” for the 14th year, as well as the “Macau Galaxy Entertainment International Marathon,” for the 16th consecutive year. *Supporting the Community*, GALAXY ENT., <https://www.galaxyentertainment.com/zh-hans/corp/supporting-the-community> (last visited Mar. 21, 2021).

gaming operators. For the governments, the gaming sector is not only a major source of tax revenue⁵⁹ and a major stimulus in the local economy⁶⁰ but also constitutes a potential source of a range of social, familial and health problems.⁶¹ To alleviate the terrible impact brought by the gambling activities, the government has formulated the RG framework. In accordance with the precise definition given by the Institute for the Study of Commercial Gaming, University of Macau,

“Responsible gaming occurs in a properly regulated environment where one’s involvement in gaming activities brings no harm to the gambler, family members, friends, other gamblers, or casino staff; nor would it lead to negative consequences for the local community and residents. In other words, Responsible Gaming is a practice that confines the gaming-related damage to a socially acceptable level.”

To implement the policy of the government, the six gaming corporations have primarily organized many RG training programs for their employees to avoid the gambling risk and develop a rational attitude towards the gambling business. For example, in 2019, the various activities arranged by the GEG, such as training, seminars and workshops, have attracted the attendance of over 65,000 team members.⁶² In 2017, over 430 participants of the Sands have attended the training sessions of the RG Ambassador program to recognize and provide the assistance to the problem gamblers.⁶³ In the Melco, more than 69,000 RG training seats have been filled by employees since 2009.⁶⁴

The other aspect of RG involves informing the guests and communities about the potential harm associated with gambling and intensifying the

⁵⁹ See generally Alex Blazczynski et. al., *A Science-based Framework for Responsible Gambling: the Reno Model*, 20 J. OF GAMBLING STUD. 301, 303–17 (2004); Rohan Miller & Grant Michelson, *Fixing the game? Legitimacy, Morality Policy and Research in Gambling*, 116 J. OF BUS. ETHICS 601, 601–14 (2013).

⁶⁰ See generally David Collins & Helen Lapsley, *The Social Costs and Benefits of Gambling: An Introduction to the Economic Issues*, 19 J. OF GAMBLING STUD. 123, 123–48 (2003). See also Mingjie Sheng & Chaolin Gu, *Economic Growth and Development In Macau (1999–2016): the Role of the Booming Gaming Industry*, CITIES at 72 (2018) (“The past few years have witnessed brilliant economic achievements as well as a structural shift toward a gaming-industry dominated economy.”).

⁶¹ See generally Gertina van Schalkwyk et.al., *The Impact of Macao’s Gaming Industry on Family Life: An Exploratory Study*, 64 CHINA PERSP. 2, 2–12 (2006).

⁶² GALAXY, CORP. SOC. RESP. ANN. REP. OF 2019, 62 (2020), <https://www.galaxyentertainment.com/uploads/download/baded25263c774624e257676606ae4273cb6ff9e.pdf>.

⁶³ SANDS CHINA LTD., SUSTAINABILITY REPORT 24 (2017), http://media.corporate-ir.net/media_files/IROL/23/233498/2018/E101.pdf.

⁶⁴ MELCO INT’L DEV. LTD., ENV’T, SOC. & GOVERNANCE REPORT 9 (2018), https://www.melco-group.com/doc/english/report/e0200_190426_ESG.pdf.

communication with social service institutions to increase the public's knowledge on the RG. For example, as the first gaming operator in Macao to launch a self-exclusion program in 2004,⁶⁵ the Sands is helping its customers and the public treat gambling as a source of entertainment and leveraging resources to educate vulnerable groups to avoid gambling risk in the community, as well as cooperating with NGO and local partners.⁶⁶ In the MGM, the trained staff and representatives are on duty 24/7 to offer assistance to players on the problem gambling issues, such as identifying issues, filing self-exclusion forms and liaising with counseling agencies.⁶⁷ To evaluate the CSR performance in this field, the DICJ could review the scale and frequency of RG activities for the employees, the customers and the public.

D. Local Employment and Career Development

Concerning the CSR towards the employees, the primary endeavor made by the casino operators is the recruitment of local employees. As the Deputy Chairman of the Macau Federation of Workers' Associations said, the most pivotal responsibility that gaming enterprises can assume to fight against the COVID-19 pandemic is ensuring the employment of residents by achieving no layoffs or dismissal.⁶⁸ "At present, there are more than 80,000 gaming employees and more than 30,000 personnel engaging in the restaurant and hotel industry. If their employment can be guaranteed, the overall job market of Macau will be substantially stabilized."⁶⁹ According to a survey from 2018, the six major gaming corporations employed more than 108,000 people, which accounts for one-sixth of the population of Macau.⁷⁰ For hiring non-local residents, the Law No. 21/2009 "Employment of Non-local Employees Act" imposes an obstacle: if employers intend to hire non-local residents in Macau, they must obtain the

⁶⁵ SANDS CHINA LTD., SUSTAINABILITY REP. 27 (2019), <https://investor-hk.sandschina.com/static-files/8a30e2b9-94e2-462f-8710-ac4b67db251e>.

⁶⁶ *Id.*

⁶⁷ MGM CHINA HOLDINGS LTD., ANN. REP. OF 2019 89 (2019), <https://en.mgmchinaholdings.com/IR-Annual-and-Interim-Reports>.

⁶⁸ See a recent interview with Liang Sunxu[梁孙旭], Deputy Chairman of the Federation of Trade Unions. *Main Responsibility Of Casinos Is To Guarantee Employment*, PLATAFORMA (Apr. 9, 2020), <https://www.plataformamedia.com/zhant/2020/04/09/>.

⁶⁹ *Id.*

⁷⁰ *Survey Indicates That Six Major Gaming Companies Employ Nearly 110,000 Employees, Accounting for One-Sixth of Macau's Total Population*, ALLINMEDIA (Jul. 9, 2019), <https://www.allinmedia.com.hk/2019/07/09/>. Specifically, Sands employs 28,300 people, Galaxy employs 21,000 people, SJM employs 20,400 people, Melco employs 15,800 people, Wynn employs 12,500 people, and MGM employs 10,400 people. According to statistics from the Bureau of Statistics and Census of Macau, the total population of Macau in 2018 was 667,000.

permission from the Labour Affairs Bureau. On August 23, 2020, the Labour Affairs Bureau stated that in May 2020, the total number of the employees in the six casino giants was approximately 116,000, and the foreign employment accounted for about 28.8%.⁷¹

Furthermore, to comply with Article 9 (4) of the “Labour Relations Law,” which stipulates that the employers should take appropriate actions to improve the work skills of employees, the casinos have offered several training programs on the specific vocational and professional skills to advance the career development of employees. In this area, U.S. gaming corporations have also displayed their training programs in figures. The Sands arranged a total of 1,651,762 hours and an average of about 64 hours of on-the-job training and classroom teaching for the team members in 2017.⁷² MGM prepared more than 814,000 hours of training, with an average of more than 74 hours per employee in 2019, in an effort to support the government’s effort to transform Macau into a base for tourism education and training in the Guangdong-Hong Kong-Macau Greater Bay Area.⁷³ The Wynn’s employees underwent approximately 54,800 hours of training, more than 250 training sessions on the service improvement, and 13 Personal Enrichment Programs that provided nearly 340 hours of learning for 144 participants in 2018.⁷⁴

To assess the CSR practice, the DICJ could consider the total number and proportion of local employees in the gaming enterprises, as well as the scale and frequency of the training programs of vocational skills for employees.

E. Other CSRs

In addition to the CSR arising from the nature of the gaming business and the actual needs of Macau society explained above, the casino operators have also assumed some social obligations in which enterprises ordinarily engage. Despite that these CSRs usually fail to attract the attention from Macau society, there are truly the principal aspects reflecting the level of modern corporate governance. First, to fulfill the social responsibilities, the casino operators

⁷¹ *Labour Affairs Bureau: Foreign Employees Accounts for Less than 30%*, MACAU DAILY NEWS (Aug. 23, 2020), http://www.macaudaily.com/html/2020-08/23/content_1456238.htm.

⁷² SANDS CHINA LTD., SUSTAINABILITY REP. 2017 29, 56 (2017), http://media.corporate-ir.net/media_files/IROL/23/233498/2018/E101.pdf.

⁷³ MGM CHINA HOLDINGS LTD., ANN. REP. OF 2019, 61 (2019), https://en.mgmchinaholdings.com/download/E_2282_2019.pdf.

⁷⁴ WYNN MACAU, LTD., SUSTAINABILITY REP. 2018 32 (2018), <http://en.wynnmacaulimited.com/static-files/025e881a-d8cb-494c-9ca8-618fd3876e63>.

adopted the stakeholder-centered model of corporate governance,⁷⁵ which aims to balance the interests of all stakeholders (including employees, suppliers, customers, and local communities) who may be affected by the corporation's conduct to ensure responsible behavior by corporations.⁷⁶ For instance, it is explicitly stated in the Sustainability Report 2019 of Sands that the corporate governance structure is critical for creating proper management of the company in the interests of all stakeholders and in driving shareholder value.⁷⁷ The MGM is also committed to integrate important stakeholder groups into the development of its sustainability programs.⁷⁸ To check the performance of casinos in this area, the DICJ may consider whether their corporate governance structure is stakeholders-oriented.

Second, in the realm of environmental protection, which usually appears in the sustainability report as an indispensable component of CSR, the approach comprises the control of emissions, natural resource use, waste management, green building, promoting the biodiversity, employees' engagement and community activities.⁷⁹ To evaluate these achievements, the DICJ may examine the data, such as the GHG emissions, total energy consumption, total waste disposed (landfill, incineration, recycled), waste sent for landfill or incineration, waste recycled, total water use,⁸⁰ disclosed by the CSR or sustainability reports.

⁷⁵ William D. Schneper & Mauro F. Guillén, *Stakeholder Rights and Corporate Governance: A Cross-National Study of Hostile Takeovers*, 49 ADMIN. SCI. Q. 263, 267 (2004). For more on the stakeholder model for corporate governance, see also Ronald K. Mitchell, et al., *Toward a Theory of Stakeholder Identification and Salience Defining the Principle of Who and What Really Counts*, 22 ACAD. MGMT. REV. 853 (1997); Ruth V. Aguilera & Gregory Jackson, *The Cross-National Diversity of Corporate Governance Dimensions and Determinants*, 28 ACAD. MGMT. REV. 447 (2003); Mark J. Roe, *Political Preconditions to Separating Ownership from Corporate Control*, 53 STAN. L. REV. 539 (2000).

⁷⁶ JEAN JACQUES DU PLESSIS ET AL., PRINCIPLES OF CONTEMPORARY CORP. GOVERNANCE 10 (2d ed. 2011); William D. Schneper & Mauro F. Guillén, *Stakeholder Rights and Corporate Governance: A Cross-National Study of Hostile Takeovers*, 49 ADMIN. SCI. Q. 263, 263–95 (2004); Alexei M. Marcoux, *A Fiduciary Argument Against Stakeholder Theory*, 13 BUS. ETHICS Q. 1, 15 (2003); Thomas Donaldson & Lee E. Preston, *The Stakeholder Theory of the Corporation: Concepts, Evidence and Implications*, 20 ACAD. MGMT. REV. 65, 69 (1995); MARGARET M. BLAIR, OWNERSHIP AND CONTROL: RETHINKING CORP. GOVERNANCE FOR THE TWENTY-FIRST CENTURY 372 (1995).

⁷⁷ SANDS CHINA LTD., 2019 SUSTAINABILITY REP. 26 (2019), <https://investor-hk.sandschina.com/static-files/8a30e2b9-94e2-462f-8710-ac4b67db251e>.

⁷⁸ MGM CHINA HOLDINGS LTD., ANN. REP. OF 2019 55 (2019), https://en.mgmchinaholdings.com/download/E_2282_2019.pdf.

⁷⁹ *Id.* at 91–99; WYNN MACAU, LTD., 2019 SUSTAINABILITY REP. 51–58 (2019); SANDS CHINA LTD., *supra* note 77, at 8; MELCO INT'L DEV. LTD., 2018 ENV'T., SOC. AND GOVERNANCE REP. 15 (2018), https://www.melco-group.com/doc/english/report/e0200_190426_ESG.pdf.

⁸⁰ SANDS CHINA LTD., *supra* note 77, at 14–21.

Third, the casino operators ensure the working environment with the highest safety standard by fully complying with the requirements set out by Macau labor regulations⁸¹ and increasing the education and awareness on safety.⁸² In this field, the demand of Macau society is building up no-smoking and comfortable workplace, to maintain the health of employees.⁸³ For this purpose, the DICJ could monitor the frequency of the occupational injury accidents to assess the working environment of casinos.

V. THE SUSTAINABLE DEVELOPMENT OF GAMING INDUSTRY

In Macau, the spectacular economic fluorescence generated from the gaming sector has been proceeding for nearly 20 years. The statistics of 2019 from the Statistics and Census Service, the Per-capita Gross Domestic Product in Macau was 645,438 MOP (about 79,968 US dollar at the average exchange rate in 2019), ranking in the top three around the world.⁸⁴ In 2019, the total number of crimes were 14,178, in comparison with 2018, which declined by 1.3%; this means the public security indicators continued to remain stable and good.⁸⁵ However, the over-dependence on the gaming sector has forced Macau's economy to be extremely vulnerable and the local protectionism may probably jeopardize the sustainable development of gaming industry. Therefore, in addition to incorporating the CSR already performed by the gaming corporations

⁸¹ WYNN MACAU, LTD., *supra* note 78, at 25; MELCO INT'L. DEV. LTD., *supra* note 79, at 12.

⁸² For example, the Sands has been accredited an ISO 45001:2018 Occupational Health & Safety Management System certification which can prevent injuries and diseases through eliminating hazards and minimizing risks. In 2019, the Sands continued to see an 8% decrease in the work-related injuries compared to 2018. This result that can be partially attributed to repairs to damaged facilities, but more importantly, it is linked to increased education and awareness through the Occupational Safety and Health Week. In June, the Sands hosted the Occupational Safety and Health ("OSH") Week, during which team members were able to visit game booths to raise their OSH awareness, win prizes, and attend the Labour Affairs Bureau ("DSAL") seminars. These seminars featured talks, exercises, and videos on topics such as hotel industry health-and-safety tips and information on preventing strains and other injuries. SANDS CHINA LTD., *supra* note 77, at 29.

⁸³ *Macau Federation of Trade Unions: Safeguard the Reasonable Right and Benefit of Employees in the Gaming Industry* [澳门工联：维护博彩业雇员合理权益], WORLD GAMING INFO. (Sept. 11th, 2020, 8:59 AM), https://www.wgi8.com/news/news_39128.html, (last visited July 7, 2020).

⁸⁴ *Macao in Figures*, GOV'T. OF MACAO SPECIAL ADMIN. REGION STAT. & CENSUS SERV., <https://www.dsec.gov.mo/en-US/Statistic?id=901> (last visited Feb. 20, 2020).

⁸⁵ C. Textor, *Number of Crimes in Macao*, STATISTA (Dec. 7, 2020), <https://www.statista.com/statistics/319456/macau-number-of-nurses/>.

into the new contract, it should also deliberate what new contributions the gaming industry should make to the society in the next 20 years.

A. Developing the Midfielder and the Non-gaming Business

Since the economy relies heavily on the gaming industry, it is highly fragile and there is an urgent need to foster the industrial diversification in Macau. The in-depth adjustment of the gaming industry from 2014 to 2016 led to an obvious decline in the overall economy for three consecutive years.⁸⁶ As a consequence, in the Policy Address, the government has raised that it will regulate the gaming industry by promoting the construction of the “world tourism and leisure center,” encouraging the gaming corporations to develop midfielders and non-gaming elements with more market competitiveness.⁸⁷

a. The Disadvantages of the Over-dependence on the Gaming industry

The potential and actual danger brought by the single industry structure can be demonstrated as follows. First, it has become a problem in the sense that the expansion of gaming sector may pose serious challenges for Macau, which has no other vital source of revenue, and the limitations on land available, infrastructure and transportation may mean that urban congestion will expand obviously, and a peak capacity will be reached in just a few years.⁸⁸ Second, Macau is facing fierce competition pressure from the neighboring countries and regions to open gambling businesses, such as the Singapore’s gaming industry, the legalized gambling in Japan, and the Chinese government’s testing of a “cashless casino” in one of China’s other special economic zones.⁸⁹

Third, currently what makes the situation worse, the blockade means taken by the governments worldwide against the spread of 2019-nCoVirus have compelled the gaming industry into suffering a devastating loss through isolating the industry from its major customers. In the first half year of 2020, the gross revenue from games of fortune was only 33,720 million MOP, compared with the number in 2019, dropped 77.4%.⁹⁰ As the Chief Executive said, “all good things have to come to an end,” the COVID-19 pandemic crisis has triggered great uncertainty to and constitute a considerable challenges against the destiny of the gaming industry and the whole society in the future.

⁸⁶ SENG, *supra* note 43 at 8.

⁸⁷ *Id.* at 25, 31.

⁸⁸ Jorge Godinho, *Casino Gaming in Macau: Evolution, Regulation and Challenges*, UNLV GAMING L. J. 5: 1, 26, (June 2, 2014).

⁸⁹ SENG, *supra* note 43, at 8; *id.* at 6, 23, 26.

⁹⁰ *Monthly Gross Revenue from Games of Fortune*, GAMING INSPECTION & COORDINATION BUREAU MACAO SAR, http://www.dicj.gov.mo/web/cn/information/DadosEstat_mensal/2020/index.html (last visited Feb. 25, 2021).

b. The Efforts of Gaming Enterprises to Realize the Moderate Diversification of Industry

Despite that the government has made substantial endeavors to foster the industrial diversification over the years, the achievements are negligible.⁹¹ The convention and exhibition industry as well as the cultural and creative industries that the government is committed to stimulating, both account for less than 1% of GDP. In comparison, the proportion of the gaming sector is still as high as 50%.⁹² But the six casino operators have alleviated this problem to some degree. The Chief Executive declared that the gaming enterprises have done a good job in developing the non-gaming elements.⁹³ During the past 18 years, the American-funded gaming groups use their rich experience to achieve the combination of the gaming and tourism industry and increase its appeal to overseas tourists of different levels and purposes.⁹⁴ Their concrete methods embrace enlarging the scale of midfield operations rather than focusing on the VIP Gambling business,⁹⁵ and adding shopping, festivities, exhibitions, musicals and other projects into their business.⁹⁶ They strive to change the impression of “gambling” in the traditional moral view and gradually dilute the gambling attribute of gaming products, as well as change their corporate culture and pursue the sustainable evolution of the industry.⁹⁷ As a result, the income of the midfield has grown 18.8% and took up 45.2% of the total gaming income in 2018, on the basis of the statistics disclosed by the DICJ.⁹⁸ Today we are allowed to admit

⁹¹ See generally SENG, *supra* note 43 at 16–17.

⁹² *Id.* at 31.

⁹³ See generally *The Chief Executive of Macau and the Gaming Enterprises “Bury the Hatchet,”* WORLD GAMING INFO. (Apr. 22, 2020, 7:34 AM), https://www.wgi8.com/news/news_48906.html.

⁹⁴ GUANGHAN CHEN, INT’L. RSCH. ON MACAU’S GAMING TOURISM INDUS., GREATER PEARL RIVER DELTA FORUM 5-12 (Vol. 2, 2016); see generally DIRECÇÃO DOS SERVIÇOS DE TURISMO, MACAU TOURISM INDUS. DEV. MASTER PLAN: SUMMARY REPORT 34 (2017). Over the last decade, the MGM has hosted 23 world-class international and local exhibitions and welcomed more than 280,000 visitors to foster and encourage art and its appreciation, to make contributions to support the Macau Government’s vision to become the “World Center of Tourism and Leisure.” *Community, MGM CHINA HOLDINGS LTD.*, <http://en.mgmchinaholdings.com/sustainability-community>, (last visited May 20, 2021).

⁹⁵ GUANGHAN CHEN, INT’L. RSCH. ON MACAU’S GAMING TOURISM INDUS., GREATER PEARL RIVER DELTA FORUM 12 (Vol. 2, 2016).

⁹⁶ *Id.*

⁹⁷ MACAU TOURISM INDUS. DEV. MASTER PLAN: SUMMARY REPORT, DIRECÇÃO DOS SERVIÇOS DE TURISMO 16 (2017).

⁹⁸ *Gaming Inspection and Coordination Bureau Macao SAR: Gaming Statistics*, www.dicj.gov.mo/web/cn/information/DadosEstat/2018/content.html#n3 (last visited Feb. 22, 2021).

that expanding the midfielders and the non-gaming business is an effective and pragmatic measure to promote the industrial diversification.

Hence, the government has listed expanding the business of midfielders and the non-gaming elements as the CSR of gaming corporations and the casinos should maintain their current approaches to bring about the moderate diversification of industry. The proportion of income from the midfield and non-gaming business in total income may constitute a crucial factor for the DICJ to assess the CSR activities.

B. Balancing the Local Protectionism and the Sustainable Development of Gaming Industry

It is widely accepted that the CSR performance of casinos should meet the actual needs of the society. However, local protectionism has emerged in Macau society, with some claiming that the Macau residents have the priority of sharing the economic benefits from the gaming sector. For example, in 2018, a member of the Legislative Assembly submitted a written question to the government, complaining that because the proportion of foreign employees in five of the six gaming enterprises have exceeded 30%, which were 33.3%, 32.9%, 32.0%, 31.8%, 30.8% and 23.2% respectively, the government should take actions to control the figure under 20%.⁹⁹ As a consequence, it has endangered the sustainable progress of the gaming industry because the government, to satisfy the local residents, has increasingly imposed several unreasonable and stringent obligations on the casinos without abiding by the rules of the market economy.

a. The CSRs Imposed by Local Protectionism

On one hand, the government has admitted that, as the contributors to the prosperity of Macau, the non-local employees can make up for the lack of local human resources.¹⁰⁰ They also play a vigorous role in driving the local employment and upgrading the local talents.¹⁰¹ In his first policy address, the Chief Executive put forward that the government will form the exit mechanism of foreign employees to sufficiently protect the employment rights of local

⁹⁹ Cao Dacheng, *Five of Macao's Six Major Gaming Companies Have Foreign Workers Over 30%*, GLOBAL BOXUN (Dec. 26, 2018, 8:00 AM), https://www.wgi8.com/news/news_30087.html.

¹⁰⁰ See *Demographic Statistics: 4th Quarter 2019*, DSEC, https://www.dsec.gov.mo/getAttachment/71da5f6d-e0a9-4309-aeef-58aa1f13eb93/EDEMFR_2019_Q4.aspx (last visited Feb. 25, 2021); see also *Demographic Statistics: 4th Quarter 2019*, DSEC, https://www.dsec.gov.mo/getAttachment/f6942270-ea5a-463b-acc5-b4cca38fef16/ETURFR_2019_Q4.aspx (last visited Feb. 25, 2021) (finding that total population of Macau was 679,600 and visitor arrivals were 9,203,275 for the same period).

¹⁰¹ SENG, *supra* note 43, at 13–14.

residents.¹⁰² Consequently, there is a fierce contradiction between the CSR of hiring local residents imposed by the local protectionism and the limited local labor market.¹⁰³ The casino operators have to struggle with such a conflict by hiring many local residents and maintaining necessary non-local employees to meet the demand of their business.

On the other side, the government requires the gaming enterprises to achieve the target of not less than 85% of the middle and senior management positions held by the local employees in the Policy Address.¹⁰⁴ The Five-year Plan of Macau Special Administrative Region (2016-2020) has set forth that the government urges enterprises to strengthen staff training and promotion systems and impels the industry to initiate concerted actions to create opportunities and channels for the residents' career development, so as to increase the livelihoods through upward mobility, and in turn advance the society's overall competitiveness.¹⁰⁵ It encourages growth in the promotions of local employees to middle and senior management – striving for the percentage of locals in these roles to rise from 81.9% in 2015 to 85% in 2020.¹⁰⁶ Actually, the gaming enterprises have gone further than the government requires in this regard. According to the survey of the Labor Affairs Bureau in May of 2020, the total number of senior management personnel in the six gaming corporations is 10,077, of which there are 8,839 local employees, taking up 87.7%, which is higher than the government's 85% target.¹⁰⁷

b. The Negative Influence on the Development of Gaming Industry

The negative impact of local protectionism, exerted on the development of gaming industry, can be enumerated as three points. First, the qualification of local employees cannot satisfy the demands of a high position in the corporation. Although Macau government offers free public education through high school, and a senior secondary education is required for entry-level casino employment, given the relatively high wages paid by the industry, few locals seek higher education.¹⁰⁸

Second, the obligation of granting a high position to the local employees, in essence, is a sort of distortion of the fair competition in the job market. The flow of talents under the fair competition plays a pivotal role for the long-term

¹⁰² *Id.* at 22.

¹⁰³ *See id.* at 22–23.

¹⁰⁴ *The Five-Year Development Plan of the Macao Special Administrative Region (2016-2020)*, THE GOV'T OF THE MAC. SPECIAL ADMIN. REGION 50 (2016).

¹⁰⁵ *Id.* at 51.

¹⁰⁶ *Id.* at 50.

¹⁰⁷ *Labor Affairs Bureau: Foreign Employees Accounts for Less than 30%*, MACAO DAILY NEWS (Aug. 23, 2020), http://www.macaodaily.com/html/2020-08/23/content_1456238.htm.

¹⁰⁸ Jason Buhi, *supra* note 17, at 7.

progress of a corporation and the whole society. Otherwise, it will lead to the inefficient operation of the gaming industry.

Third, as a matter of fact, a promotion is the internal affair of corporations and at the discretion of the board of directors or the shareholder' meeting. It is barely justified for the government to impose such a duty by setting a target of local employees' promotion with restrictive standards.

Thus, while it is a CSR that the gaming enterprises should employ locally, the over-protection of local employees and unreasonable exclusion of foreign workers represents excessive local protectionism. Such protectionism is not conducive to enhancing the competitiveness of local employees, and detrimental to the long-term development of the industry because foreign workers have played a critical role to the prosperity of Macau and the progress of gaming industry.¹⁰⁹ This article suggests that in the new contract the government is appropriate to balance local protection and the sustainable development of the gaming industry, rather than purely satisfying the local residents by imposing the unjustifiable and inefficient (or even unfair CSR in the sense of market economy) on the casino operators.

VI. CONCLUSION

Even if CSR is a voluntary obligation, given the dominant position and the disreputable nature of the gaming sector, the Macau government would probably regulate CSR activities of gaming enterprises in the new concession contracts, by maintaining the existing achievements made by casinos to the society and pursuing the sustainable development of the gaming industry. On the one hand, the new contract would probably embrace the current CSR of casino operators and set up the supervision and evaluation system controlled by the DICJ and based on the disclosure of annual CSR reports covering all the CSR mentioned in Part Four. On the other hand, to realize the sustainable development of the gaming industry, the government, firstly, requires the enterprises to concentrate on developing the midfielders and the non-gaming business. Secondly, in the new contract the government is appropriate in restraining local protectionism, rather than purely satisfying the local residents by imposing the unjustifiable and inefficient or even unfair CSR in the sense of market economy on the casino operators.

This article tries to point out that Macau's approach, which intends to stress the control of CSR activities, may contribute a new path for the regulation of gaming industry. If the casino operators could truly perform their CSR, the industry may be justified morally to some extent and become more socially acceptable. Nevertheless, due to the huge and complex interests involved in the gaming industry, the government should interfere with the CSR prudently. The

¹⁰⁹ *The "Political Correctness" and the "Blindness" of "Exiting Foreign Employees,"* MACAU MONTHLY, <http://m.dooland.com/index.php?s=/article/id/1052008.html> (last visited Feb. 19, 2021).

regulation has to be limited and meet the reasonable needs of society and can lead to the sustainable development of the gaming industry. The local protectionism of Macau society, which constitutes a severe challenge for the sustainable development of the gaming industry, should call the attention of other economies.

Table

| Scope of CSR in the annual report disclosed by casino operators | Definite Measures in the annual report disclosed by casino operators | Assessment by the DICJ |
|---|---|---|
| Develop the Midfielders and the Non-gaming Business | <ol style="list-style-type: none"> 1. Expand the scale of midfielders; 2. Increase the non-gaming elements. | <ol style="list-style-type: none"> 1. The proportion of income from the midfield and non-gaming business in total income. |
| Support the Growth of Local SMEs | <ol style="list-style-type: none"> 1. Give priority to purchasing products from local SMEs and forming long-term cooperative relationships with them; 2. Share rich operating and management experience with local SMEs. | <ol style="list-style-type: none"> 1. The quantity, amounts and percentage of local purchases in total purchase expenditures; 2. The scale and frequency of the activities organized to share successful business and management experience with local SMEs. |
| Charitable and Community Activities | <ol style="list-style-type: none"> 1. Charitable donations; 2. Volunteer activities serving Macau society and Chinese mainland; 3. Community activities to promote the youth education; 4. Cultural and sports activities. | <ol style="list-style-type: none"> 1. The amounts and frequency of charitable donations; 2. The number of volunteers and working hours; 3. The scale and frequency of community activities, cultural and sports activities. |
| Responsible Gaming | <ol style="list-style-type: none"> 1. RG training programs for employees; 2. Informing customers and communities about the potential harm associated with gambling; 3. Strengthening the communication with social service institutions. | <ol style="list-style-type: none"> 1. The scale and frequency of RG activities for employees, customers and the public. |
| Local Employment and Career Development | <ol style="list-style-type: none"> 1. Recruitment of local employees; 2. Training programs on the specific vocational and professional skills of employees. | <ol style="list-style-type: none"> 1. The total number of local employees; 2. The proportion of local employees in senior management; 3. The scale and frequency of training programs of vocational skills for employees. |
| Other CSRs | <ol style="list-style-type: none"> 1. The stakeholder-centered model of corporate governance; 2. Environmental protection; 3. The health and safe working environment. | <ol style="list-style-type: none"> 1. Whether the corporate governance structure is stakeholders-oriented 2. The data of environmental protection(the GHG emissions, total energy consumption, total waste disposed, waste sent for landfill or incineration, waste recycled, total water use) 3. The frequency of the occupational injury accidents |