

# Chapter 1

## Section 1.01

Ministry of the Attorney General

Follow-Up on Value-for-Money Audit:

# Alcohol and Gaming Commission of Ontario

### RECOMMENDATION STATUS OVERVIEW

	# of Actions Recommended	Status of Actions Recommended				
		Fully Implemented	In the Process of Being Implemented	Little or No Progress	Will Not Be Implemented	No Longer Applicable
Recommendation 1	2			2		
Recommendation 2	1			1		
Recommendation 3	3	3				
Recommendation 4	2			2		
Recommendation 5	2	1			1	
Recommendation 6	6	3	1		2	
Recommendation 7	2			2		
Recommendation 8	2	1		1		
Recommendation 9	1				1	
Recommendation 10	4		2		2	
Recommendation 11	1				1	
Recommendation 12	3	3				
Recommendation 13	5	2	3			
Recommendation 14	1		1			
Recommendation 15	2		2			
Recommendation 16	3	3				
Recommendation 17	3	1		2		
Recommendation 18	1	1				
Recommendation 19	1			1		
Recommendation 20	1	1				
Recommendation 21	2			2		
Recommendation 22	1		1			
Recommendation 23	5	3	1		1	
Recommendation 24	3			3		
Recommendation 25	4	3	1			
Recommendation 26	1		1			
<b>Total</b>	<b>62</b>	<b>25</b>	<b>13</b>	<b>16</b>	<b>8</b>	<b>0</b>
<b>%</b>	<b>100</b>	<b>40</b>	<b>21</b>	<b>26</b>	<b>13</b>	<b>0</b>

## Overall Conclusion

The Alcohol and Gaming Commission of Ontario (AGCO), the Ministry of the Attorney General, and the Ministry of Finance, as of November 24, 2022, have fully implemented 40% of the actions we recommended in our *2020 Annual Report*. The Ministries and AGCO have made progress in implementing an additional 21% of the recommended actions.

The Ministries and AGCO have fully implemented recommendations such as creating a data catalogue to improve accuracy and reliability of the publicly reported data; listing the risks of unregulated gaming on its website; completing a competitive procurement for mystery shopping services; and implementing a quality control program to ensure completeness of its application files.

However, the Ministries and AGCO have made little progress on 26% of the recommended actions, including preparing a detailed action plan to be presented to Treasury Board/Management Board of Cabinet on reducing the risk of money laundering in casinos in Ontario; working with credit card companies and financial institutions to block transactions with unregulated internet gaming sites; and assessing whether staff levels are reasonable in relation to AGCO's mandate.

We determined the Ministries and AGCO do not plan to implement 13% of the recommendations. One of these is to consider using a separate government organization to conduct and manage the online gaming model in Ontario. While the Ministries and AGCO have introduced conflict of interest policies, we continue to believe that AGCO should maintain independent regulatory oversight to avoid any conflicts that could occur by conducting and managing the new iGaming model through a subsidiary. AGCO will not be implementing these other recommended actions:

- incorporate into legislation the requirement for audited financial statements, and for those statements to be audited by the Office of the Auditor General of Ontario;

- require all casinos to provide it with all reports sent to the Financial Transactions and Reports Analysis Centre of Canada;
- amend the Registrar's Gaming Standards to require gaming operators to verify the source of funds for patrons who bring large amounts of cash into the casinos;
- require compliance officials to follow up and inspect electronic gaming machines that are identified as being offline while on the gaming floor;
- directly and consistently monitor the actual payout amounts of electronic gaming machines in gaming establishments and take immediate corrective action where necessary;
- perform unannounced inspections based on risk in addition to self-reported notifications; and
- significantly increase the system's search capabilities beyond 250 records to permit management to run their own reports as needed.

The status of actions taken on each of our recommendations is described in this report.

## Background

The Alcohol and Gaming Commission of Ontario (AGCO) regulates the alcohol, gaming, horse-racing and private cannabis retail sectors in Ontario and oversees about 78,500 licensees across the four sectors. AGCO is required to regulate the licensed entities in the public interest in accordance with the principles of honesty and integrity.

Sectors regulated by AGCO generate significant cash flow for the Province in the form of net proceeds from alcohol sales, lotteries and gaming, licensing and registration fees, and related provincial income tax. However, if not regulated effectively, these sectors have the potential to contribute to significant social and health-care issues such as addiction, violence and criminal activities.

Our audit findings included the following:

- Compliance officials did not document the rationale for selecting an establishment for unannounced inspections in the alcohol, cannabis, gaming and horse-racing sectors.

In addition, the compliance reports did not state which areas of risk were inspected. Without seeing the rationale for selecting an establishment or the area that the compliance official reviewed, it was difficult for a manager to assess the compliance official's judgment in targeting the establishment or to ensure that the inspection covered higher-risk areas.

- AGCO did not monitor operating electronic gaming machines to ensure the machines paid out at a rate of 85%. AGCO's gaming standards set the theoretical minimum payout of 85% for an electronic gaming machine over a period of time or a predetermined number of plays. However, AGCO did not regularly monitor these machines to see whether they were actually paying out the theoretical minimum. Instead, it relied on the Ontario Lottery and Gaming Corporation (OLG) to monitor the payouts and note which machines were paying under or over the theoretical payout amounts. This information was not shared with AGCO. However, the private casino operators, contracted by OLG, were required to notify AGCO if there were integrity issues with the gaming machines. Similarly, AGCO relied on the private operator PlayOLG to monitor payouts on the online gaming website.
- Casino patrons gambling significant sums of money without a justified source of funds were allowed to continue gambling. The OPP has many tools at its disposal for investigation purposes. Our Office reviewed a sample of investigations of individuals who brought large sums of money into Ontario casinos and either did not report an occupation or reported one that would not support the funds wagered or otherwise transacted. Based on that review, the OPP relied mainly on a criminal background check and rarely performed any additional checks or interviews with the individuals.
- Most recreational cannabis sold in the province continued to be sold illegally. Despite the legalization of cannabis in October 2018, the illegal sale of recreational cannabis accounted for about

80% of cannabis sales in the province in 2019/20 (47% in 2021/22). Legal sales increased from about 5% of total sales in the fourth quarter of 2018 with only the government's online store in operation (Ontario Cannabis Store) to about 20% in the first quarter of 2020 with 49 private retail stores operating as of March 2020. As of December 31, 2021, legal sales were 59% of total sales and 1,333 private retail stores were operating. One of the core objectives of the Ontario Cannabis Store is to move consumers from the illegal to the legal market.

We made 26 recommendations, consisting of 62 action items, to address our audit findings. We received commitment from AGCO, the Ministry of the Attorney General, and the Ministry of Finance that they would take action to address our recommendations.

## Status of Actions Taken on Recommendations

We conducted assurance work between April 2022 and August 2022. We obtained written representation from the Alcohol and Gaming Commission of Ontario, the Ministry of the Attorney General, and the Ministry of Finance that effective November 24, 2022, they have provided us with a complete update of the status of the recommendations we made in the original audit two years ago.

## AGCO Is Not Self-Sufficient and Relies on Taxpayer Subsidies to Regulate the Sectors

### Recommendation 1

*In order to become a self-sufficient regulatory agency, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *set fees to fully recover the costs of regulating the alcohol and cannabis sectors, similar to the gaming sector;*

- *set differential licensing fees depending on the location and/or purchase volumes of licensed establishments.*

**Status:** Little or no progress.

### Details

We found in our 2020 audit that the cost of compliance and enforcement activity in the alcohol and cannabis sectors is not recovered from these sectors in order to not overburden small businesses. In comparison, AGCO recovers all of its costs for the gaming sector in relation to its regulatory compliance and enforcement activities. With regard to the liquor sector, Ontario charges all restaurants, bars and nightclubs a flat fee for the initial two-year licence and a renewal fee every subsequent two years. We also noted other jurisdictions where the regulator charges different fees to liquor establishments based on the type of establishment, amount of liquor purchased and/or the location of the establishment.

In our follow-up, we found that AGCO was conducting a two-phase strategic review of its fees to explore options for increased cost recovery in the liquor and cannabis sectors. Phase one of the study included a review of the cost structure, jurisdictional analysis, financial analysis, sector trend analysis and the development of options to support increased cost recovery. However, according to AGCO, these options do not intend to seek to fully recover the costs of regulating the alcohol and cannabis sectors, but instead put AGCO in a better financial position.

In phase two, commencing in October 2022, AGCO planned to initiate stakeholder engagement, recommend fee changes to the Ministry of the Attorney General, and draft an implementation plan. As part of phase two, AGCO planned to determine a basis for differential or risk-based fees and how differential fees for licensed establishments might work in Ontario.

### Recommendation 2

*In order to fully disclose the taxpayer's support of the horse-racing sector, we recommend that the Ministry of the Attorney General record the unrecovered costs from regulating the horse-racing sector as a subsidy in the AGCO's future audited financial statements.*

**Status:** Little or no progress.

### Details

In our 2020 audit, we found that the licencing fees issued with respect to horse racing, along with regulatory fees and chargebacks paid to AGCO for certain drug-testing costs, are not enough to cover all the regulatory costs relating to horse racing. We noted that AGCO's unrecovered regulatory costs are equivalent to a subsidy, yet they are buried in AGCO's expenses in the Public Accounts of Ontario rather than being disclosed as a subsidy in the province's financial statements.

In our follow-up, we found that the Ministry and AGCO have been working closely with the Office of the Comptroller General and our Office to determine how best to disclose the unrecovered costs from regulating the horse-racing sector. However, upon auditing AGCO's 2021/22 financial statements, our Office noted that AGCO's processes associated with preparing segmented expenses by regulated sectors involved the use of staff surveys to track staff's time allocated to each sector. Our Office determined that this process lacked the precision compared to payroll and attendance-management systems that track employees' time by specific activities. The Ministry and AGCO are planning on implementing this recommendation after AGCO develops processes to track employees' time spent on each segment accurately for financial statement disclosure.

## Public Reporting

### Recommendation 3

*To ensure information in the annual report is accurate and reliable, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *create a data catalogue that identifies all of the data in its annual report, the source and location of the data and data definition (for example, what was included or excluded);*
- *require information contained in the annual report to be signed off by senior management as evidence of their review;*
- *maintain records and other supports to the annual report for at least seven years.*

**Status:** Fully implemented.

### Details

In our 2020 audit, when we requested AGCO to provide us support for various figures presented in its 2018/19 annual report, AGCO had trouble producing them or reconciling key statistics contained in the report to the data in its IT systems. AGCO accounted for the lack of supporting evidence and discrepancies by noting that many statistics in the annual report were “point in time” and could not be reproduced. It also told us that it did not save all the reports on which the data was based. Although we were told that senior staff in charge of the various divisions review the content of the annual report before it is released, they do not officially sign off on its content.

In our follow-up, we found that AGCO has created a data catalogue to ensure the accuracy and consistency of data reported in its 2020/21 annual report. The new data catalogue lists all data included in the annual report and includes the source and location of data, data definition and the contact information of the data provider. In addition, in March 2022 AGCO developed data governance procedures to ensure that methodologies and process steps are documented and provide accurate instruction for data collection and maintenance. The procedures also include a detailed process for gathering and verifying data, and the requirement to maintain all records and supports for at least seven years. We also found that as part of the 2020/21 annual report process, AGCO implemented a formal sign-off process for senior management as evidence of their review, and that all senior management members signed off on the 2020/21 annual report in July 2021.

### Recommendation 4

*In order to effectively monitor and ensure intended regulatory outcomes are achieved, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *develop meaningful performance indicators that focus on its effectiveness as a regulator;*
- *set reasonable targets, compare against actual results and report the results publicly.*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that AGCO’s publicly reported performance measures focus largely on turn-around times, and client and staff satisfaction. There was very little measurement of their effectiveness as a regulator, and there were no measures for the integrity of gaming for lotteries, casinos, internet gaming or charitable gaming, or the effectiveness of the investigations and enforcement group in curtailing money laundering. We also found that AGCO’s performance measures did not measure all facets of its operations, or how efficient it was in processing applications in all four sectors.

In our follow-up, we found that in February 2022 AGCO established a performance measurement framework, which it plans to use to develop outcome-based performance indicators. However, at the time of our follow-up, AGCO had not developed any performance measures.

### Recommendation 5

*In order for the Alcohol and Gaming Commission of Ontario to be transparent and accountable, we recommend that the Ministry of the Attorney General:*

- *in accordance with the Agency and Appointments Directive, require the AGCO to produce audited financial statements to be audited by the Office of the Auditor General of Ontario for inclusion in the AGCO’s annual report for the year ending March 31, 2021;*

**Status: Fully implemented.**

### Details

In our 2020 audit, we noted that the Memorandum of Understanding between AGCO and the Ministry of the Attorney General (Ministry) did not explicitly require AGCO to produce audited financial statements. AGCO’s financial information was reported as part of the Ministry’s expenditures in the Public Accounts of the Province. However, under the Agencies and Appointments Directive issued by the Management Board of Cabinet, board-governed regulatory agencies like AGCO are required to include audited financial statements in their annual report. An exception is permitted where an audit is not practical. We saw no reason why

audited financial statements would not be practical for this agency.

In our follow-up, we found that AGCO prepared a Statement of Revenue and Expenditures for the year ended March 31, 2021, which was audited and signed off by our Office and included in AGCO's 2020/21 annual report. AGCO produced full financial statements for the year ended March 31, 2022, which were also audited by our Office. These audited statements will be included in AGCO's annual report by December 2022.

- *revisit the Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996 to incorporate the requirement for audited financial statements, and for those financial statements to be audited by the Office of the Auditor General of Ontario.*

**Status: Will not be implemented. The Office of the Auditor General continues to believe that the Ministry should incorporate the requirement for audited financial statements in the Act to inform future MOUs when the term of the current MOU is revoked or replaced.**

### Details

We found in our 2020 audit that the current act that establishes AGCO, the *Alcohol, Cannabis and Gaming Regulation and Public Protection Act, 1996*, repealed subsequent to our 2020 audit and replaced by the *Alcohol and Gaming Commission of Ontario Act, 2019* (the Act), is silent on whether the agency is required to produce audited financial statements.

In our follow-up, we found that AGCO is now preparing financial statements in accordance with the Agencies and Appointments Directive, which are audited by our Office. In April 2022, AGCO and the Ministry updated the Memorandum of Understanding (MOU) between the organizations to reflect the requirement for AGCO to produce financial statements to be audited by the Office of the Auditor General of Ontario. According to the Ministry, since the MOU reflects the requirement for AGCO to produce financial statements to be audited by the Office of the Auditor General of Ontario, the amendment of the Act is not necessary. However, we believe the Ministry should still incorporate the requirement for audited financial

statements in the Act to inform future MOUs when the term of the current MOU is revoked or replaced.

## Gaming Sector

### Recommendation 6

*In order to reduce the high risk of money laundering being conducted in Ontario casinos, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *require all casinos to provide it with all reports sent to the Financial Transactions and Reports Analysis Centre of Canada;*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.**

### Details

We found in our 2020 audit that AGCO receives only one of four federal reports sent by Ontario casinos to the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) focused on helping identify potential instances of money laundering in casinos.

In our follow-up, AGCO informed us that it is following FINTRAC's guidance on receiving prescribed FINTRAC reports. The authority for casinos to collect and report financial transactional information falls under the federal *Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA)*. FINTRAC issued policy guidance in July 2020 stating that it is not in the public interest to disclose financial transaction reports and the information mandated by the PCMLTFA without a valid purpose and authority, as it may infringe on legislated privacy obligations. According to AGCO, the Ontario Provincial Police (OPP) will continue to receive suspicious transaction reports which are the exception to the above as they contain information on suspected criminal activity and can be lawfully provided to the OPP. However, we believe AGCO, as the regulator of gaming in Ontario, has a strong and valid purpose and the authority to receive all FINTRAC reports related to casino activities. The public and the Legislature would expect no less of a regulator.

- *allocate compliance resources, including the Ontario Provincial Police (OPP), to casinos assessed to be high risk for money laundering;*

**Status: In the process of being implemented by December 2022.**

### Details

We found in our 2020 audit that although casinos were identifying individuals involved in suspicious transactions to AGCO, enforcement action by AGCO's Investigation and Enforcement Bureau was limited. We were told by OPP staff in the bureau that in order to seize cash or cash equivalents (such as bank drafts or casino chips), OPP officers require immediate notification and need to be present at the casino and have reasonable and probable grounds to believe the funds being wagered were a result of criminal activity. We also found that AGCO's OPP officers had not added additional anti-money-laundering surveillance at the 10 high-risk casinos, but instead relied on AGCO's audit and financial investigations group to conduct additional work.

In our follow-up, we found that AGCO established an Anti-Money Laundering Unit in January 2021. The Unit has developed a preliminary risk assessment of land-based casinos based on volume of suspicious transactions, size of casino and its compliance history with AGCO standards. In addition, the Unit has developed a heat map that shows the days and times of suspicious activities by casino site, which will help identify when and where suspicious activities are most likely to occur. AGCO told us that it is determining the appropriate resource allocation and scheduling based on this risk assessment, and anticipates it will fully implement our recommended action by December 2022.

- *exclude from casinos individuals who come with a large amount of cash and are not able to prove the source of their funds;*

**Status: Fully implemented.**

### Details

In our 2020 audit, we found that casino patrons' occupations did not always justify the amounts being wagered or otherwise transacted. We noticed that, in 2019, no occupation was documented in the suspicious

transaction reports for 130 individuals whose collective suspicious transactions totalled \$6.7 million. The OPP investigated these transactions, but based on the testing we completed, investigations seldom resulted in the OPP being able to determine if the funds had or had not come from a legitimate source. Moreover, the individuals named were allowed to continue gambling.

In our follow-up, we found that in December 2021 AGCO updated the Registrar's Gaming Standards, which now require casino operators to implement a risk-based approach to ascertain a player's source of funds and, when necessary, deploy measures such as deny a transaction or exclude the players from the casino. According to AGCO, it is the operator's responsibility to conduct customer due diligence and to take appropriate action at the time the transaction occurs. AGCO, as the regulator, has authority and also has OPP officers at casinos to investigate suspected money-laundering activities.

- *require the OPP to use all available tools to gather evidence on the sources of funds for patrons identified with suspicious transactions, including conducting source-of-funds interviews and updating the new data analytics system that the AGCO acquired to help determine patrons' risk ratings with all relevant data from casinos;*

**Status: Fully implemented.**

### Details

In our 2020 audit, we found that in investigating suspicious transactions, OPP officers may obtain witness statements, perform background checks, review surveillance footage, do credit checks, conduct informal checks with the Canada Revenue Agency, and request information from FINTRAC. We also found that the OPP can hold a source-of-funds interview with the individual to get information that will help determine if the funds used are legitimate. However, during our testing we discovered that the OPP only completed criminal background checks; if there was no criminal activity noted, no additional work was done to verify the source of funds, or to determine if amounts used to wager were legitimate.

In our follow-up, we found that AGCO has implemented 11 indicators for its new anti-money laundering

dashboard that calculates patrons' risk ratings. The indicators are used to assess the risk level of all patrons involved in suspicious transactions reported. The indicators include the number of casino cheques disbursed to an individual, the number of times an individual refused to provide identification, and the number of transactions with minimal play before attempting to exchange the chips or cash for a casino cheque.

From August 2021, when it was implemented, to June 2022, we found that the dashboard has been used to review over 2,500 suspicious transaction reports, resulting in 406 investigations, including 60 source-of-funds interviews, 20 background checks, 20 reviews of surveillance footage, one informal check with the Canadian Revenue Agency, and 15 requests for information from FINTRAC. However, according to AGCO, these investigations did not provide sufficient evidence to exclude individuals from casinos or lay any charges related to money laundering at this time.

- *amend the Registrar's Gaming Standards to require gaming operators to verify the source of funds for patrons who bring into the casinos large amount of cash;*

**Status: Will not be implemented. The Office of the Auditor General continues to believe that it is important for AGCO to provide guidance to operators on when source of funds should be verified to be considered fully implemented.**

### Details

We found in our 2020 audit that Ontario did not have any legislative requirements for casino operators to verify the source of funds of casino patrons to ensure that money used for gambling was not illicit and being laundered in the casino.

In our follow-up, we found that AGCO implemented changes to the Registrar's Gaming Standards in December 2021, which explicitly require operators to implement risk-based policies to ascertain a player's source of funds.

However, the new requirement allows each casino operator to set its own policies, procedures and controls that specify times and situations, based on risk, where the operator will verify the source of funds. This may lead to inconsistent approaches across various casinos. As of

August 2022, AGCO has not been collecting statistics on the number of source-of-funds interviews or exclusions by casino operators to assess the impact and effectiveness of the new gaming standards. AGCO informed us that it will not prescribe to operators when verification of the source of funds is warranted, as the amendment requires each operator to conduct a risk assessment considering the operator's scope of operations.

- *expedite the development and use of the data analytics system, including populating the database with accurate and complete information.*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO's recently implemented data analytics system was missing information from nine casinos and only contained suspicious-transaction data beginning in July 2018 for the other casinos. AGCO told us that it was working on receiving missing information from OLG in the preferred format for the new system.

In our follow-up, we found that AGCO streamlined the process for receiving monthly suspicious-transaction reports from OLG in December 2020, which will automatically transfer into the new data analytics system. In addition, AGCO has received and incorporated historical suspicious-transaction data into the system for all casinos dating back to calendar 2016.

### Recommendation 7

*In order to address the increase in the number and value of suspicious transactions in Ontario casinos that could be attributed to the presence of money laundering, we recommend that the Ministry of the Attorney General and the Ministry of Finance:*

- *prepare and present a detailed action plan to Treasury Board/Management Board of Cabinet on the steps to be taken to reduce the high risk of money laundering being conducted in Ontario casinos; and*
- *report regularly to Treasury Board/Management Board of Cabinet on the actions taken with respect to the plan.*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that AGCO had identified challenges and areas for improvement with respect to its anti-money-laundering activities. It had recognized that it had significant gaps in co-ordinating anti-money-laundering efforts across its divisions and branches; instituting best practices within each industry it regulates; and serving as a resource on anti-money-laundering compliance to its staff, licensees and registrants. At the time of our audit, AGCO had not developed a plan to address the areas that needed improvement.

In our follow-up, the Ministry noted that sufficient time is needed to assess the effectiveness of the recent changes AGCO made in December 2021 to its Registrar's Gaming Standards with respect to money laundering. The Ministry of the Attorney General and Ministry of Finance plan to report to Treasury Board/Management Board of Cabinet in January 2023 with an update on steps taken to reduce the risk of money laundering in casinos, and any additional proposed actions to further enhance anti-money-laundering efforts in Ontario casinos.

### Recommendation 8

*In order to create greater awareness of risks of unregulated online gaming, we recommend that the Alcohol and Gaming Commission of Ontario, along with the Ministry of the Attorney General:*

- *list the risks of unregulated gaming on its website and provide a link to AGCO gaming standards and the PlayOLG website;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO's 2015 report on Unregulated Internet Gaming in Ontario proposed several actions to discourage unregulated internet operators from taking bets from Ontarians, which included tightening restrictions on the marketing of unregulated internet gaming, and raising public awareness of the risks of unregulated internet gaming. We found that none of these actions had been implemented at the time of our original audit.

In our follow-up, we found that AGCO created a new section on its website for internet gaming players when the market launched in April 2022. The new section includes content and resources related to the risks of unregulated gaming, a direct link to the PlayOLG website, and also emphasizes the benefits and public protections provided by the Registrar's Standards. The website lists some of the risks of unregulated gaming, including a lack of game transparency; the possibility that payouts may not be timely, accurate and could be withheld; and personal information and data may not be secure. In July 2021, AGCO also updated its website to include several resources such as the Registrar's Standards for Internet Gaming.

- *work with credit card companies and financial institutions to block transactions with internet gaming sites not regulated by Ontario.*

**Status: Little or no progress.**

### Details

In our 2020 audit, we found that the New Jersey Gaming Enforcement division was facing a similar problem to AGCO in trying to discourage unregulated internet operators from taking bets from its residents, and informed us that having credit card companies block transactions with unlicensed online gaming sites had been an effective tool.

In our follow-up, we found that AGCO wrote to the Financial Services Regulatory Authority of Ontario (FSRA) in March 2022 to explore measures to prevent credit unions from engaging in financial transactions with unregulated internet gaming sites operating in Ontario. AGCO met with FSRA in May 2022, and both agencies expressed interest in establishing a memorandum of understanding to continue the discussion and share information as necessary. In addition, AGCO also wrote to the Office of the Superintendent of Financial Institutions (OSFI) in March 2022 to meet and discuss measures that could prevent financial institutions from engaging in financial transactions with unregulated internet gaming sites in Ontario. We noted OSFI responded in a letter in April 2022 stating that the matter falls outside the scope of OSFI's mandate, and that AGCO should instead engage another federal or

provincial ministry on the matter, which it has not yet done as of October 2022.

### Recommendation 9

*To maintain the Alcohol and Gaming Commission of Ontario's independent regulatory oversight and avoid any conflicts that could occur if it were to conduct and manage the new iGaming model through a subsidiary, we recommend that the Ministry of the Attorney General and the Ministry of Finance consider using a separate government organization to conduct and manage the online gaming model.*

**Status:** Will not be implemented. The Office of the Auditor General continues to believe that the Alcohol and Gaming Commission of Ontario should maintain independent regulatory oversight to avoid any conflicts that could occur by conducting and managing the new iGaming model through a subsidiary.

#### Details

In our 2020 audit, we noted that in 2019, AGCO proposed a model in which the government would conduct and manage an Internet gaming portal that would offer games operated by private operators. We also found that in March 2020, the government approved a joint submission from the Ministry of the Attorney General and the Ministry of Finance to establish a subsidiary corporation of AGCO to be responsible for conducting and managing the new internet gaming model. Further, we noted that under the new conceptual model approved by government, AGCO would have both regulatory responsibilities and operational/revenue-generating responsibilities through its subsidiary, which could create a conflict of interest.

In our follow-up, we found that the province had set up iGaming Ontario in April 2022 as a subsidiary to AGCO. The Ministries noted that AGCO has developed two conflict of interest policies for the AGCO Board and its management in regards to internet gaming. The two Ministries state that any risks associated with a conflict of interest will be addressed through these policies, and that the benefits of maintaining the current structure outweigh the operational risks and fiscal impacts of establishing a new structure. However, the concerns about AGCO having both regulatory and operational/

revenue-generating responsibilities through its subsidiary remain unaddressed.

### Recommendation 10

*In order to ensure that only approved software is operating on electronic gaming machines, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *require all casinos to implement the new gaming system that allows for remote monitoring;*

**Status:** In the process of being implemented by May 2024.

#### Details

We found in our 2020 audit that AGCO's gaming software relied on OLG's gaming management system to monitor gaming machines. AGCO received monthly data from OLG's gaming management system to ensure only AGCO-approved software was installed in slot machines and to prevent casinos from altering payouts or other outcomes that could impact game integrity. However, at the time of our audit, five casinos had not yet converted to the OLG gaming management system. In addition, for casinos that were using the gaming management system, the casino operators reported 686 electronic gaming machines on casino floors in 2020 that were not connected to the OLG's gaming management system. This meant that these machines could not be monitored remotely by AGCO and were vulnerable to software tampering affecting payout odds.

In our follow-up, we found that OLG converted four of the five outstanding casino properties to the OLG gaming management system. AGCO told us that the one remaining casino, Caesars Windsor, will implement the system in May 2024 after the OLG procures a new long-term agreement for the Windsor location. According to OLG, the existing agreement with the Windsor casino operator does not allow OLG to dictate the system used for slot operations.

- *require compliance officials to follow-up and inspect electronic gaming machines that are identified as being offline while being on the gaming floor;*

**Status:** Will not be implemented. The Office of the Auditor General continues to believe that inspections of slot machines identified as being offline should be conducted.

### Details

In our 2020 audit, we found that AGCO's compliance officials reviewed all variances between the electronic gaming machines on the floor and those in the gaming management system. For two-thirds of the reports we selected for review, the compliance officials concluded that there were no issues based solely on the explanation provided by the casino or because the number of machines was below the 15% threshold (AGCO compliance officials were encouraged to follow up with the casino operator if the number of machines not in the system was higher than 15% of the machines on the casino's gaming floor.) For the remaining one-third of the reports we sampled, the compliance officials contacted the gaming operator and were informed that the machines were either not on the gaming floor or were offline because of a loss of communication with the OLG gaming management system. We also found that there was no evidence that any inspections were completed to ensure there were no other reasons for the machines being offline.

In our follow-up, we found that AGCO developed a plan in June 2022 to improve its oversight of offline electronic gaming machines, which includes requiring OLG to provide AGCO with bi-weekly data reports on electronic gaming machines that includes information about offline machines. Based on a bi-weekly report from OLG in late July 2022, OLG noted 638 incidents of machines being offline, with 173 (27%) indicating machines were disabled due to a failure of the record-keeping software. For the remaining 465 incidents (73%), the report just notes a communication failure due to the game being offline, or no response.

According to AGCO, the failure of the record-keeping software leading to a game being disabled means the machine is working as intended and AGCO considers the results of no response or games being offline as low risk. As a result, AGCO will not inspect any slot machines identified as being offline.

- *periodically test the gaming management system for data security, reliability of connectivity and accurate reporting of machine details;*

**Status: In the process of being implemented by November 2022.**

### Details

We found in our 2020 audit that although OLG's central gaming management system allowed for alerts and efficient flagging of issues, it would be prudent to periodically test the central gaming management system to confirm that all reporting functions were accurate and working as intended.

In our follow-up, we found that AGCO had developed a Casino Gaming Monitoring System (GMS) monitoring procedure in July 2022. Under this procedure, casino operators are required to perform a GMS software verification every three months and report the results to OLG. Similarly, operators are expected to monitor the health and connection reliability of their GMS and report to OLG every six months. OLG is expected to consolidate the results from all operators and forward them to AGCO for analysis to detect any non-compliance and follow up with appropriate compliance actions. The first set of Gaming Monitoring System reliability testing is set to begin in November 2022.

- *perform unannounced inspections based on risk (such as number of repairs and complaints, self-reporting frequency) in addition to self-reported notifications.*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.**

### Details

We found in our 2020 audit that the average number of inspection procedures completed by AGCO each month on electronic gaming machines decreased significantly, while the number of machines requiring repairs increased significantly. AGCO told us that the decrease in inspections was a result of the transition to a standards-based model. According to AGCO, the standards-based model allowed gaming operators to repair or make changes to machines, and add machines to the gaming floor, without requiring an AGCO inspection. Under the new model, casino operators were required to notify AGCO of the changes, and AGCO compliance officials were to conduct inspections after the changes had been completed. As a result, we noted that AGCO had become heavily reliant on self-reporting to drive

inspection activities, and was no longer proactively inspecting for electronic gaming issues.

In our follow-up, we found that AGCO will not return to conducting unannounced in-person inspections of electronic gaming machines at casinos. AGCO told us that this is a result of the transition to a centralized Gaming Management System where data is available remotely so that AGCO is able to monitor and assess without in-person attendance.

### Recommendation 11

*In order to help ensure that each electronic gaming machine is paying out the approved 85% rate, we recommend that the Alcohol and Gaming Commission of Ontario directly and consistently monitor the actual payout amounts of electronic gaming machines in gaming establishments and take immediate corrective action where necessary.*

**Status: Will not be implemented. The Office of the Auditor General continues to believe that AGCO should directly inspect gaming machines and take immediate action on machines that pay out below 85%.**

### Details

In our 2020 audit, we found that AGCO's minimum theoretical payout of a game is 85%, representing the theoretical minimum payback for a slot machine over a period of time. However, we found that AGCO did not regularly monitor these machines to see if they were actually paying out the minimum. Instead, it relied on OLG to monitor the payouts and note which machines were paying under or over the theoretical payout amounts, but this information was not shared with AGCO.

In our follow-up, we found AGCO updated its notification requirement for casino operators in April 2022 to include the requirement to provide quarterly reports to AGCO on machine payout data and any associated actions taken by the operator. As part of this policy, we found that AGCO has developed a template for casino operators to self-report their machine payouts quarterly along with any action plans.

However, AGCO does not provide any guidance on when a casino operator is expected to provide an action plan for a particular slot machine. In our follow-up, we noted that casino operators do not provide action plans

for all slot machines paying under 85%. For example, one casino only provided action plans for five of the 31 slot machines that had paid out below 85%.

AGCO implemented the Casino Electronic Gaming Machines Payout Monitoring Policy & Procedure in June 2022, which outlines the responsibilities, processes and activities pertaining to the monitoring of electronic gaming machine payouts between AGCO, OLG and the casino operators. Starting in December 2021, AGCO required OLG to provide it with quarterly machine payout data. AGCO compares the operator's payout data to OLG reported data, analyzes the operator's action plans regarding machines that are potentially non-compliant, and plans to take appropriate compliance actions as required. However, as of September 2022, AGCO had not taken any compliance actions. AGCO told us that the act of reviewing and analyzing data reports is a compliance action that constitutes direct and consistent monitoring of the actual payout amounts of electronic gaming machines. Our Office still believes that AGCO should directly inspect gaming machines and take immediate action on machines that pay out below 85%.

## Cannabis Sector

### Recommendation 12

*In order to minimize the risk of cannabis being sold to minors, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *use a competitive procurement process to acquire the services of mystery shoppers for retail cannabis stores, licensed liquor establishments and grocery stores authorized to sell alcohol, or acquire these services jointly with the Liquor Control Board of Ontario;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO contracted with a service provider for the use of mystery shoppers in all its various lines of business. The rate AGCO paid for mystery shoppers was the same whether they visited a retail cannabis store, a licensed liquor establishment or a grocery store authorized to sell alcohol. We compared the AGCO mystery shopper program to the Liquor Control Board of Ontario (LCBO) program, and

found that AGCO paid \$119 per visit while LCBO paid \$15 to \$25. LCBO required mystery shoppers to complete a 19-question checklist, while AGCO's checklist contained three to six questions.

In our follow-up, we found that AGCO completed a competitive procurement for mystery shopper services for all lines of business, including cannabis and alcohol, and awarded contracts to two vendors that started in March 2022. We noted that one vendor has not changed since the original audit, but AGCO was able to negotiate a lower flat rate of \$62 per shop visit, down from the original \$119. The other vendor will charge different rates per mystery shopper visit in each region: \$75 per visit in the East and West Region, \$40 in the GTA Region, and \$100 in the North Region. AGCO told us that two separate vendors were retained in order to obtain the most competitive rates across all regions where checks are required. We also found that AGCO held discussions with LCBO to try to enter a joint procurement for a mystery shopper vendor, but LCBO raised concerns about being charged higher fees due to the added lines of business and the different scope of work, as LCBO only has alcohol and its mystery shopper program focuses on standards that are not relevant to AGCO, such as store cleanliness, customer service, product presentation and stock.

- *specify in the contract for mystery shopper services what procedures they should perform—which should include checking customer ID at time of entering the store and at the time of purchase, observing whether products have a Health Canada seal and whether more than the legal amount a person can have in their possession at one time (30 grams) was sold—and clearly outline the requirement to document all key observations;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit, that AGCO had cut down significantly on the use of mystery shoppers since July 2019. AGCO informed us that it had reduced its use of mystery shoppers because it was not satisfied with the work performed—that the mystery shoppers were not following instructions, and in many instances, documentation submitted did not capture all of the details of the inspection. We also found that AGCO did

not ask its mystery shoppers to look for other risks, such as whether the product they purchased had a Health Canada seal or whether the shopper was allowed to buy more than 30 grams of cannabis at one time, the maximum amount a person can have in their possession.

In our follow-up, we found that AGCO's new mystery shopper contracts outline the requirements for cannabis inspections, such as documenting whether the ID of the mystery shopper was checked when they entered the store and at the time of purchase, taking photographs of the Health Canada seal, and observing whether more than the allowable limits may have been sold. There is also an expectation for documenting general observations or other relevant details noted during the visit.

- *increase the use of regularly scheduled mystery shopper visits, focusing on stores located close to middle schools and high schools.*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO had not assigned risk ratings to cannabis retail stores, such as those located near schools that should have a higher level of oversight.

In our follow-up, we found that AGCO has identified and increased mystery shopper visits to stores located within 200 metres of schools since September 2021. As of May 2022, AGCO had conducted 105 mystery shopper visits at 68 cannabis stores in proximity to schools.

### Recommendation 13

*In order to perform the required and necessary oversight of the movement of legal cannabis, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *regularly review reconciliations of all retail cannabis store inventory purchases to sales transactions and inventory on hand;*
- *reconcile retail store purchases of cannabis with records from the Ontario Cannabis Store;*

**Status: In the process of being implemented by December 2022.**

## Details

We found in our 2020 audit that there was a risk that a retail operator may purchase large quantities of cannabis from the Ontario Cannabis Store (OCS) and divert it to the illegal market. Provincially regulated retail cannabis stores are required to self-report discrepancies in inventory, transfer of cannabis between stores, and destroyed cannabis products. However, we found that AGCO had not verified or conducted any retail store inventory counts to confirm if the self-reported information was reliable.

In our follow-up, we found that through a joint project with AGCO, OCS is implementing a new point of sale (POS) solution for all cannabis retail stores in Ontario. The new POS solution will provide AGCO with more in-depth validation and the ability to perform reconciliations of inventory data. Full rollout of the solution is expected to be completed by the end of December 2022. AGCO also told us that regular reconciliations of purchase data compared to the OCS's records will occur after the implementation of the POS solution.

- *review surveillance evidence to verify that reports of cannabis being destroyed are reasonable;*

**Status: Fully implemented.**

## Details

In our 2020 audit, we learned that all cannabis that was ineligible to be sold and discontinued products that could not be returned to the OCS had to be destroyed by the retailer and captured by store surveillance. We also learned that AGCO's Audit and Financial Investigation group had the authority to conduct inventory counts at cannabis retail stores, and review surveillance video of the destruction process. However, we found that, as of September 2020, the group had never conducted an inventory count or asked to view a retailer's surveillance video.

In our follow-up, we found that AGCO implemented a new inspection checklist for cannabis retailers in October 2021. The checklist includes procedures to ensure that surveillance systems are in place, verifying the retailer has maintained video recordings for at least 30 days, and a review of retained footage to verify recordings of destroyed product.

- *conduct unannounced periodic inventory counts at retail stores;*

**Status: In the process of being implemented by February 2023.**

## Details

We found in our 2020 audit that AGCO did not typically inspect the inventory when it conducted inspections of retail stores. After reviewing a sample of cannabis inspection reports from the prior two years, we found that only 15% of AGCO inspection reports mentioned that inventory was inspected.

In our follow-up, we found that AGCO has developed an inventory count plan, which from September 2022 to February 2023 will involve observing five physical inventory counts focusing on high-risk cannabis retailers in the Greater Toronto Area. AGCO told us that these counts will not be unannounced as it is not feasible to conduct a count without making prior arrangements with the retail store.

- *develop a standardized checklist covering risk areas to be used by AGCO compliance officials when conducting inspections of retail stores.*

**Status: Fully implemented.**

## Details

We found in our 2020 audit that AGCO did not use a standard checklist during its cannabis retail store inspections. We also found that AGCO's inspection only focused on ensuring that all cannabis inventory had the Health Canada seal and was locked in a secure location with 24-hour surveillance.

In our follow-up, we found that AGCO implemented a new inspection checklist for cannabis retailers in October 2021 to ensure that inspections review all relevant risk areas. The checklist includes checking whether a retail store has all points of access secured, employees are over the age of 19, cannabis products are stored securely, identification is requested from customers who appear to be under the age of 25, there is compliance with cannabis-destruction procedures, and surveillance records are kept for 30 days.

### Recommendation 14

*In order to help ensure that the Alcohol and Gaming Commission of Ontario uses its financial and human resources efficiently, we recommend that it review and assess its internal capacity and the longer-term costs/benefits of conducting eligibility assessments on its own before continuing to procure external consulting services.*

**Status: In the process of being implemented by December 2022.**

#### Details

In our 2020 audit, we found that AGCO used five consulting firms with forensic expertise to perform eligibility assessments for new cannabis retail store applicants starting in March 2019. We noted that AGCO did not complete an internal analysis to determine the number of consultants actually needed. The five consulting firms were procured to support the high volume of applications anticipated when the government first announced an unlimited open market for cannabis retail licences. However, when the supply of cannabis became an issue and plans changed, AGCO did not complete a cost/benefit analysis of its need for external vendors in comparison to using its own OPP staff in the Investigations and Enforcement Bureau.

In our follow-up, we found that in March 2022 AGCO completed an analysis comparing the overall cost of using internal resources to conduct eligibility assessments as opposed to external consultants. The cost analysis report concluded that using internal resources for eligibility-assessment activities would be more cost-effective.

Based on the results of the cost analysis, AGCO plans to commence in-house due diligence investigations and eligibility assessments for cannabis applications starting in December 2022. External consultants will only be engaged if the volume of applications exceeds the forecast and internal resources are unable to process the applications in a timely manner. In that scenario, AGCO plans to utilize the lowest-cost consultants wherever possible.

### Recommendation 15

*If the Alcohol and Gaming Commission of Ontario determines that there is a need to use external consultants, either to supplement the AGCO's internal work or to take responsibility for conducting eligibility assessments and due diligence reviews, we recommend that the AGCO:*

- *use the services of the lowest-priced consulting firm that is successful in the bidding process with the capacity to do the work;*
- *negotiate rates with other firms to achieve the same pricing if it is found that more work is required than the lowest-priced consulting firm has the capacity to perform.*

**Status: In the process of being implemented by December 2022.**

#### Details

We found in our 2020 audit that while all five consulting firms with expertise to perform eligibility assessments for new cannabis retail store applicants charged different prices, AGCO did not try to use the least expensive consulting firm first. We also found that each consulting firm was generally allocated an equal amount, even though the firm with the lowest rate was charging one-quarter of the price of the most expensive firm. AGCO did not have a process in place to first allocate work to the consulting firm charging the least and then negotiate a similar price with the other consultants.

In our follow-up, we found that AGCO plans to engage external consultants only if the volume of work exceeds the forecast and the internal resources are unable to process applications in a timely manner. We noted that AGCO's current contracts with the external consultants will conclude on November 30, 2022, after which they will not be renewed. AGCO is in the process of procuring new external contracts by December 2022 for eligibility assessments for all of its lines of business. AGCO also noted that if it is unable to complete the work in a timely manner using internal resources, it will use the lowest-cost consultants available.

## Alcohol Sector

### Recommendation 16

*In order to help ensure that decisions on new and renewal applications for liquor establishments are consistent and reasonable, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *complete a risk-based scorecard for all new and renewal applications;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO's eligibility officers used a risk scorecard to assign new applicants an overall risk level that was also used at the time of licence renewal. Based on the sample of renewal applications we tested, 28% did not have an updated risk assessment.

In our follow-up, we found that AGCO implemented and circulated a new policy in November 2021 to ensure risk-based scorecards are completed for new licence applications and renewal applications when required. AGCO noted that due to the volume of applications and renewals across its lines of business, it is not feasible for each application to be subject to a manual scorecard review.

We noted that when a licence is renewed, or an application is received for an expired licence, it is not subject to a manual scorecard review if there have been no changes to the licensee and no adverse compliance history. We found 33 of 182 renewal applications received in 2021 had a risk-based scorecard completed, while the remaining applications were auto-renewed because there were no changes to the licensee's information and no adverse compliance history. We also noted all 75 new liquor sales licence applications received in 2021 had a risk-based scorecard completed.

- *complete all standard checks and maintain the supporting documentation in the application file;*
- *add controls that will restrict eligibility officers from reviewing their own work when assessing either new or renewal applications.*

**Status: Fully implemented.**

### Details

In our 2020 audit, we found that based on our review of a sample of new applications, only 10% had evidence of a police intelligence check, or a check of whether the applicant owned another licensed location. The reason why these checks were not performed on other files was not documented. In addition, in 86% of the sample of renewal applications, the reviewer was the same person as the eligibility officer completing the file.

In our follow-up, we found that AGCO implemented a quality control function in its iAGCO IT system in February 2022 along with an updated quality control policy in July 2022 that requires a random selection of various completed application files for further review by other senior staff and/or the manager. The quality review includes ensuring standard checks are completed and supporting documents are uploaded as required. Every month, iAGCO randomly selects 40 files for review from all issued licences. We noted that in May 2022, there were 17 quality control reviews completed, and the rest were either auto-renewed or the application had been cancelled.

### Recommendation 17

*In order to focus inspection efforts on entities identified consistently as high risk, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *maintain an accurate and up-to-date risk-based enforcement list;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that AGCO used a risk-based approach to inspecting liquor establishments. Compliance officials identified high-risk liquor establishments based on their compliance history, and added them to a risk-based enforcement (RBE) list so that those establishments were inspected more frequently. However, we noted that the list was not reviewed and updated on a regular basis.

In our follow-up, we found that AGCO re-evaluated its risk-based enforcement program in April 2021, which recognized that the manual list lacked a clear understanding of how licensees were first placed on the list and how they would be removed from the list. Since

then, AGCO has worked with compliance managers to review and update the RBE list to ensure it is accurate and up-to-date. The current RBE list is maintained by compliance managers and is reviewed with their teams during quarterly scheduled team meetings. Managers review and discuss compliance history at RBE establishments to determine if there is support to continue to have the establishment on the list.

- *inspect high-risk licensees at least four times per quarter in accordance with program guidelines;*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that each high-risk liquor establishment on the risk-based enforcement list was required to be inspected four times each quarter (16 times per year). Based on the sample we reviewed, high-risk violators were inspected on average 11 times annually, less than the 16 inspections required per year.

In our follow-up, we found that AGCO is monitoring the frequency of inspections of high-risk establishments, but was still not conducting three to four inspections per quarter as required. We found between April and June 2022, high-risk establishments received 0 to 13 inspections in the quarter, and that 30 of the 68 establishments received less than three inspections. AGCO has stated that its risk-based enforcement program was designed to monitor high-risk premises and to inspect those premises monthly, and that it would increase its inspections when there are additional concerns or violations that require follow-up or additional inspections.

- *reassess a licensee's risk level and the need for licensing conditions as violations are committed, rather than waiting until the time of license renewal.*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that for 23% of the liquor establishments sampled, no conditions were added to the licence despite multiple major violations. When we asked AGCO about this, the response was that conditions would be considered when the licence came up

for renewal. Because licensing terms are as long as four years, a licensee with major violations may continue to operate for that long without conditions.

In our follow-up, we found that AGCO reminded its compliance staff in August 2021 that its risk-based licensing process provides for conditions to be added to liquor licences at any point in the licence life cycle. Since then, AGCO has tracked the number of violations per licensee in its monthly reports. While there were violations, at the time of our follow-up, no conditions had been placed on a licensee prior to licence renewal. AGCO told us that a single noted violation would not automatically trigger a reassessment of the licensee's risk level, and that the reassessment process is triggered once a pattern of non-compliance is established.

### Recommendation 18

*In order to accurately measure, use and report on inspection statistics, we recommend that the Alcohol and Gaming Commission of Ontario measure and report on inspection activities separately from non-inspection activities, such as report reviews, education or consultation with licensees.*

**Status: Fully implemented.**

### Details

In our 2020 audit, we found that information reported publicly and to senior management overstated the number of inspections conducted on licensed liquor establishments. According to the AGCO's IT system for internal reporting, 116,300 inspections were conducted in the alcohol sector between 2015/16 and 2019/20. However, approximately 13%, or 14,680, of these activities were not inspections. Instead, they included activities such as reviewing police reports and follow-ups, and consulting, educating and delivering correspondence to licensees.

In our follow-up, we found that AGCO has updated the way it categorizes types of inspections in its compliance-services reporting in preparation for its 2021/22 annual report. New groupings now include "Inspection Activity," "Consultation," "Education," and "Non-Inspection Activity." The latter category includes other compliance activities in the alcohol sector such as reviewing police reports and work with mystery shoppers.

### Recommendation 19

*To improve the consistency and effectiveness of compliance inspections in the alcohol sector, we recommend that the Alcohol and Gaming Commission of Ontario communicate guidance to compliance officials on assessing violations during inspections and on documenting the assessments in the inspection report.*

**Status:** Little or no progress.

#### Details

In our 2020 audit, we found that when we compared the number of violations found and reported per compliance official relative to the number of inspections performed, there were significant variances in violation rates amongst compliance officials.

In our follow-up, we found that AGCO delivered additional training in January and February of 2022 to compliance staff on assessing violations during inspections and on documenting the assessments in the inspection report. The training materials also form part of the on-boarding training for new inspectors. AGCO told us that it tracks the effectiveness of its trainings through the quality control checks it has used since February 2022. However, we still noted significant variances in the number of violations found and reported per compliance official relative to the number of inspections performed among the 10 compliance officials with the most inspections from April to July 2022, ranging from 1% to 29%.

### Recommendation 20

*In order to maintain the objectivity and independence of compliance officials, we recommend that the Alcohol and Gaming Commission of Ontario periodically rotate compliance officials across different inspection regions.*

**Status:** Fully Implemented.

#### Details

In our 2020 audit, we found that compliance officials were not rotated among licensees but rather stayed in the regions to which they were initially assigned to continue to oversee the same establishments. AGCO informed us that it has no rotation policy for its compliance officials.

In our follow-up, we found that AGCO has started rotating inspectors and developed a standardized indicator in February 2022 to regularly monitor their rotation. The new gauge, inspectors per inspection (IPI), measures the number of different inspectors divided by the number of inspections conducted at a given licensed establishment. An IPI of 1 would mean that there was a different inspector for each inspection conducted. AGCO has set the IPI target for all sectors at 0.5 to 1, and monitors this on a monthly basis over a rolling 12-month period. The IPI for July 2022 was 1.01 for liquor inspections, 0.91 for lottery licence inspections, 0.91 for gaming registration inspections, and 0.76 for cannabis licensing inspections. AGCO started rotating inspectors across inspection areas within their regions in late 2020 to ensure consistency, fair workload distribution, and that regulated entities are not always inspected by the same individual. We noted 93 inspectors have conducted inspections in more than one sector since October 2021.

## Horse-Racing Sector

### Recommendation 21

*In order to accurately assess the risk of unnecessary use of therapeutics and drugs that negatively impact animal welfare, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *update its memorandum of understanding with the Canadian Pari-Mutuel Agency to receive detailed drug test results of all race horses tested in Ontario, whether results were positive or negative, and whether they were for horses that were competing in a race or out of competition;*

**Status:** Little or no progress.

#### Details

The Canadian Pari-Mutuel Agency (CPMA) is a federal agency that regulates and supervises pari-mutuel betting on horse racing at racetracks across the country, to ensure that betting is done in a fair way, through supervision of all horse-race wagering and through drug testing of horses on race days.

We found in our 2020 audit that CPMA does not willingly share information relating to wagering with AGCO, unless the racing or compliance officials request it for an investigation. CPMA does not alert AGCO to any large bets that are placed, even though a successful large bet may indicate a risk to the integrity of the sport in that it may indicate potential race-fixing. CPMA also shares only positive drug results with AGCO. Negative results, including instances where presence of the banned or therapeutic drug is confirmed but does not meet the threshold for a positive result, are not shared with AGCO.

In our follow-up, we found that AGCO has agreed to an information-sharing agreement with CPMA for out-of-competition testing (on horses that did not run a race), which is under AGCO's jurisdiction. As part of the agreement, AGCO started sharing results of its out-of-competition tests with CPMA in January 2021, and receives details from CPMA on unconfirmed positive results when there is a presence of a banned drug. As a result, AGCO added a therapeutic medication and a non-therapeutic drug to its testing panel based on information provided by CPMA on unconfirmed positive tests. However, the results shared by CPMA do not indicate which horse or trainer had tested for the presence of the drug.

- *use these test results to better focus its out-of-competition testing on animal welfare.*

**Status:** Little or no progress.

### Details

We found in our 2020 audit that the CPMA conducted about 25,000 drug tests across Canada each year, compared with about 260 tests conducted by AGCO. More comprehensive tracking of the use of therapeutics and other drugs would help AGCO accurately assess the risk to animal welfare and better target its out-of-competition testing to trainers who use specific drugs on their horses.

In our follow-up, we found that the new information-sharing arrangement with CPMA, as noted above, led to changes in AGCO's out-of-competition drug testing. In May 2021, AGCO added a therapeutic medication and a non-therapeutic drug to its testing panel as a result of information provided by CPMA on

unconfirmed positive tests. However, the results shared by CPMA do not indicate which horse or trainer had tested for the presence of the drug. AGCO was not able to focus its testing on any particular horse, trainer or geographical region.

### Recommendation 22

*In order to minimize the familiarity risk between horse-racing officials (judges) and horse-racing participants (owners, trainers and jockeys), we recommend that the Alcohol and Gaming Commission of Ontario periodically rotate horse-racing officials across different racetracks.*

**Status:** In the process of being implemented by December 2022.

### Details

In our 2020 audit, we found that AGCO did not have an official policy of rotating judges at racetracks, creating a risk that the judges might become too familiar with the horse owners, trainers and/or jockeys, adversely affecting their judgment.

In our follow-up, we found that AGCO developed a draft racing official scheduling policy in March 2022, and was in the process of developing a scheduling tool by December 2022. AGCO expects the scheduling tool will result in a measurable and auditable race official rotation rate.

## New IT System Has Taken Eight Years and \$27.4 Million to Build but Still Requires More Capabilities

### Recommendation 23

*In order to improve the quality of data within the iAGCO IT system and the usability of the system, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *implement input controls to prevent incorrect inspection start or end times being entered;*
- *develop requirements for all compliance officials to follow the same format for inputting their inspection time;*

**Status:** Fully implemented.

### Details

We found in our 2020 audit that the times at which inspections occurred were not recorded accurately and consistently in the system. We noted there was incorrect or missing information on the time of the inspections, start and end times were reversed, and some timestamps were not consistently recorded in military time format.

In our follow-up, we found that AGCO has implemented mandatory fields for start and end times for inspections in iAGCO through a February 2022 system update. This update included a restriction that does not allow the end time to be before the start time of the inspection, as the mandatory time fields are now drop-down menus in military time format instead of manual entry fields. We also noted that AGCO communicated these changes in trainings sessions for compliance staff in January and February of 2022. The training materials also form part of the on-boarding training for new inspectors.

- *add restrictions in the iAGCO system to ensure the reviewer assigned to an inspection is different from the compliance official;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that over the last five years there were 234 instances where the compliance official conducting an inspection and the manager assigned for review were the same individual.

In our follow-up, we found that AGCO implemented a quality control function in iAGCO in February 2022 along with an updated quality control policy in July 2022, as noted above in **Recommendation 16**. This function automates the random selection of various completed application files for review. A senior eligibility officer assigns the selected files for a quality control review by other senior staff and/or the manager.

- *ensure all pertinent data from legacy systems is properly transferred into the iAGCO system;*

**Status: In the process of being implemented by January 2023.**

### Details

We found in our 2020 audit that inspector names were not available for more than 75,000 inspections that were migrated into the iAGCO system for the period of 2015/16 to 2017/18. There have also been significant data reliability issues with the completeness of horse-racing inspections data that was transferred into the iAGCO system from the previous horse-racing system. The data was migrated to the iAGCO in March 2020, and as of September 2020 it was still undergoing data integrity checks because a large number of inspections did not get transferred into the new system.

In our follow-up, we found that AGCO was still working toward migrating the data to the new system through an iAGCO update anticipated in January 2023, including horse-racing drug testing records.

- *significantly increase the system's search capabilities beyond 250 records to permit management to run their own reports as needed.*

**Status: Will not be implemented. The Office of the Auditor General continues to support the implementation of this recommendation.**

### Details

We found in our 2020 audit that the iAGCO system's search function limits the number of results to 250 per search item. For an organization that performs hundreds of compliance activities each day, the 250-record limit does not even cover inspections over a three-day period. All major system data requests had to go through the IT group, which created delays in data analysis.

In our follow-up, we found that AGCO consulted with iAGCO's third-party vendor regarding the expansion of search results, and was informed that expanding the search capabilities beyond the existing record limit would cause performance and general usability issues. AGCO told us that the search function was designed for record retrieval and not reporting and analysis. In addition, AGCO has a separate product integrated into iAGCO for reporting and analysis. However, as noted in our original audit, not all AGCO staff are trained and capable of using this data-reporting tool without support from the IT group, thus creating delays in data analysis.

## Efficient and Effective Use of Resources

### Recommendation 24

*In order to ensure its staffing levels are appropriate and it is using its staffing resources efficiently, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *assess whether staffing levels at the AGCO are reasonable in relation to its current mandate;*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that the annual inspection time for 10 officials we reviewed ranged from 8% to 19% of their annual work time. We also noted some divisions may have had an excessive number of full-time equivalent (FTE) staff for their respective functions. For example, the Corporate Services Division had 71 FTEs, which may be excessive for an agency that does not prepare annual financial statements.

In our follow-up, we found that AGCO has not started to implement this recommended action. AGCO determined that conducting a review of staffing levels was not beneficial at this time due to the impact of the COVID-19 pandemic and given its expanded mandate to support the launch of the new iGaming framework in Ontario. AGCO noted that it is committed to doing a staff level review after the agency completes the enhancements to its employee time-tracking system.

- *track the time spent by its staff on all key regulatory activities, including licensing and compliance activities and investigations;*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that licensing and registration staff and compliance officials did not have different activity codes for different activities when tracking their time. For example, compliance officials were limited to time noted as compliance activity in its iAGCO IT system, which includes time spent conducting inspections, and consulting with and educating licensees. It would be beneficial for AGCO to track the time its compliance officials spend on all activities

performed, including traveling, training, inspecting and writing reports, as it would assist management in assessing their efficiency and accurately allocating costs to the regulated sectors for proper cost recovery.

In our follow-up, we found that AGCO has implemented new activity codes to its daily activity reporting system for compliance officials, which includes specific time codes for various surveillance activities such as in-person and online engagement. AGCO is exploring future iAGCO system enhancements to improve the tracking of both application processing time and compliance inspections.

- *regularly analyze this information to focus on areas of improvement.*

**Status: Little or no progress.**

### Details

We found in our 2020 audit that AGCO did not maintain any workload statistics for employees across each of its functions.

In our follow-up, we found that AGCO has not started to implement this recommended action. AGCO is planning to begin the regular analysis of activity-tracking data after the implementation of a time-tracking system.

## AGCO Operations: Licensing, Inspections, Complaints

### Recommendation 25

*In order to provide effective regulatory oversight over regulated entities, we recommend that the Alcohol and Gaming Commission of Ontario:*

- *follow up on all non-frivolous complaints with an inspection or other regulatory tools to verify the validity of allegations;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that, based on our review of a sample of complaints, AGCO could not provide any evidence that it had followed up on 63% of complaints it received in the horse-racing sector, 53% of

complaints it received in the gaming sector, 23% of complaints it received in the cannabis sector, and 8% of complaints it received in the alcohol sector.

In our follow-up, we found that in April 2021, AGCO provided training sessions to staff handling complaints. Those sessions included training on new policies and procedures created to support horse-racing related complaints, and the need to follow up on all non-frivolous complaints. We noted that AGCO followed up and completed over 2,000 inspections related to non-frivolous complaints received in 2021.

- *train staff to properly categorize complaints in the system;*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that about 40% of all complaints in iAGCO were categorized as “general” or “other,” or the category was left blank.

In our follow-up, we found that AGCO has created definitions for the various types of complaints for its new lines of businesses, cannabis and iGaming. AGCO also trained its customer-service representatives throughout 2021 on screening and categorizing complaints in iAGCO. We noted that the amount of complaints categorized as “general,” “other” or left blank was lowered from 40% to 13% since the time of our original audit.

- *set a timeline for review of complaints based on the risk to public safety, and document all resolutions in the iAGCO system;*

**Status: In the process of being implemented by December 2022.**

### Details

We found in our 2020 audit that AGCO’s complaint and inquiry handling policy stated that staff should respond within a reasonable time frame based on the nature and complexity of the complaint. However, there was no definition of what time frame was reasonable. We also found complaints that, according to the AGCO, had been resolved, but staff could not provide any evidence, and none existed in the iAGCO system.

In our follow-up, we found that AGCO has communicated to its staff that all complaints should be addressed within 30 days of receipt, and all resolutions should be documented in the iAGCO system. AGCO’s Complaints and Inquiry Handling Policy also states that if a matter concerns an immediate risk to public safety or security, the response will be immediate after appropriate escalation. AGCO also implemented a complaint-tracking system in January 2021 to track how long it took to respond to complaints and report if the turnaround time was over 30 days. This system also tracks resolutions for each complaint. AGCO was working to update its service standards for complaints by December 2022, including setting a timeline to review response time and resolution.

- *provide training and guidance to compliance officials to document the rationale for all unannounced inspection selections and the risks being inspected.*

**Status: Fully implemented.**

### Details

We found in our 2020 audit that based on our sample of inspection reports and our review of the iAGCO system, compliance officials did not document the rationale for selecting establishments for unannounced inspections in the alcohol, cannabis, gaming and horse-racing sectors. In addition, the compliance reports did not state which areas of risk were inspected.

In our follow-up, we found that AGCO provided training to compliance officials in January and February 2022 to improve consistency and documentation in their inspection reports. This includes describing the reason for an inspection, regardless of the inspection type, and what risks were inspected.

## COVID-19 Impact on AGCO’s Operations

### Recommendation 26

*To make the most efficient use of resources, we recommend that the Alcohol and Gaming Commission of Ontario limit the use of consultants and reallocate Ontario Provincial Police staff working at casinos and*

*elsewhere to assist in performing eligibility assessments of cannabis applications.*

**Status:** In the process of being implemented by January 2023.

### **Details**

In our follow-up, we found that AGCO completed a cost analysis on eligibility assessments for new cannabis applicants in March 2022 and determined the work that was being done by external consultants could be handled by OPP staff housed at the AGCO. The change is expected to save an estimated \$570,000 annually starting in 2023.