

EX ANTE UP: COMBATTING PROBLEM GAMBLING AND ITS HARMS IN JAPAN AHEAD OF THE LEGALIZATION OF CASINOS

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INTRODUCTION

Modern nations across the globe—including the United States, Australia, China, and Singapore—permit casino gambling in some form, but in Japan gambling remains a crime under Chapter XXIII of Penal Code Act No. 45 of 1907.¹ Specifically, Chapter XXIII punishes any person engaged in the following acts: gambling, habitual gambling, and operating a place for gambling, or organizing a group of habitual gamblers for profit.² This provision implicitly outlaws any casino or other type of gambling hall.³ Chapter XXIII also penalizes any person involved in the sale, delivery, or receipt of lottery tickets; however, betting on horse racing, bicycles, and speedboats is legal.⁴

In April 2010, Japanese lawmakers began promoting legislation that would permit the establishment of casinos in Japan.⁵ Lawmakers primarily sought to boost the economy in Japan, which had been waning and continues to stagnate.⁶

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The author would like to thank Kelsey Quigley and Bradley Harris for their guidance.

¹ See KEIHŌ [KEIHŌ] [PEN. C.] 1907, art. 185–87 (Japan); see also Kenji Saito & Norika Yuasa, *Gaming Law: Consideration of Japanese Gaming Law*, IFLR.COM (Apr. 1, 2012), <http://www.iflr.com/Article/3007248/Gaming-law-Consideration-of-Japanese-Gaming-Law.html>.

² See KEIHŌ [KEIHŌ] [PEN. C.] 1907, art. 185–86 (Japan).

³ See *id.* at art. 186.

⁴ See *id.* at art. 187; see also Kyla Ryan, *Casinos and Japan's Gambling Addiction*, THE DIPLOMAT (Sept. 23, 2014), <http://thediplomat.com/2014/09/casinos-and-japans-gambling-addiction>.

⁵ See Saito & Yuasa, *supra* note 1.

⁶ See Euan McKirdy, *Is Japan Betting Big on the Legalization of Casinos?*, CNN.COM (May 15, 2014, 1:57 AM), <http://edition.cnn.com/2014/05/14/world/asia/japan-casinos/index.html>.

Japanese Prime Minister Shinzo Abe and his Liberal Democratic Party continue to be proponents of the legalization of gambling as part of the Prime Minister's economic plan, popularly deemed "Abenomics."⁷ The Japanese economy initially saw positive results out of Abenomics, but there has been no real growth in Japan's gross domestic product since 2009.⁸

These proponents assert that legal gambling will increase tourism and will result in annual Japan gaming revenue totaling as much as \$40 billion by 2025.⁹ Lawmakers have not yet proposed a tax structure, but they have stated that the tax rate will not be as low as Singapore (12.5–22.5%) and not as high as Macau (35–39%), which will mean a sizable tax income for Japan.¹⁰ Aside from taxes, this estimated gaming revenue would make Japan the second largest gambling market in Asia, right behind Macau.¹¹ Foreign international casino firms, such as Wynn Resorts, Las Vegas Sands, MGM Resorts, and Melco Crown Entertainment, have been eager to invest billions of dollars in Japan to expand their international presence—just as many have successfully done in Macau and Singapore.¹²

⁷ See Stephen Harner, *Abenomics Leading to Crisis? Post-'Collective Security,' With Support Plunging, Abe Gambles On Casinos*, FORBES.COM (July 27, 2014, 4:41 PM), <http://www.forbes.com/sites/stephenharner/2014/07/27/abenomics-leading-to-crisis-post-collective-security-with-support-plunging-abe-gambles-on-casinos>.

⁸ See Chen Zhao, *Abenomics Won't Work. And That's Ok.*, BLOOMBERG VIEW (Aug. 11, 2016, 5:00 PM), <https://www.bloomberg.com/view/articles/2016-08-11/abenomics-won-t-work-and-that-s-ok>; see also Muhammad Cohen, *Japan Forms Casino Task Force to Boost Flagging Momentum*, FORBES.COM (Aug. 25, 2014, 1:57 AM), <http://www.forbes.com/sites/muhammadcohen/2014/08/25/japan-forms-casino-task-force-to-boost-flagging-momentum>.

⁹ See Brian Fowler & Isabel Reynolds, *Abe Says LDP Aiming to Pass Japan's Casino Law in Autumn*, BLOOMBERG (Jun. 25, 2014, 1:51 AM), <http://www.bloomberg.com/news/2014-06-24/abe-says-ldp-aiming-to-pass-japan-casino-legislation-in-autumn.html>.

¹⁰ See Cohen, *supra* note 8; see also Dominic B. Silva, *The Great International Expansion of Gaming*, VALUELINE.COM (Oct. 7, 2014), http://www.valueline.com/Stocks/Commentaries/The_Great_International_Expansion_of_Gaming.aspx.

¹¹ See Fowler & Reynolds, *supra* note 9.

¹² In fact, the Japanese market is so appealing that LVS is prepared to make a \$10 billion investment and has already begun opening offices and hiring employees in Japan. Sheldon Adelson, Chairman and Chief Executive Officer of LVS, said at a media event in Japan, "We will spend whatever it takes." In 2013, Bill Hornbuckle, President of MGM Resorts, said it would invest "several" billion dollars, and Gamal Aziz, Development Chief Operating Officer of Wynn Resorts, said it would invest much more than \$4 billion dollars, which is the amount it spent in Macau. See Ritsuko Ando, *Costs, Politics Erode Chances for a Tokyo Casino by 2020*, REUTERS (Sept. 29, 2014, 12:35 AM), <http://www.reuters.com/article/2014/09/29/us-japan-gambling-tokyo-idUSKCN0HO09F20140929>; see also Jonathan DeHart, *Casinos in Tokyo: An Olympic-Sized Cash Cow?*, THE DIPLOMAT (Sept. 30, 2013), <http://thediplomat.com/2013/09/casinos-in-tokyo-an-olympic-sized-cash-cow>; see also Jacob Adelman, Yuki Yamaguchi & Vinicy Chan, *Las Vegas Sands Ready to Invest \$10 Billion in Japan Casino*, BLOOMBERG (Feb. 24, 2014,

In August 2011, legalization proponents announced the Draft Act Regarding the Promotion of the Development of Integrated Resort Areas (“Draft Act”).¹³ The Draft Act concerns the development of a government system that will allow for the creation of Integrated Resorts (“IR”).¹⁴ IRs are privately operated establishments that integrate casinos and other facilities that contribute to the promotion of tourism.¹⁵ The goal is to ensure that Integrated Resort Areas, which are government-approved areas permitting the location of IRs, become successful tourist destinations that are internationally competitive, benefit local economies, and generate tax revenues.¹⁶ Two to three major cities in Japan, such as Tokyo and Osaka, are likely to establish Integrated Resort Areas first, with smaller and more remote cities to follow.¹⁷

Supporters hoped the National Diet, the Japanese national legislature, would pass the Draft Act by the end of 2014 in order to start the process and reach the goal of having functional IRs before Japan hosts the 2020 Olympics in Tokyo.¹⁸ In December 2013, lawmakers introduced the Draft Act into the Diet, but it did not come to a vote before the sessions ended in 2014 due to the lack of deliberation time.¹⁹ In subsequent sessions, supporters abandoned the pursuit of passing the Draft Act; however, the July 2016 elections gave majority control over the Diet to the Liberal Democratic Party and thus, the ability to pass almost any legislation it desires without the support of any other party.²⁰ While the proposition of legalizing gambling is not new in Japan, given

12:30 AM), <http://www.bloomberg.com/news/2014-02-24/las-vegas-sands-ready-to-invest-10-billion-in-japan-casino.html>.

¹³ See Saito & Yuasa, *supra* note 1; see generally Sōgō rizōto no kaihatsu no suishin ni kansuru hōan [Draft Act Regarding the Promotion of the Development of Integrated Resort Areas], 185 SEITI HŌRITSU 29 (Japan) [hereinafter Draft Act]; see also Masahiro Shiga & Dale Caldwell, *Japan's National Diet Considers Casino Legislation*, MOFO.COM (Feb. 2014), <http://media.mofo.com/files/Uploads/Images/1402-Japan-Natural-Diet-Casino-Legislation.pdf>.

¹⁴ See Draft Act, *supra* note 13, art. 2.1; see also Shiga & Caldwell, *supra* note 13, at 1.

¹⁵ See Draft Act, *supra* note 13, art. 2.1; see also Shiga & Caldwell, *supra* note 13, at 2.

¹⁶ See Draft Act, *supra* note 13, art. 1, 2.2, 3, 6, 7; see also Shiga & Caldwell, *supra* note 13, at 1–2.

¹⁷ See Isabel Reynolds & Maiko Takahashi, *Japan Casino Bill Set to Pass Next Month, Lawmaker Says*, BLOOMBERG (Sept. 30, 2014, 12:38 AM), <http://www.bloomberg.com/news/2014-09-30/japan-casino-bill-set-to-pass-next-month-lawmaker-says.html>; see also Shiga & Caldwell, *supra* note 13, at 1.

¹⁸ See Reynolds & Takahashi, *supra* note 17.

¹⁹ See Shiga & Caldwell, *supra* note 13, at 1; *Japan Ruling Coalition Shelves Casino Enabling Bill Vote*, GGRASIA.COM (Nov. 10, 2014), <http://www.ggrasia.com/japans-ruling-parties-shelve-vote-on-casino-enabling-bill>.

²⁰ See Eric Johnston, *Diet May Take Up Gambling Bill Again, but Odds Are Low Japan Will See Casinos by 2020*, THE JAPAN TIMES (Feb. 19, 2015), <http://www.japantimes.co.jp/news/2015/02/19/national/diet-may-take-up-gambling-bill-again-but-odds-are-low-japan-will-see-casinos-by-2020>; see also

its socially conservative politics, this is the closest it has come to fruition.²¹ However, the future of the Draft Act is still unknown, and it is unclear if the Olympic goal is still attainable.

Clearly, the main legal issue of the Draft Act is the casino portion of the IR. While the Draft Act's passage will not make gambling legal, it will pave the way for further legislation within one year, effectively lifting the current ban on gambling.²² Opponent groups have fought against the legalization of gambling for years, claiming that it would produce organized crime, money laundering, and gambling addiction.²³ The Draft Act certainly reflects these concerns, as in Article 10 "Regulations on Establishment and Operation of Casino Facilities," which vaguely states that the national government shall address certain matters like crime prevention, advertisement regulations, protection of minors, and adverse effects on visitors of casino facilities.²⁴ The goal for these measures is to prevent improper acts at casino facilities within IRs, and to eliminate other adverse effects that may result therefrom.²⁵

To combat problem gambling and other social harms derived from gambling in Japan, lawmakers will have to decide which regulations to enact before establishing IRs. Regulations enacted *ex ante* raise issues including (1) whether regulation will, as desired, forestall problem gambling and gambling disorder amongst Japanese citizens and residents; (2) whether regulation will adversely affect the economic potential of casinos by limiting the local market; and (3) whether problem gambling will even be a statistically significant problem. Ultimately, Japan will have to decide whether to address potential problem gambling with regulations on an *ex ante* basis or *ex post* basis.

This Article seeks to provide guidance to the Diet by exploring how the legislatures of the world's top gaming markets have addressed similar issues. The Article first provides brief histories of the legalization of casino gambling in Macau, Las Vegas, and Singapore. This Article then compares each market and provides a recommendation to the Diet regarding the following regulations: (1) entry levies, (2) age restrictions, (3) regulation of extension of gambling credit, and (4) exclusion.

Jasmine Solana, *Casino Legislation Back on the Table as Japan's LDP Holds Outright Majority*, CALVINAYRE.COM (July 28, 2016), <http://calvinayre.com/2016/07/28/casino/casino-legislation-back-on-the-table-as-japans-ldp-holds-outright-majority>.

²¹ See Harner, *supra* note 7.

²² See Draft Act, *supra* note 13, art. 5; see also Shiga & Caldwell, *supra* note 13, at 1.

²³ See Reynolds & Takahashi, *supra* note 17.

²⁴ See Draft Act, *supra* note 13, art. 10(4), (6)–(8); see also Shiga & Caldwell, *supra* note 13, at 3.

²⁵ See Draft Act, *supra* note 13, art. 10; see also Shiga & Caldwell, *supra* note 13, at 3.

I. BRIEF CASE STUDIES ON THE LEGALIZATION OF GAMBLING

The top gaming markets in the world by annual revenue are Macau, Las Vegas, and Singapore, in descending order. Macau remains the largest casino gaming market, with annual revenues of USD \$29 billion in 2015—close to two and six times the 2015 revenues of Las Vegas and Singapore, respectively.²⁶ Las Vegas is the second largest gaming market with annual revenues of about \$15 billion in 2015.²⁷ Singapore is the third largest gaming market with annual revenues of almost USD \$5 billion in 2015.²⁸

Interestingly, these three markets have legalized gambling and casino gaming differently, especially in terms of time and approach. However, they each faced changing governments and economic conditions that played roles in the legalization process. The present contemplation of legalization in Japan is comparable to that of these markets in the past. These histories provide a background to the markets' current regulatory schemes and what could be the regulatory schemes of Japan in the near future.

A. Macau

Macau is a city located on a small piece of land measuring about 10 square miles on the southwestern coast of China along the South China Sea, and about an hour west of Hong Kong by ferry.²⁹

For 440 years, Portugal retained Macau as a colony, and legalized gambling in the colony in 1847.³⁰ On December 20, 1999, Portugal returned Macau to China, which designated the territory a Special Administrative Region of China.³¹ As a Special Administrative Region, under the “one country, two systems” framework of China, Macau maintains more social and economic autonomy than other areas of China.³² As such, gambling remained legal in Macau upon its return to China and remains illegal in all other parts of

²⁶ See *Monthly Gross Revenue from Games of Fortune*, GAMING INSPECTION & COORDINATION BUREAU (2015), http://www.dicj.gov.mo/web/en/information/DadosEstat_mensal/2015/index.html; see also NEV. GAMING CONTROL BOARD, GAMING REVENUE REPORT A-01 (2016), <http://gaming.nv.gov/modules/showdocument.aspx?documentid=10810>; *Singapore Casino Revenue Expected to Decline in 2016*, YOGONET.COM (Apr. 1, 2016), <http://www.yogonet.com/international/2016/01/04/singapore-casino-revenue-expected-to-decline-in-2016>.

²⁷ See NEV. GAMING CONTROL BOARD, *supra* note 26.

²⁸ See YOGONET.COM, *supra* note 26.

²⁹ See Davis Ka-Chio Fong & Bernadete Ozorio, *Gambling Participation and Prevalence Estimates of Pathological Gambling in a Far-East Gambling City: Macao*, 9 UNLV GAMING RESEARCH & REV. J. 15, 15 (2005).

³⁰ See *id.*; see also *Macao Gaming History*, GAMING INSPECTION & COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/history/index.html>.

³¹ See *Macao Gaming History*, *supra* note 30.

³² See Fong & Ozorio, *supra* note 29.

the country.³³

Between 1962 and 2001, a company named Sociedade de Turismo e Diversões de Macao (“STDM”) maintained a monopoly concession on casinos given to it by the colonial government.³⁴ When this monopoly concession expired, the new government allowed outside investors to bid multiple concessions.³⁵ The government abandoned the monopoly model, citing concerns about STDM’s control over the government, lack of improvements to the gaming facilities, gambling-related crime, and the return of Macau to China.³⁶ A subsidiary of STDM named Sociedade de Jogos de Macau (“SJM”), Wynn Resorts, and Galaxy Entertainment each won a concession.³⁷ The new framework also permitted SJM, Wynn Resorts, and Galaxy Entertainment to sell sub-concessions, which they did to Las Vegas Sands, MGM Resorts, and Melco Crown Entertainment, respectively.³⁸ These 2002 concessions are still in effect and are set to expire in 2020; however, after the expiration of the concessions, the concessionaires can request renewals.³⁹

Today, the concessionaires operate thirty-six casinos in Macau: twenty by SJM; six by Galaxy Entertainment; five by Las Vegas Sands; four by Melco Crown Entertainment; two by Wynn Resorts; and one by MGM Resorts.⁴⁰ Other legal non-casino gambling activities in Macau include pari-mutuel (betting on greyhound racing and thoroughbred horse racing), lottery and instant games, and sports betting, which account for a small percentage of overall revenue.⁴¹

B. Las Vegas

Las Vegas is a city located in Clark County, Nevada, in the United States of America.⁴² The State of Nevada has a history of gambling legislation marked by many shifts between legalization and prohibition and by regulation and deregulation.

During the 19th century, when Nevada was merely a western frontier,

³³ See *Macao Gaming History*, *supra* note 30.

³⁴ *Id.*

³⁵ *Id.*

³⁶ See Clarissa Chan, *Gaming Tourism Trend in Macau*, UNIV. OF GUELPH (Feb. 8, 2012), https://atrium.lib.uoguelph.ca/xmlui/bitstream/handle/10214/3649/Trend_report_Macao_gaming_trend.pdf.

³⁷ See *Macao Gaming History*, *supra* note 30.

³⁸ *Id.*

³⁹ See Chan, *supra* note 36.

⁴⁰ See *Macao Gaming History*, *supra* note 30.

⁴¹ See *id.*; see also *Quarterly Gaming Statistics, Gross Revenue from Different Gaming Activities*, GAMING INSPECTION & COORDINATION BUREAU, <http://www.dicj.gov.mo/web/en/information/DadosEstat/2015/content.html>.

⁴² See *About Clark County*, CLARK COUNTY, NV (last visited Dec. 12, 2016), <http://www.clarkcountynv.gov/pages/about.aspx>.

widespread gambling occurred, particularly in mining camps.⁴³ However, in 1861, the legislature of the Nevada territory banned all forms of gambling by enacting the Nevada Territorial Act of 1861, which provided for criminal penalties.⁴⁴ People mostly ignored the law and continued to gamble openly, generally in the form of faro, poker, and roulette.⁴⁵ In 1864, Nevada joined the Union and its new State Constitution did not mention gambling.⁴⁶ In 1865, the state legislature repealed the Nevada Territorial Act of 1861, but passed a new act that upheld the ban on gambling, and only reduced the penalties for violation.⁴⁷

In 1869, the state legislature overrode the governor's veto to pass a bill, that legalized gambling but only provided for minimal regulation.⁴⁸ Economic factors—city and county revenues from licensing fees—played an important role in passing the bill, as well as its several amendments.⁴⁹ Indeed, when the economy was down, support for gaming increased because it provided necessary revenues.⁵⁰ However, when the economy was buttressed by the mining industry, people looked at gaming as a vice.⁵¹

The changing economics and sentiments toward gaming continued to keep legalization in flux. Forty years later, the state legislature enacted a law that again prohibited all forms of gambling, only to repeal it a year later.⁵² Then, in 1912, the legislature reinstated prohibition, although it was unevenly enforced and illegal gambling establishments continued to operate in many cities.⁵³

Finally, in 1931, the state legislature passed the last piece of legislation regarding gambling legalization in Nevada, Assembly Bill 98, which has provided for legal gambling in Nevada ever since.⁵⁴

⁴³ See RESEARCH DIV., NEV. LEGISLATIVE COUNSEL BUREAU, POLICY AND PROGRAM REPORT, GAMING IN NEVADA 1 (2016), <http://www.leg.state.nv.us/Division/Research/Publications/PandPReport/2016PandPReport.pdf>.

⁴⁴ See *id.*; see also Ben Hetfeld, *The Legislative History of Gambling, 1861–1915*, UNLV THESES, DISSERTATIONS, PROF. PAPERS, & CAPSTONES 13 (2000), <http://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1455&context=thesesdissertations>.

⁴⁵ See RESEARCH DIV., *supra* note 43, at 1–2.

⁴⁶ The Nevada State Constitution did ban lotteries, but did not provide for any punishment for its violation until the Lottery Act of 1873. See Hetfeld, *supra* note 44, at 15.

⁴⁷ *Id.*

⁴⁸ See RESEARCH DIV., *supra* note 43, at 2.

⁴⁹ See Hetfeld, *supra* note 44 at 18–20, 23, 32–36.

⁵⁰ See *id.* at 23.

⁵¹ See *id.* at 33.

⁵² See RESEARCH DIV., *supra* note 43, at 2.

⁵³ *Id.*

⁵⁴ *Id.* at 2–3.

C. Singapore

Singapore is a small archipelago nation measuring 268 square miles and located off the southern tip of the Malay Peninsula in the Indian Ocean.⁵⁵

Singapore banned casino gambling when it became an independent republic in 1965; however, the country later permitted some gambling activities.⁵⁶ In 1968, Singapore's lottery began operating and introducing games over the next two decades.⁵⁷ In 1999, Singapore began permitting sports betting on local football games, and in 2002, the country expanded sports betting to include international football.⁵⁸ Over the course of its history, the country has also permitted other gambling activities such as betting on horse racing, club slot machines, and casino cruises in international waters.⁵⁹

Over these decades, Singapore rejected multiple requests to change its legal position on casino gambling.⁶⁰ However, in April 2004, Singapore's Parliament announced that it would reconsider the ban on casinos in an effort to boost the economy.⁶¹ The government felt that Singapore needed to reinvent itself to regain its international competitiveness as a tourist and business destination.⁶² Government officials made formal visits to other locations where casino gaming was legal to conduct research on operations and regulations.⁶³

In November 2005, the government issued a request for bid proposals from interested developers.⁶⁴ One year later, the government announced its approval for two IRs, which were defined as projects with the components and amenities for "Meetings, Incentive, Convention, and Exposition."⁶⁵ The goal was to create resorts that would become tourist destinations in their own right.⁶⁶ There would be two locations for the new IRs: Marina Bay, a tract of land in a new downtown zone next to Singapore's Central Business District, and Sentosa, an offshore island accessible from the main island by road and monorail.⁶⁷

⁵⁵ See *Singapore*, WORLDMARK ENCYCLOPEDIA OF NATIONS, <http://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/singapore-0> (last visited Dec. 13, 2016).

⁵⁶ See Joan C. Henderson, *Developing and Regulating Casinos: The Case of Singapore*, 12 TOURISM & HOSPITALITY RES. 139, 141 (2012).

⁵⁷ See *Singapore Gaming Summary*, UNIV. OF NEV., L. V., CTR. FOR GAMING RESEARCH (May 7, 2014, 9:48 AM), <http://gaming.unlv.edu/abstract/singapore.html> [hereinafter *Singapore Gaming Summary*].

⁵⁸ *Id.*

⁵⁹ See Henderson, *supra* note 56, at 142.

⁶⁰ *Id.* at 141.

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See *Singapore Gaming Summary*, *supra* note 57.

⁶⁵ See Henderson, *supra* note 56 at 141; see also *Singapore Gaming Summary*, *supra* note 57.

⁶⁶ See *Singapore Gaming Summary*, *supra* note 57.

⁶⁷ See Henderson, *supra* note 56 at 141; see also *Singapore Gaming Summary*,

In March 2006, the government closed its request for proposals and chose Las Vegas Sands and Genting PLC as the IR developers and operators.⁶⁸ Nearly four years later, Genting PLC developed Resorts World Sentosa, which covers 47 hectares and cost \$5.2 billion.⁶⁹ A few months thereafter, Las Vegas Sands opened Marina Bay Sands, which covers 15.5 hectares of land and cost \$5.5 billion.⁷⁰ These IRs remain the only two permitted by law in Singapore.⁷¹

II. ENTRY LEVY

An entry levy is a fee a patron must pay to gain admission to a casino. Singapore is the only gaming market discussed herein that imposes an entry levy.⁷² According to the Singapore Casino Regulatory Authority (“CRA”), “The entry levy system is one of the casino safeguard measures put in place to protect Singaporeans [Citizens] and Permanent Residents (“SCPR”). It is meant to remind SCPRs that gambling is an expense and not a way to make a living.”⁷³ Generally, the entry levy seems to affect both the rates of gambling participation and the prevalence of gambling problems among residents.⁷⁴

A. Singapore

The Casino Control Act (“CCA”) of Singapore imposes an entry levy on SCPRs.⁷⁵ The CCA provides that a casino operator shall not allow an SCPR to enter or remain on its premises and participate in gambling activities at any time, without paying the entry levy.⁷⁶ The punishment for not paying the entry levy or for remaining after the expiration of any paid access period includes a criminal conviction, with a fine of up to S\$1,000, plus the cost of the levy.⁷⁷

The entry levy costs S\$100 per twenty-four hour period of access, or S\$2,000 for an annual membership with a casino.⁷⁸ The patron can pay the entry levy in advance of his or her actual visit; however, a twenty-four hour access entry levy expires if not used within thirty days, and an annual

supra note 57.

⁶⁸ See Henderson, *supra* note 56 at 141; see also *Singapore Gaming Summary*, *supra* note 57.

⁶⁹ See Henderson, *supra* note 56 at 141.

⁷⁰ *Id.*

⁷¹ See Casino Control Act (Cap 33A, 2007 rev. ed.) at 41(1) (Sing.) [hereinafter CCA]; see also *Singapore Gaming Summary*, *supra* note 57.

⁷² See *infra* Section II.A.

⁷³ See *FAQ Why do I need to purchase an entry levy to enter a casino?*, CASINO REG. AUTH., http://www.ifaq.gov.sg/CRA/apps/fcd_faqmain.aspx#FAQ_33950 (Sing.).

⁷⁴ See *infra* Section II.A.

⁷⁵ See generally CCA, *supra* note 71, at 116.

⁷⁶ *Id.* at 116(1).

⁷⁷ *Id.* at 116(6).

⁷⁸ *Id.* at 116(1).

membership begins to run ninety days after purchase, even if the patron did not visit any casino.⁷⁹ On a monthly basis, the casinos turn over these entry levies to the Singapore Totalisator Board, which uses the funds for social or charitable purposes in Singapore.⁸⁰

A casino operator may not pay for the entry levy for an SCPR, nor refund or reimburse him or her for the entry levy in any manner; the operator also may not give any right, privilege, discount, or benefit in addition to entry to the premises for the payment of the entry levy.⁸¹ Moreover, casino operators may not change the specified timeframes provided for prepayment, allow access after expiration, or refund an entry levy that goes unused.⁸² The CRA regularly imposes penalties on casino operators for these breaches.⁸³

Data suggest that the entry levies are extremely effective in reducing resident casino gambling. A 2014 study revealed that while 44% of adult Singapore residents participated in a gambling activity in the preceding twelve months, only 2% of this gambling took place at IRs.⁸⁴ In comparison, there were participation rates of 78% and 10% in the lottery and social gambling, respectively.⁸⁵ SCPRs also decreased their average daily visits to casinos from 20,000 visits in 2010 when the casinos opened, to 17,000 visits in 2013.⁸⁶

⁷⁹ Casino Control (Entry Levy) Regulations 2010 (GN No S 52/2010) Reg. 4(1) (Sing.) [hereinafter CCELR].

⁸⁰ CCA, *supra* note 71, at 116(2).

⁸¹ See CCA, *supra* note 71, at 116(3); see also CCELR, *supra* note 79, at Reg. 6.

⁸² CCELR, *supra* note 79, Reg. 4(2)–(3).

⁸³ See *Enforcement Actions*, CASINO REG. AUTH., <http://www.cra.gov.sg/cra/enforcement-actions.aspx/93> (Sing.).

For example, in September 2012, the CRA imposed the highest financial penalty to date of S\$600,000 on Resorts World Sentosa for reimbursing annual entry levies through a marketing program that gave incentives such as Universal Studios Singapore tickets, concert tickets, and hotel accommodations to locals when they purchased or renewed annual memberships. In its press release for the matter, the CRA stated that the “entry levy is one of many social safeguards put in place to address problem gaming.”

The Chief Executive of the CRA also said, “CRA is sending a clear signal to the operator that they should comply fully with the social safeguards put in place to protect locals. Compliance to our laws and regulations must be strictly adhered to at all times.” In addition, in February 2012, the CRA fined both Marina Bay Sands and Resorts World Sentosa a total of S\$385,000 for allowing residents to enter without paying the entry levies or on expired levy payments. See *CRA Imposes Fine of \$600,000 on Resorts World for Reimbursing Annual Entry Levy*, CASINO REG. AUTH. (Sept. 12, 2012), <http://www.cra.gov.sg/cra/cra-imposes-fine-of-600000-on-resorts-world-for-reimbursing-annual-entry-levy.aspx/77> (Sing.).

⁸⁴ See NAT'L COUNCIL ON PROBLEM GAMBLING, REPORT OF SURVEY ON PARTICIPATION IN GAMBLING ACTIVITIES AMONG SINGAPORE RESIDENTS, 2014 2, 9 (2015), https://www.ncpg.org.sg/en/pdf/2014%20NCPG%20Gambling%20Participation%20Survey_FINAL.pdf (Sing.) [hereinafter SINGAPORE GAMBLING PARTICIPATION].

⁸⁵ *Id.* at 9.

⁸⁶ See CASINO REG. AUTH., ANNUAL REPORT (2013), <http://www.cra.gov.sg/>

Further, only 7.7% of adult SCPRs visited casinos more than once within the first three years of their operation.⁸⁷

Singapore also has the lowest prevalence rates of gambling problems of all the markets discussed herein. There are two tiers of gambling problems: problem gambling and gambling disorder (formerly known as pathological gambling), which is more severe. The American Psychiatric Association Diagnostic and Statistical Manual of Mental Disorders includes gambling disorder, which it classifies as an addiction,⁸⁸ and provides criteria for diagnosis.⁸⁹ In 2014, an estimated 0.2% of adult Singapore residents were likely suffering from gambling disorder.⁹⁰ This represented a statistically significant decrease from 1.4% in 2011.⁹¹ Further, an estimated 0.5% of adult Singapore residents were probable problem gamblers.⁹² This represented a statistically significant decrease from 1.2% in 2011.⁹³

B. Las Vegas

By contrast, Nevada specifically prohibits casinos from exacting entry levies—with certain exceptions.⁹⁴ A casino licensee that does receive the exceptional approval to charge a fee may not restrict admission to the area on

upload_files/cuteeditor/1/document/Casino%20Regulatory%20Authority%20of%20Singapore%20Annual%20Report%202012-2013_lr_1Oct.pdf (Sing.).

⁸⁷ *Id.*

⁸⁸ DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, § 312.31 (Am. Psychiatric Ass'n., 5th ed.) (2013).

⁸⁹ A diagnosis of gambling disorder requires the exhibition of at least four of the following nine criteria within the last 12 months:

1. Needs to gamble with increasing amounts of money in order to achieve the desired excitement.
2. Is restless or irritable when attempting to cut down or stop gambling.
3. Has made repeated unsuccessful efforts to control, cut back, or stop gambling.
4. Is often preoccupied with gambling (e.g., having persistent thoughts of reliving past gambling experiences, handicapping or planning the next venture, thinking of ways to get money with which to gamble).
5. Often gambles when feeling distressed (e.g., helpless, guilty, anxious, depressed).
6. After losing money gambling, often returns another day to get even (“chasing” one’s losses).
7. Lies to conceal the extent of involvement with gambling.
8. Has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling.
9. Relies on others to provide money to relieve desperate financial situations caused by gambling. *See id.*

⁹⁰ *See* SINGAPORE GAMBLING PARTICIPATION, *supra* note 84, at 4.

⁹¹ *Id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ However, a casino licensee can request approval to charge a fee from the chairman of the Nevada Gaming Control Board by submitting a form that requires information on thirteen points of criteria. Nev. Gaming Reg. 5.210 (2017).

grounds of race, color, religion, national origin, or disability.⁹⁵ This provision is probably rooted in the United States Civil Rights Act of 1964 and stands in stark contrast to the entry levy law of Singapore, which inherently permits discrimination on national origin through residency and/or citizenship.⁹⁶

Las Vegas' rates of gambling participation and problems stand in stark contrast to those of Singapore.⁹⁷ In 2014, 54% of Clark County residents participated in a gambling activity, as compared to only 44% in Singapore.⁹⁸ However, among the participating residents, 63% gambled in Las Vegas casinos, nearly thirty-two times the rate of Singapore residents.⁹⁹ Further, 23% of participating residents gambled in casinos at least once a week, and 61% at least once a month.¹⁰⁰

Nevada not only has the highest prevalence rates of gambling problems, but also has a higher rate of the more severe gambling disorder than problem gambling.¹⁰¹ The most recent study on the prevalence of problem gambling shows that between 2.7% and 4.3% of adult Nevada residents could suffer from gambling disorder.¹⁰² In addition, between 2.2% and 3.6% of adult Nevada residents could be problem gamblers.¹⁰³ Therefore, a combined 6.4% of adult Nevada residents could have a gambling problem.¹⁰⁴ This figure increases to

⁹⁵ *Id.*

⁹⁶ *Id.*; see generally Civil Rights Act of 1964, Pub. L. No. 88-352, 78 Stat. § 241.

⁹⁷ Many citizens and residents from all over the United States gamble in Las Vegas and may make them susceptible to its harms. However, this Article focuses on the citizens and residents of Las Vegas, and in some cases Nevada, who have close proximity to the casinos. This focus makes the geographic size more comparable to smaller areas like Macau, Singapore, and Japan. Cf. LAS VEGAS CONVENTION & VISITORS AUTH., 2016 LAS VEGAS VISITOR PROFILE 51, 57, <http://www.lvcva.com/includes/content/images/media/docs/2016-Las-Vegas-Visitor-Profile.pdf>, with DOCUMENTATION & INFO. CTR. OF THE STATISTICS & CENSUS SERV., TOURISM STATISTICS 2015 107, 116 (2016) (Mac.), http://www.dsec.gov.mo/getAttachment/471ff8d9-5a28-4fcd-8539-8b374def2c59/E_TUR_PUB_2015_Y.aspx?disposition=attachment.

⁹⁸ LAS VEGAS CONVENTION & VISITORS AUTH., 2014 CLARK COUNTY RESIDENTS STUDY 11, http://www.lvcva.com/includes/content/images/media/docs/2014-Clark_County_Resident_Study.pdf. This study does not include tourists in its study; see *supra* Section II.A; SINGAPORE GAMBLING PARTICIPATION, *supra* note 84.

⁹⁹ LAS VEGAS CONVENTION & VISITORS AUTH., *supra* note 98, at 24; see *supra* Section II.A; SINGAPORE GAMBLING PARTICIPATION, *supra* note 84, at 4.

¹⁰⁰ LAS VEGAS CONVENTION & VISITORS AUTH., *supra* note 98, at 24.

¹⁰¹ RACHEL A. VOLBERG, GAMBLING AND PROBLEM GAMBLING IN NEVADA, REPORT TO THE NEVADA DEPARTMENT OF HUMAN RESOURCES 32 (Mar. 22, 2002), <http://www.nevadacouncil.org/wp-content/uploads/2014/08/NV-Prevalence-Study-Adults-2002.pdf>.

¹⁰² *Id.* at 29.

¹⁰³ *Id.*

¹⁰⁴ *Id.* at 46.

7% when looking at just adult Clark County residents.¹⁰⁵ Interestingly, casino gamblers had the second-lowest rate of gambling problems, at 8.7%, just behind those who played the lottery, at 5.7%.¹⁰⁶ Nonetheless, these estimates of gambling problems are significantly higher than the 0.7% estimate in Singapore.¹⁰⁷

As a final note, Las Vegas is unique because it permits licensed gambling activities similar to casino games in convenience and grocery stores, gas stations, bars, and restaurants.¹⁰⁸ Indeed, between 21% and 28% of participating residents gamble at these locations.¹⁰⁹ Further, gamblers that participated in other gaming activities, such as non-casino gaming machines, had higher gambling problem rates, ranging from 11.4% to 33.7%.¹¹⁰ Therefore, it is plausible that Las Vegas has higher prevalence rates because it allows non-casino gambling, and problem gamblers frequent these locations more often because they are far more numerous than casinos.¹¹¹

C. Macau

Macau does not mandate an entry levy, nor does it prohibit a casino from charging admission fees.¹¹² Macau has both higher prevalence rates and gambling participation, particularly in casino gambling, compared to Singapore, but not Las Vegas.¹¹³

According to a 2014 study, the gambling participation rate of Macau residents was 49.5% in 2013.¹¹⁴ Gambling in Macau casinos was the third most

¹⁰⁵ *Id.* at 30.

¹⁰⁶ *Id.* at 31.

¹⁰⁷ *See supra* Section II.A; SINGAPORE GAMBLING PARTICIPATION, *supra* note 84, at 4; *see* LAS VEGAS CONVENTION & VISITORS AUTH., *supra* 98 at 24.

¹⁰⁸ *See* LAS VEGAS CONVENTION & VISITORS AUTH., *supra* note 98, at 31–32.

¹⁰⁹ *Id.* at 31–32.

¹¹⁰ *See* VOLBERG, *supra* note 101, at 31.

¹¹¹ *See supra* Section II.B; LAS VEGAS CONVENTION & VISITORS AUTH., *supra* note 98.

¹¹² *See generally* Law No. 10/2012, *infra* note 152.

¹¹³ *See supra* Sections II.A–B.

¹¹⁴ Inst. For The Study of Commercial Gaming, Univ. Of Mac., *Report on a Study of Macao People's Participation in Gambling Activities 2013* (2014), http://iasweb.ias.gov.mo/dtj/en/annualReport/dfccvf_rs2013.pdf [hereinafter *Macau Gambling Participation*].

Nearly ninety-five percent of the total visitors to Macau in 2015 came from Mainland China, Hong Kong, and Taiwan, all of which belong to China. More than 32% of these visitors did so primarily to gamble, an increase from prior years. Although Chinese nationals from all over China gamble in Macau, as in Las Vegas, this Article focuses only on the residents of Macau where the casinos are located. *See generally* DOCUMENTATION & INFO. CTR. OF THE STATISTICS & CENSUS SERV., TOURISM STATISTICS 2015 107, 116 (2016) (Mac.), http://www.dsec.gov.mo/getAttachment/471ff8d9-5a28-4fcd85398b374dcf2c59/E_TUR_PUB_2015_Y.aspx?disposition=attachment.

popular gambling activity amongst Macau residents with about 12% participating, behind the lottery and social gambling.¹¹⁵ While casino gambling among Macau residents pales in comparison to Las Vegas residents, it is six times that of Singapore.¹¹⁶

The study also found that 1.9% of Macau residents were possible problem gamblers.¹¹⁷ Further, 0.9% of Macau residents could be suffering from gambling disorder.¹¹⁸ These figures represented a decline from prior years for both possible problem gamblers and gambling disorder.¹¹⁹ However, the average rates are nearly double those of Singapore, but about half those of Las Vegas.¹²⁰

Macau residents with a gambling problem participated in gambling at Macanese casinos more frequently than any other gambling activity.¹²¹ Macao residents who gambled in Macanese casinos were 8.6 times more likely to become possible problem gamblers or suffer from gambling disorder than those who did not.¹²² Macanese casinos likely have a much greater effect on prevalence rates of problem gambling than Las Vegas because these are the only locations where casino games are available, as in Singapore.

D. Recommendation for Japan

The comparison between Singapore, Las Vegas, and Macau supports the proposition that entry levies may be effective in reducing the participation in casino gambling amongst residents. An entry levy in Japan seems likely as Article 13 of the Draft Act, "Admission," states that visitors may have to pay for admission to casino facilities.¹²³ Japanese lawmakers previously said that the preferred model for casino regulation in Japan is Singapore and suggested that IRs would charge Japanese citizens and permanent residents an entry levy, but not foreigners.¹²⁴

Entry levies may be too effective in keeping locals out of casinos, even those that are unlikely to ever become problem gamblers. Indeed, analysts suggest that the casino market in Singapore already reached its maximum, and because the rigid restrictions on locals is a unique issue to that market, there

¹¹⁵ See *Macau Gambling Participation*, *supra* note 114.

¹¹⁶ See *supra* Section II.B.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ See *supra* Sections II.A-B.

¹²¹ *Id.*

¹²² *Id.*

¹²³ See Draft Act, *supra* note 13, art. 13; see also Shiga & Caldwell, *supra* note 13, at 2.

¹²⁴ See Reynolds & Takahashi, *supra* note 17.

will be a negative growth rate unless casinos tap into the local market.¹²⁵ Data suggest that the local casino gambling market in Japan has the potential to be significant. Without casinos, the gambling participation rate in Japan is approximately 65.6%.¹²⁶ Further, the second most popular gambling activity is pachinko, a game similar to a slot machine found in casinos, behind playing the lottery.¹²⁷

However, data also show that problem gambling is already an issue in Japan without casinos. The Ministry of Health, Labor and Welfare in Japan funded a study that showed 4.8% of the adult population might have gambling disorder.¹²⁸ Thus, the prevalence rate of gambling disorder in Japan is the highest of all the gaming markets without the presence of casinos.¹²⁹ Further, pachinko is the first gambling choice of 77% of those suffering from gambling disorder in Japan.¹³⁰

The development of casinos in Japan is a valid cause of concern given these rates. To effectively combat problem gambling among its citizens and permanent residents, Japan should impose an ex ante entry levy. Although an entry levy may alienate a portion of the market, Japan should put the welfare and health of its citizens and permanent residents ahead of profits. Indeed, the money collected from the entry levies could fund responsible gaming initiatives to combat gambling addiction and problem gambling as some Japanese

¹²⁵ See Jun Hongo, *Five Million Japanese Have Gambling Problem, Says Ministry Study*, WALL ST. J. (Aug. 22, 2014, 5:52 PM), <http://blogs.wsj.com/japanrealtime/2014/08/22/five-million-japanese-have-gambling-problem-says-ministry-study>; see also Grace Leong, *Luck Running Out for Singapore's Two Casinos?*, STRAITS TIMES (Sept. 24, 2014, 1:22 AM), <http://www.straitstimes.com/news/opinion/eye-the-economy/story/luck-running-out-singapores-two-casinos-20140924>; Howard Stutz, *Singapore Casinos Produce \$6 billion in Gaming Revenue in 2013; Market Still Trails Las Vegas Strip*, LAS VEGAS REV. J. (Feb 21, 2014, 6:26 AM), <http://www.reviewjournal.com/business/singapore-casinos-produce-6-billion-gaming-revenue-2013-market-still-trails-las-vegas-strip>.

¹²⁶ See Naoko Takiguchi & Richard J. Rosenthal, *Problem Gambling in Japan: A Social Perspective*, ELECTRONIC J. OF CONTEMPORARY JAPANESE STUD. (Jan. 31, 2011), <http://www.japanesestudies.org.uk/articles/2011/Takiguchi.html> (including pachinko as a gambling activity).

¹²⁷ *Id.* Japan permits pachinko parlors, where players rent silver balls to play the game and attempt to win more silver balls. Pachinko does not constitute gambling because playing the game for money is illegal and parlors cannot disburse money in exchange for the silver balls. Instead, once a player has earned a certain amount of silver balls, they can exchange it for a small prize like candy. The player can then leave the parlor and exchange the prize for money somewhere else; this is a loophole used to circumvent the ban on gambling, although it is widely recognized that it closely resembles gambling. Pachinko remains a popular leisure activity in Japan today, and the estimated total annual revenues from parlors are \$187 billion, the largest of any other leisure activity. See Ryan, *supra* note 4.

¹²⁸ See Hongo, *supra* note 125.

¹²⁹ See *supra* Sections II.A-C.

¹³⁰ See Takiguchi & Rosenthal, *supra* note 126.

lawmakers have suggested.¹³¹ Further, the goal of the Draft Act is to improve the economy by increasing foreign tourism rather than to legalize casino gambling for the enjoyment of its residents.¹³²

III. AGE RESTRICTION

Research suggests that the availability, accessibility, and exposure to gambling are associated with gambling problems.¹³³ Although most studies found that gambling problems and younger age are not strongly correlated among adults, prevalence rates among adolescents are higher than adults.¹³⁴ Further, data from the markets discussed herein suggest that age restrictions may not prevent gambling problems, but may delay their onset by limiting access and exposure until a person reaches a certain age. All three markets discussed herein have set the legal gambling age at twenty-one years, although the ages of majority are set at lower ages. Further, Macau and Singapore have lower ages to legally consume alcohol.

A. Las Vegas

Nevada sets the legal casino gambling age at twenty-one years old.¹³⁵ Twenty-one years is also the legal age to consume alcohol in Nevada.¹³⁶ However, the age of majority is eighteen years old.¹³⁷

Specifically, any person under twenty-one years old may not play, place wagers at, or collect winnings from any type of gaming activity, by himself or through an agent, nor loiter in any place where licensed gaming activities occur.¹³⁸ In addition, a person under twenty-one years old may not be a gaming employee, other than in a counting room.¹³⁹

This age restriction correlates with the average age that adult Nevada residents start gambling. On average, non-problem gamblers begin gambling at twenty-four years old, compared to twenty-two for problem gamblers.¹⁴⁰ Thus, problem gamblers tend to start gambling earlier than non-problem gamblers,

¹³¹ See *Entry Levy on Foreigners Mooted for Japan Casinos*, GGRASIA (June 18, 2014), <http://www.ggrasia.com/entry-levy-on-foreigners-mooted-for-japan-casinos>.

¹³² See *supra* Part II.

¹³³ See Hellen Miller, *Risk Factors for Problem Gambling*, VICTORIAN RESPONSIBLE GAMBLING FOUND. (May 2015), http://www.responsiblegambling.vic.gov.au/_data/assets/pdf_file/0014/20255/Risk-factors-for-problem-gambling-web.pdf.

¹³⁴ *Id.* at 8, 10.

¹³⁵ NEV. REV. STAT. § 463.350 (2017).

¹³⁶ *Id.* § 202.020.

¹³⁷ *Id.* § 129.010.

¹³⁸ *Id.* § 463.350.

¹³⁹ *Id.*

¹⁴⁰ See VOLBERG, *supra* note 101, at 36.

though the average ages for both groups are over the legal age. This suggests that the age restriction is effective in delaying participation in gambling activities and the onset of problem gambling.

Any person who violates or permits the violation of this age restriction, be it a licensee, employee, dealer, or other person, is guilty of a misdemeanor.¹⁴¹ Someone prosecuted for the violation of the age restriction may not use as a defense that he or she believed the person was at least twenty-one years old.¹⁴² It is also a misdemeanor for a person to use false identification in order to enter or gamble in a gambling establishment.¹⁴³

B. Singapore

Singapore has also set the legal casino gambling age at twenty-one years old, but sets the legal age for all other forms of gambling at eighteen.¹⁴⁴ Twenty-one years old is also the age of majority, but the legal age to consume alcohol is eighteen.¹⁴⁵

Data on Singapore residents also suggest a correlation between the legal gambling age, the average age at which residents first participate in gambling, and the average age at which these residents begin to gamble regularly—though not conclusively. According to the 2014 study, 42% of Singapore residents first participated in gambling between the ages of eighteen and twenty-four years old.¹⁴⁶ Further, this was the age range at which about a third of both non-problem and problem gamblers began regularly gambling.¹⁴⁷ However, another third of both non-problem and problem gamblers began regularly gambling between the ages of thirty and thirty-nine years old, and another fifth began regularly gambling between twenty-five and twenty-nine years old.¹⁴⁸ Therefore, evidence from Singapore residents reveals that, although there may be a correlation between age and gambling problems, there is not a clear age at which a restriction would prevent or delay development.

A minor that violates the Singapore age provision is subject to a criminal conviction and fine up to \$1,000.¹⁴⁹ Likewise, a casino operator may be subject

¹⁴¹ NEV. REV. STAT. § 463.350 (2017).

¹⁴² *Id.*

¹⁴³ *Id.* § 205.460.

¹⁴⁴ See CCA, *supra* note 71, §§ 130, 132(1); Singapore Totalisator Board Act (Ch. 305A, 2012 Rev. Ed.) §15(b) (Sing.).

¹⁴⁵ The age of majority in Singapore is the age at which one can enter into a binding contract, which is eighteen years old for most contracts. See Civil Law Act (Ch. 43, 1999 Rev. Ed.), §§ 35–36 (Sing.) (specifying 21 years old as the legal age for contracts involving land and property); Customs Act: Customs (Liquor Licensing) Regulations 2009 (Ch. 70, Rg. 3, 2009 Rev. Ed.), §§ 29(2)–(4) (Sing.).

¹⁴⁶ SINGAPORE GAMBLING PARTICIPATION, *supra* note 84, at 10.

¹⁴⁷ *Id.*

¹⁴⁸ *Id.*

¹⁴⁹ CCA, *supra* note 71, § 132(2).

to disciplinary action if it permits a minor to enter or remain on the premises without a reasonable excuse.¹⁵⁰ Casino operators can defend themselves from liability by showing that the minor who illicitly gambled was at least sixteen years old and provided false identification and claimed to be twenty-one years old.¹⁵¹

C. Macau

In 2012, Macau changed its age restriction on casino gambling and entry from eighteen to twenty-one years of age for residents.¹⁵² Further, casinos may only employ those who are at least twenty-one years old.¹⁵³ In contrast, the ages of majority and for the purchase or consumption of alcohol in Macau is eighteen and sixteen years old, respectively.¹⁵⁴

Similar to Las Vegas, though not as strongly as in Singapore, there may be a correlation between gambling participation and the legal age. According to the 2014 study, almost half of Macau residents that participate in gambling activities are between the ages twenty-two and twenty-nine.¹⁵⁵ Thus, most gambling participants in Macau are above the legal age for both casino gambling and non-casino gambling. However, some underage gambling does take place, as 27% of Macau residents between the ages of fifteen and twenty-one years old participate in gambling activities.¹⁵⁶

Like in Las Vegas, casino operators bear the burden of enforcing the age restriction.¹⁵⁷ Those under the age of twenty-one years old who violate the provision are subject to fines.¹⁵⁸ Moreover, the government of Macau, instead of the underage player, collects any illicit gambling winnings.¹⁵⁹

D. Recommendation for Japan

Like in Las Vegas, Singapore, and Macau, Japan should impose an age

¹⁵⁰ *Id.* § 133(1), (3).

¹⁵¹ *Id.* §§ 133(5), 136.

¹⁵² See Lei n.º 10/2012, Artigo 2 Interdição de entrada nos casinos [Law 10/2012, art. 2 Entry ban on casinos] (2012) (Mac.), <http://bo.io.gov.mo/bo/i/2012/35/lei10.asp> [hereinafter Law No. 10/2012].

¹⁵³ *Id.* at Artigo 3 § 1.

¹⁵⁴ Jorge Godinho, *Casino Gaming in Macau: Evolution, Regulation and Challenges*, 5 UNLV GAMING L. J. 1, 18 (2014); David J. Hanson, *Minimum Legal Drinking Ages Around the World*, ALCOHOL: PROBLEMS & SOLUTIONS, <https://www.alcoholproblemsandsolutions.org/LegalDrinkingAge.html> (last visited Mar. 23, 2017).

¹⁵⁵ *Macau Gambling Participation*, *supra* note 114.

¹⁵⁶ *Id.* The study includes eighteen to twenty-one year olds in this age range making it unclear what proportion is underage gambling.

¹⁵⁷ Law No. 10/2012, *supra* note 152, at Ch. II, art. 13 § 2(2).

¹⁵⁸ *Id.* at Ch. II, art. 13 § 1(1).

¹⁵⁹ *Id.* at Ch. II, art. 11 § 1.

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restriction on the entry into, and participation in, casino gambling. The age restriction will delay access to casino gambling, and likely to the development of a gambling problem in certain individuals. Although a higher age requirement will increase the delay, the age must be reasonable.

Japan should set the legal gambling age at twenty years old to comport with the ages of majority and consumption of alcohol—both also twenty. This age restriction is not only consistent in form, but also in purpose. Adults are better able to understand the risks and harmful consequences of gambling and thus can make informed decisions about whether to gamble. The age restriction will also protect the more susceptible adolescents from developing a gambling problem. In addition, the consumption of alcohol can lead to addiction, and harmful consequences to the individual and society, just as with problem gambling or gambling disorder. To allow for the consumption of alcohol, but not gambling, seems arbitrary.

Casinos are in the best position to enforce the age requirement and should bear the burden of enforcement. The privilege of operating a casino provides them with great financial resources to implement enforcement mechanisms, and curtails the diversion of limited public resources and law enforcement. Further, the gambling takes place on casinos' premises, which casinos secure and maintain control. Casinos should be subject to disciplinary action for negligently enforcing the age requirement. Discipline of casinos should depend on frequency or egregiousness of the violation, and should include substantial fines, increased oversight of internal controls, and suspension or revocation of gaming licenses.

Underage patrons should be subject to only minimal criminal liability for violating the age restriction. Although underage gambling is potentially harmful to the patron, a criminal record may be even more detrimental to his or her welfare in scope and duration. A violation should result in an infraction, not a misdemeanor or felony, and punishment should include a substantial fine. However, if an underage patron continues to violate the restriction, punishment should increase with each infraction.

IV. EXCLUSION

Apart from age restrictions, governments may invoke other considerations to keep its residents and visitors out of casinos. This entails excluding an individual from a casino and removing his or her opportunity to gamble there. There are two types of exclusion: self-exclusion and third-party exclusion. Exclusion can address problem gambling both proactively and retroactively. Depending on the type of exclusion, it can either aid in the prevention of problem gambling, mitigate the harm from problem gambling, or both. Singapore and Macau have more comprehensive exclusion regulations than Las Vegas.

A. Singapore

The CCA provides for three types of exclusion from casinos: voluntary self-exclusion, family exclusion, and third party exclusion.¹⁶⁰

Voluntary self-exclusion allows a casino patron, including SCPRs and foreigners, to submit an application to the Singapore National Council on Problem Gambling (NCPG) requesting his or her exclusion from entering or participating in any gambling activities on casino premises.¹⁶¹ Self-exclusion remains in effect until the patron submits another application for revocation and the NCPG approves that application.¹⁶² The NCPG may condition the revocation approval upon the excluded person's participation in a counseling, rehabilitation, or educational program, or upon consent to an assessment of harm from gambling.¹⁶³ A casino patron, but only one who is an SCPR, can also apply for a less strict form of exclusion, which sets a maximum number of visits permitted in a month—subject to the same revocation procedures as an outright ban.¹⁶⁴ As of September 2016, there were 267,426 active self-exclusions, although only about 8% of those were SCPRs.¹⁶⁵ There were 1,465 active voluntary visit limits, all of which were SCPRs.¹⁶⁶

A family member can also seek exclusion of an individual for a specified period by filing an application with the NCPG.¹⁶⁷ The NCPG will grant an application if, after a hearing, it determines that 1) the patron may cause serious harm to his or her family by gambling, 2) exclusion is appropriate and is in the best interest of the patron and his or her family, and 3) the patron has had the opportunity to respond.¹⁶⁸ However, at the family's request, the NCPG may also grant a provisional exclusion order, without providing the patron with notice or a hearing, if it finds that the patron has already caused serious harm to his or her family and that further harm is imminent.¹⁶⁹ The NCPG may refer the patron to a counseling, rehabilitation, or educational program, and require the

¹⁶⁰ CCA, *supra* note 71, §§ 159(1), 160, 161.

¹⁶¹ *Id.* § 163(2)(b).

¹⁶² *Id.* § 164(5).

¹⁶³ *Id.* § 163(2)(a).

¹⁶⁴ *Id.* §§ 165(1)–(2); *see also* *Frequently Asked Questions (FAQs) Casino Visit Limits*, NAT'L COUNCIL ON PROBLEM GAMBLING (last visited on Dec. 8, 2016), <http://www.ncpg.org.sg/en/Pages/vlfaq.aspx> [hereinafter *Casino Visit Limits FAQs*].

¹⁶⁵ Update of Statistics: Active Casino Exclusions & Visitation Limits, NAT'L COUNCIL ON PROBLEM GAMBLING 1, 2 (Sept. 30, 2016), [http://www.ncpg.org.sg/en/pdf/Exclusion%20and%20Visit%20Limit%20Statistics%20for%20Media%20Release%20\(as%20at%2030%20September%202016\).pdf](http://www.ncpg.org.sg/en/pdf/Exclusion%20and%20Visit%20Limit%20Statistics%20for%20Media%20Release%20(as%20at%2030%20September%202016).pdf) [hereinafter EXCLUSION STATISTICS].

¹⁶⁶ *Id.*

¹⁶⁷ CCA, *supra* note 71, §§ 159(1)–(2), 163(1).

¹⁶⁸ *Id.* §§ 162(1)(a)–(c).

¹⁶⁹ *See id.* § 164(1).

closure of any deposit accounts held with a casino.¹⁷⁰ As a less drastic measure, a family member can also apply for a limitation on a patron's monthly visits.¹⁷¹ As of September 2016, there were 2,284 active family exclusions and 10 active family visit limits.¹⁷²

Singapore also provides for additional third-party exclusion mechanisms, as laid out in the CCA. First, a national default rule automatically excludes from casinos any person who receives social assistance or a subsidy through any Singapore government program, or any person with an undischarged bankruptcy.¹⁷³ As of September 2016, there were 47,254 active automatic exclusions.¹⁷⁴ Moreover, the NCPG may exclude someone from casinos, if it finds that individual has a poor credit record or is otherwise vulnerable to financial harm due to gambling.¹⁷⁵ In addition, with or without the patron's request, casino operators themselves may issue or revoke written exclusion orders—and must provide notification of doing so to the NCPG and CRA.¹⁷⁶ The CRA, too, may issue or revoke an exclusion order, orally or in writing, but must notify the casino operators upon doing so; however, oral exclusion orders automatically terminate fourteen days after issuance.¹⁷⁷ Lastly, the Commissioner of Police may issue or revoke written exclusion orders, provided that the Commissioner of Police notify the NCPG and casino operators, and that the order is subject to appeal by the excluded person to the Minister for Home Affairs.¹⁷⁸ An order issued by the CRA and the Commissioner of Police is effective until it is affirmatively revoked, it lapses, or is revoked by the Minister for Home Affairs on appeal.¹⁷⁹

The NCPG keeps an updated list of all persons excluded under any of the above means and provides the list to the CRA, the Commissioner of Police, and all casino operators.¹⁸⁰

B. Macau

The Macanese Gaming Inspection and Coordination Bureau (DICJ) established a system of voluntary self-exclusion and third party exclusion from casinos in 2012.¹⁸¹

¹⁷⁰ *Id.* §§ 163(2)(a), (d).

¹⁷¹ *Id.* § 163(1)(a).

¹⁷² EXCLUSION STATISTICS, *supra* note 165, at 2.

¹⁷³ CCA, *supra* note 71, §§ 165(1)(a)–(b).

¹⁷⁴ EXCLUSION STATISTICS, *supra* note 165, at 2.

¹⁷⁵ CCA, *supra* note 71, § 165(1)(c).

¹⁷⁶ *Id.* §§ 120(1), (3).

¹⁷⁷ *Id.* §§ 121(1)–(3).

¹⁷⁸ *Id.* §§ 122(1)–(3).

¹⁷⁹ *Id.* § 123(1).

¹⁸⁰ *Id.* §§ 168(a)–(d).

¹⁸¹ See Law No. 10/2012, *supra* note 152, at Ch. I, art. 6.

Any individual, resident or not, can apply for exclusion from all or some casinos for themselves with no conditions. By contrast, only a spouse, parent, child, or sibling can seek third party exclusion, and the excluded person must personally sign the exclusion application.¹⁸² Individuals can apply, in person, at the DICJ office with proper identification; third party applicants must come with a recent photo of the person that they seek to exclude.¹⁸³ Individuals can also apply for exclusion through casinos, after which the DICJ will contact the applicant to confirm his or her personal information.¹⁸⁴ Lastly, the excluded person can also choose whether they want to receive counseling for problem gaming.¹⁸⁵

Within five working days of the application, the DICJ will notify the applicant of its approval and provide official dates of exclusion, which typically last for two years and automatically expire.¹⁸⁶ Once the exclusion takes effect, the subject may not enter specified casinos.¹⁸⁷

Only the excluded person can apply for revocation of the exclusion, in person at the DICJ office; if approved, the revocation goes into effect thirty days thereafter.¹⁸⁸ After the exclusion period terminates, due to either revocation or expiration, the subject may apply for an extension—following the same process as an initial application.¹⁸⁹

A violation by the excluded person constitutes a crime of simple disobedience.¹⁹⁰ Casinos that commit a violation by allowing an excluded person to gamble, even with mere negligence, are subject to fines.¹⁹¹

C. Las Vegas

Nevada does not mandate a system of voluntary casino self-exclusion in the manner that Singapore and Macau do.¹⁹² Instead, Nevada strictly regulates casinos that issue credit, cash checks, or market gaming opportunities by direct

¹⁸² *Isolation from Casinos*, GAMING INSPECTION & COORDINATION BUREAU MACAO SAR, <http://www.dicj.gov.mo/web/en/responsible/isolation/isolation.html#2> (last visited Mar. 3, 2017).

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.*

¹⁹¹ Law No. 10/2012, *supra* note 152, at Ch. II, art. 13 § 2(2).

¹⁹² Although not required by statute or regulation, some casino operators have taken the initiative to provide self-exclusion programs like those in Macau and Singapore. *See generally* *Caesars Entertainment's Commitment to Responsible Gaming*, CAESARS ENTMT', <http://caesarscorporate.com/about-caesars/responsible-gaming> (last visited Dec. 13, 2016).

mail.¹⁹³ The state requires that these casinos implement programs that allow patrons to “self-limit” their access to these services but not casino gambling itself.¹⁹⁴ Further, the casinos must inform patrons that these programs exist, provide patrons with written opportunities to participate, and establish procedures and forms that require self-limited individuals to notify the casino within ten days of the receipt of any financial gaming privilege, material, or promotion.¹⁹⁵

Although individuals may not exclude themselves or their loved ones, the Nevada Gaming Commission (NGC) reserves the power to exclude or eject individuals from gaming establishments by adding them to a state exclusion list.¹⁹⁶ This type of third-party exclusion only applies to gaming establishments that conduct pari-mutuel wagering or operate any race book, sports pool or games; it does not apply to establishments that operate only slot machines.¹⁹⁷ Most casinos in Nevada feature more gambling activities than simply slot machines, and thus the exclusion power applies to them.¹⁹⁸

However, this mechanism seemingly aims to protect casinos and the gaming industry rather than patrons because the NGC adds a person to this exclusion list only if the NGC determines his or her presence in a gaming establishment poses a threat to the interests of the state, to licensed gaming, or to both.¹⁹⁹ In making this determination, the NGC and Gaming Control Board may consider: (1) prior felony convictions, convictions of crimes involving moral turpitude, and/or violations of the gaming laws of any state; (2) violation or conspiracy to violate the Nevada Gaming Control Act by failing to disclose an interest in a gaming establishment, or willfully evading fees or taxes; (3) a notorious reputation that may suggest to the public that the gaming industry is not free from crime or corruption; and (4) orders from any governmental agency which authorizes the exclusion from a gaming establishment described above.²⁰⁰ These criteria clearly focus on the potential harm to the casino industry by patrons rather than the patrons’ potential harm from gambling.

The Gaming Control Board must provide notice to any person placed on the exclusion list.²⁰¹ The excluded person may request a hearing to challenge the exclusion within thirty or sixty days of receiving notice, depending on the type of notice given.²⁰² The NGC must hold the hearing within thirty days

¹⁹³ Nev. Gaming Reg. § 5.170(4) (2017).

¹⁹⁴ *Id.*

¹⁹⁵ *Id.*

¹⁹⁶ NEV. REV. STAT. § 463.151 (2017).

¹⁹⁷ *Id.*

¹⁹⁸ Grocery stores and gas stations operate only slot machines, so exclusion is not available for these locations. *See id.*

¹⁹⁹ *Id.*

²⁰⁰ *Id.*

²⁰¹ NEV. REV. STAT. § 463.152 (2017).

²⁰² NEV. REV. STAT. § 463.153(1) (2017).

thereafter.²⁰³ If the excluded person fails to timely request a hearing, or if the NGC determines that the exclusion was proper, he or she may petition for judicial review.²⁰⁴

A casino that knowingly fails to exclude or eject a person on the list may be subject to penalties.²⁰⁵ An excluded person who enters a gaming establishment is guilty of a gross misdemeanor.²⁰⁶

D. Recommendation for Japan

Japan should include an ex ante regulation establishing a system of self-exclusion and third party exclusion. These regulations should mirror those of Singapore and Macau, and primarily aim to protect casino patrons rather than the casinos and the gaming industry.

Voluntary self-exclusion may prevent problem gambling and associated harms, if made available prior to the establishment of casinos. Those who feel susceptible to addiction or recognize that they are not in the financial position to participate in casino gambling may protect themselves by applying for exclusion before being faced with the gambling temptation. In addition, self-exclusion may mitigate potential harm for those Japanese residents who are already problem gamblers. The procedure for obtaining voluntary self-exclusion should not be lengthy or complicated otherwise it may discourage people from starting or completing the process.

Moreover, immediate family members should be able to obtain third party exclusion on behalf of the patron. Although people should have free choice to engage in legal, albeit potentially harmful activity, those in need may not seek out help of their own accord or may do so only when they have already incurred significant harm.²⁰⁷ In these instances, immediate family members may be in the position to recognize a problem and seek exclusion. Further, immediate family members may suffer their own harm because of the gambling of their relative. However, the excluded person should have the opportunity to object and to be heard by an authority before the approval of an exclusion application, so as to comport with notions of due process, as in Singapore.

Japanese government authorities and casino operators themselves should also be able to exclude patrons, though only after providing the patron to formally object—as in both Singapore and Las Vegas. In addition, Japan should exclude, by default, anyone who receives government aid or social

²⁰³ *Id.*

²⁰⁴ *Id.*

²⁰⁵ NEV. REV. STAT. § 463.154 (2017).

²⁰⁶ NEV. REV. STAT. § 463.155 (2017).

²⁰⁷ For example, in Nevada, although 51.2% of problem gamblers felt nervous about their gambling, only 7% had ever sought help for their gambling problem, compared to non-problem gamblers with 18.1% and 0.3%, respectively. See VOLBERG, *supra* note 101, at 36, 38.

welfare, has an undischarged bankruptcy, or has any unresolved financial liens or judgments. These individuals are not in the financial position to participate in gambling, nor should they be using public or encumbered funds for gambling purposes.

Exclusion periods should last at least one year, during which time the excluded person must participate in a counseling or treatment program for problem gambling. Such programs should be free of charge and available to both excluded and non-excluded persons, and funded by taxes or fees on the IRs and their entry levies. Revocations should not be easy to obtain and should require a hearing to assess whether revocation is appropriate. Hearings should not occur within at least thirty days of the grant of the exclusion order to prevent unhealthy impulse decisions.

Casino operators should bear the burden of enforcing these exclusions and limitations for the same reason as enforcing the age restriction. An electronic system, similar to that used to verify the age information and authenticity of a government issued ID, could quickly verify that the person is not on an exclusion list. Casino operators that negligently violate this regulation by permitting an excluded person to enter its premises should be subject to substantial fines.

Japan should also provide for formally imposed limitations, including on the number of visits per month or the amount of money with which to gamble. However, the penalties for exceeding these limitations and the requirement to participate in mandatory counseling or treatment should be less severe and demanding than those involving total exclusion.

V. EXTENSION OF GAMBLING CREDIT

The extension of gambling credit allows patrons to borrow money with which to gamble instead of using their own funds. Gambling credit is an area of concern because patrons incur these debts specifically to gamble, which may lead to other financial and social harms. These social harms may especially threaten problem gamblers because they spend more money on gambling than non-problem gamblers. Las Vegas, Singapore, and Macau permit the extension of gambling credit, though with vastly different regulations.

A. Singapore

Singapore regulates the extension of casino credit to SCPRs more strictly than to foreign gamblers. This policy is sensible because those suffering from gambling disorder in Singapore bet, on average, approximately 4.5 times the amount than regular gamblers.²⁰⁸

The CCA states that casino operators may only provide gambling chips on

²⁰⁸ See SINGAPORE GAMBLING PARTICIPATION, *supra* note 84, at 14.

credit to patrons who are not SCPRs, to patrons who are premium players, or to licensed international market agents.²⁰⁹ International market agents may also only provide chips on credit to a person that is not an SCPR.²¹⁰

The CCA defines a premium player as a patron who opens a deposit account with the casino operator and deposits at least S\$100,000 to use in the casino.²¹¹ Once the patron makes the initial deposit, he or she remains a premium player for twelve months; however, the patron ceases to be a premium player if the account falls below S\$100,000 for a continuous twelve months.²¹² This patron's premium player status renews whenever he or she deposits additional money and the account again reaches S\$100,000.²¹³

Both foreign gamblers and SCPRs can become premium players; however, the CCA provides different regulations accordingly.²¹⁴ Casino operators and international market agents can grant credit to foreign patrons to meet the deposit to become a premium player, but may not do so for SCPRs.²¹⁵ Premium players that are SCPRs can only obtain chips on credit if: (1) he or she registers and qualifies for a credit program with the casino operator; (2) his or her creditworthiness satisfies the casino operator's credit policies, procedures, and controls; and (3) he or she draws from a deposit account and gambles with at least S\$100,000, excluding winnings.²¹⁶ Casino operators may continue to grant an SCPR credit without requiring re-registration, if he or she remains a premium player at all times.²¹⁷

If a casino operator violates any of these provisions, it is subject to disciplinary action, including cancellation or suspension of its casino license, censure, variation to the terms of its casino license, and/or financial penalties.²¹⁸ An SCPR who attempts to obtain chips on credit by falsely representing themselves as a foreign patron is guilty of a criminal offense and subject to twelve months imprisonment and a S\$10,000 fine.²¹⁹ Gambling debt is a civil issue and is enforceable in civil courts.²²⁰

²⁰⁹ CCA, *supra* note 71, §§ 108(7)(a), (b).

²¹⁰ *Id.*

²¹¹ *Id.* § 2(1).

²¹² Casino Control Act (Ch. 33A, 2013 Rev Ed) Casino Control (Credit) (Amendment) § 61, at 3, <http://statutes.agc.gov.sg/aol/download/0/0/pdf/binaryFile/pdfFile.pdf?CompId:9aacc728-1b8d-441c-b57e-3406b62c6d65> (Sing.) [hereinafter CCCR].

²¹³ *Id.* at 3–4.

²¹⁴ *Id.* at 4.

²¹⁵ *Id.* at 2.

²¹⁶ *Id.* at 6.

²¹⁷ *Id.* at 7.

²¹⁸ CCA, *supra* note 71, §§ 54(1)(a)–(d).

²¹⁹ CCCR, *supra* note 212, at 11.

²²⁰ *See* CCA, *supra* note 71, §§ 40(c), 108(1); *but see* Civil Law Act, *supra* note 145, §§ 5(1)–(2), (6).

B. Macau

China has strict control over its currency, permitting Chinese individuals to take only a limited amount of money, approximately USD \$3,300, overseas each day.²²¹ Thus, gamblers from Mainland China cannot enter Macau with more than that amount of money, and are limited to that amount, less all other expenses, with which to gamble. There are both legal and illegal means to circumvent this limitation, some of which closely resemble, or are indeed, illegal money laundering.²²²

One legal alternative comes from authorized gambling credit, which makes up a large portion of Macau's gross gaming revenue.²²³ Before 2004, all gambling credit was illegal as the crime of usury for gaming.²²⁴ However, in July 2004, the Gaming Credit Law became effective, legalizing and regulating gambling credit in Macau.²²⁵ The law authorizes only three types of gambling creditor-borrower relationships: a concessionaire or sub-concessionaire as grantor and an individual patron as borrower; an authorized gaming promoter—similar to an international market agent in Singapore—as grantor and an individual patron as borrower; and a concessionaire or sub-concessionaire as grantor and an authorized gaming promoter as borrower.²²⁶ The Macanese government regulates authorized gaming promoters by requiring them to obtain a license.²²⁷

Grantors may not grant credit through third parties, effectively prohibiting the assignment or transfer of their permission.²²⁸ The Gaming Credit Law sets an interest rate, if one is not otherwise stipulated, and also limits any interest amount to no greater than three times the set legal rate.²²⁹ Further, the penalty rate in the event of a default is usurious if it exceeds five times the legal rate.²³⁰

Gambling credit debts are legally enforceable as civil debt in both Macau

²²¹ Frank Langfitt, *China's Corruption Crackdown Pummels Macau Casinos*, NPR (Nov. 7, 2014, 3:36 AM), <http://www.npr.org/blogs/parallels/2014/11/07/360177247/china-s-corruption-crackdown-pummels-macau-casinos>.

²²² *Id.*

²²³ Godinho, *supra* note 154 at 6.

²²⁴ *Id.*

²²⁵ *See id.*; *see also* Lei n.º 5/2004, Artigo 3 Concedentes de credito [Law 5/2004, art. 3 Credit Grantors] (2004) (Mac.), <http://bo.io.gov.mo/bo/i/2004/24/lei05.asp> [hereinafter Law No. 5/2004].

²²⁶ *Id.*, art. 3 § 1(6).

²²⁷ *Id.*, art. 3 § 2; *see also* Lei n.º 6/2002, Artigo 6 Condições de acesso à actividade [Law 6/2002, art. 6 Conditions of Access to the Activity] (2002) (Mac.), http://dicj.gov.mo/web/pt/legislation/FortunaAzar/regAdem_02_006.html.

²²⁸ *Id.*, art. 5.

²²⁹ *See id.*; *see also* Código Civil de Macao Artigo 1073 Usura [Civil Code of Macau, art. 1073 Usury] (1999) (Mac.), <http://bo.io.gov.mo/bo/i/99/31/codcivpt/codciv1001.asp> [hereinafter Civil Code of Macau].

²³⁰ Civil Code of Macau, *supra* note 229, art. 1073 § 2.

and Hong Kong; however, they are not enforceable in Mainland China.²³¹ Thus, gamblers from Macau are exposed to financial harm if they are not able to pay gambling debts. This is a cause of concern given that Macau residents gambled the most amount of money in Macanese casinos compared to the amounts gambled in other activities.²³² Indeed, the average monthly amount gambled in Macanese casinos was eight times higher than that of the lottery.²³³

C. Las Vegas

Casinos in Las Vegas extend credit to gamblers for use in their casinos, commonly called “markers.”²³⁴ Markers are similar to interest-free loans that require repayment at a future time.²³⁵ Casinos use credit as a marketing strategy to attract more patrons to gamble at their establishment.²³⁶ Nearly 40% of all wagers are made through markers.²³⁷ Further, 30% of resident gamblers maintain casino credit.²³⁸

A patron seeking a marker from a casino must first submit an application similar to that required for a personal loan.²³⁹ These applications ensure that he or she is in the financial position to repay the marker.²⁴⁰ Subsequent markers are easier to obtain and patrons typically receive them without going through the initial application process, especially if he or she has a good history of repayment with the casino.²⁴¹ Casino hosts may also approve a requested marker without requiring much paperwork.²⁴² These hosts may be more willing to approve a marker because their compensation includes a portion of the patron’s losses resulting from that marker.²⁴³

To maintain a pleasant relationship with patrons who have markers, casinos allow lengthy periods before repayment—even several months.²⁴⁴ Markers can grow to be several hundreds of thousands of dollars before they come due.²⁴⁵ Because these markers are interest-free, the casino takes a risk of

²³¹ Godinho, *supra* note 154, at 6.

²³² *Macau Gambling Participation*, *supra* note 114.

²³³ *Id.*

²³⁴ *Casinos and Debt Collection*, STOPPREDATORYGAMBLING.ORG, <http://stoppredatorygambling.org/wp-content/uploads/2012/12/SPG-Memo-Casinos-and-Debt-Collection-notes.pdf> (last visited Jan. 22, 2015).

²³⁵ *Id.*

²³⁶ *Id.*

²³⁷ *Id.*

²³⁸ LAS VEGAS CONVENTION & VISITORS AUTH., *supra* note 98, at 4.

²³⁹ *Casinos and Debt Collection*, *supra* note 234.

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² *Id.*

²⁴³ *Id.*

²⁴⁴ *Id.*

²⁴⁵ *Id.*

loss if the patron does not pay the marker.²⁴⁶ Indeed, casinos write off millions of dollars every year as uncollectible debts.²⁴⁷

Markers are also risky for the individual patron if he or she is unable to pay them. Under Nevada law, if the patron does not pay the marker, a casino can file a claim with the Clark County District Attorney's Office to prosecute because this is theoretically equivalent to the crime of writing a bad check.²⁴⁸ Nevada is the only market discussed herein, and the only state in the Union, that imposes both civil and criminal penalties on patrons who do not pay their casino debts.²⁴⁹ If the amount of money is \$650 or less, it constitutes a misdemeanor offense; if the amount is more than \$650, it is a category D felony.²⁵⁰

Casinos frequently refer patrons with unpaid debts to the District Attorney because, in addition to criminal punishment, the patron must also pay restitution.²⁵¹ Essentially, this process makes the District Attorney, using public resources, the casino's debt collector of private funds.²⁵² The District Attorney also receives collection fees, providing an incentive to prosecute.²⁵³ Alternatively, the casinos may file a civil claim against the patron if the district attorney chooses not to prosecute or if that process will be too lengthy.²⁵⁴

D. Recommendation for Japan

Japan should prohibit the extension of gambling credit ex ante, at least to its citizens and permanent residents. Although the three comparative markets here permit this practice, there are strong arguments against it.

First, extending credit puts a patron in a leveraged financial position in order to participate in gambling. The risk of loss or default is high given that the odds of winning are ultimately against the borrower. Someone who cannot afford exposure to losses from his or her current assets, or does not feel comfortable losing those current assets, should not incur an additional liability from which to lose instead. This is especially important for problem gamblers who are willing to withstand higher losses.²⁵⁵

²⁴⁶ *Id.*

²⁴⁷ *Id.*

²⁴⁸ *Id.*

²⁴⁹ *Id.*

²⁵⁰ NEV. REV. STAT. § 205.130 (2017).

²⁵¹ *Casinos and Debt Collection*, *supra* note 234.

²⁵² *Id.*

²⁵³ *Id.*

²⁵⁴ *Id.*

²⁵⁵ In Nevada, problem gamblers were more likely to lose larger amounts of money both daily and annually than non-problem gamblers. For example, 69.8% of problem gamblers lost \$1,000 or more in a single year, compared to 25.8% of non-problem gamblers. Further, 38.6% of problem gamblers lost \$1,000 or more in a single day, compared to only 9.3% of non-problem gamblers. *See* VOLBERG, *supra*

Second, granting credit can become predatory: casinos might become eager to extend easy credit to patrons with poor credit in order to attract them to play at their establishment; unregulated interest rates may be usurious; and the terms of repayment may be uncertain or spawn defaults. Further, incentivizing credit extension by paying commission on the losses of those borrowers, as in Las Vegas, heightens these concerns.

Third, casinos should not extend credit because of the risk of default and the potential losses that they will have to write down as uncollectible debt. Although the gambling debts of citizens and permanent residents will likely be enforceable within Japan, they may not be enforceable in other countries from which patrons come, especially China.

If, despite these policy considerations, Japan permits the extension of gambling credit, then it should use Singapore as the model. Regulations should require citizens and permanent residents to prove that they are financially stable through a deposit account and to demonstrate that they can risk loss by drawing down the full amount in the account for gambling. However, gamblers should have to maintain some premium player status by keeping a certain amount in an account. There should also be a thorough credit screening procedure to ensure creditworthiness of the borrower. Further, Japan should enforce gambling debt under the civil code and not the criminal code.

VI. CONCLUSION

Macau, Las Vegas, and Singapore, as well as many other gaming markets, have reaped the economic rewards of booming casino industries. Japan has the potential to do the same and become a leading gaming market in the world if it legalizes casino gambling. However, most legal and business propositions, especially those that present a profound change, involve a great deal of risk. Some risks are immediate and some risks present themselves over time. The already high prevalence of gambling problems is one that Japan faces immediately, even before the establishment of casinos. Further, problem gambling and its associated harms have the potential to increase and burden Japanese society for long after the establishment of casinos.

Japanese lawmakers must carefully consider regulations to implement at the outset of legalization, or *ex ante*, in order to effectively combat problem gambling and its harm. Japanese lawmakers can justify implementing *ex ante* regulations by looking at the existing regulations of the top gaming markets in the world. These markets have already served as the laboratories of casino regulation, providing not only regulatory frameworks, but also data of the results these markets have had. This Article recommends to Japanese lawmakers regulations to implement *ex ante* based on this valuable information.

note 101, at 37.

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Lastly, while ex ante regulations are crucial in combatting problem gambling and its harms, ex post regulations may be even more important. As Macau, Las Vegas, and Singapore have all learned, there are inevitable social, economic, and political changes that demand the same of existing regulations. To continue to be effective, Japanese lawmakers must amend or repeal these regulations, as well as enact new regulations, in response changing circumstances. However, Japan should always prioritize the health and welfare of its citizens and residents in its regulatory decisions, rather than purely economic pursuits.