

Legal Differences in Private Lending Arising from Macau's Legalization of Gambling: A Comparative Analysis Between Mainland China and Macau

Luo Qing^{1*}

¹ Macau University of Science and Technology, Macau, China

* Correspondence: luoqinglawyer@163.com

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Abstract: Macau's legalization of gambling forms a unique legal and commercial ecosystem distinct from the legal system of Mainland China, resulting in fundamental divergences in the validity, judicial protection, and regulatory norms of gambling-related private lending. Gambling and gambling-derived debts are legally recognized and enforceable under Macau's legal framework, while Mainland China explicitly prohibits gambling and defines all gambling-related lending behaviors as invalid civil acts that violate public order and good morals. Such institutional differences have triggered frequent inter-regional legal conflicts in cross-border private lending disputes involving gambling debts. This paper adopts a comparative legal perspective, systematically analyzes the institutional roots and specific manifestations of legal differences in gambling-related private lending between Mainland China and Macau, explores the judicial dilemmas in cross-border debt enforcement, and proposes targeted conflict resolution paths. The study finds that the core divergence lies in the binary opposition of legal valuation of gambling behaviors, which further differentiates the constitutive requirements, legal consequences, and regulatory logics of private lending. Resolving such legal conflicts is crucial for standardizing cross-border private lending behaviors, coordinating inter-regional judicial cooperation, and maintaining the consistency of civil legal order in the Greater Bay Area.

Keywords: Macau gambling legalization; private lending; legal difference; conflict of laws; cross-border civil dispute

1. Introduction

Private lending, as a supplement to formal financial institutions, plays a vital role in alleviating the financing needs of individuals and small and

medium-sized enterprises in cross-border economic activities. With the deepening of economic integration between Macau and Mainland China, cross-border private lending behaviors closely linked to Macau's gambling industry have become

increasingly frequent, giving rise to a large number of inter-regional civil and commercial disputes. The fundamental premise of such disputes lies in the completely different legal attitudes of the two legal jurisdictions towards gambling behaviors.

As a legal region with a long-standing legalization of gambling, Macau has formed a complete set of legal norms governing gambling activities and gambling-derived creditor's rights and debts. Macau's legal system clearly regards legal gambling as a legitimate source of civil obligations and protects the realization of gambling debts through judicial power. In sharp contrast, Mainland China has always adhered to a strict prohibition attitude towards gambling. Current civil and criminal laws explicitly stipulate that gambling is an illegal act that endangers social order and violates public order and good morals, and all lending behaviors serving gambling purposes are denied legal protection.

This institutional difference directly leads to drastic conflicts in the judicial determination of cross-border gambling-related private lending disputes. A debt relationship recognized and enforceable under Macau law may be completely invalidated and unenforceable in Mainland judicial practice. Such legal divergences not only confuse the behavioral expectations of cross-border market subjects but also bring huge challenges to inter-regional judicial recognition and enforcement of judgments. Based on the comparative law research framework, this paper sorts out the legal systems of private lending related to gambling in Macau and Mainland China, analyzes the core legal differences and their institutional causes, summarizes practical judicial conflicts, and explores feasible coordination paths, so as to provide theoretical support for resolving inter-regional private lending legal disputes and optimizing cross-border financial and judicial cooperation mechanisms.

2. Legal Basis and Institutional Background of Gambling-Related Private Lending in Two Jurisdictions

2.1 Legal System of Gambling and Private Lending in Macau

Macau's gambling legalization has a solid historical and legal foundation. After its return to China, Macau, as a special administrative region, enjoys an independent legal system and judicial power in accordance with the *Basic Law of the Macao Special Administrative Region*. Macau's current legal framework fully legalizes and standardizes gambling activities and derivative lending behaviors, forming a complete normative system covering substantive law and procedural law.

In terms of substantive civil law, Article 1171 of the *Macau Civil Code* clearly stipulates that gambling and betting stipulated by special laws constitute legal sources of civil obligations, and creditors have the right to claim debt performance through judicial procedures¹. This provision fundamentally confirms the legality and enforceability of legitimate gambling debts in Macau's civil legal system. Different from the general invalidity of immoral behaviors, legal gambling in Macau is classified as a legitimate commercial and entertainment behavior permitted by law, and the rights and obligations arising therefrom are protected by national judicial force.

In terms of regulatory rules for gambling lending, Macau law distinguishes between legitimate casino credit lending and illegal gambling usury. Macau's special gambling laws allow licensed casinos to provide credit services for legitimate gambling activities, and the lending relationships generated by official casino credit behaviors are fully protected by law. Meanwhile, Macau's criminal law clearly defines the crime of usury for gambling, punishing illegal profit-making lending behaviors targeting gambling activities by unlicensed subjects, so as to standardize the order of gambling-related private

¹ Macau Civil Code, Article 1171, Article 273

lending and prevent excessive financial risks derived from gambling.

In general, Macau's legal logic for gambling-related private lending is based on the legalization of gambling behaviors. Legitimate gambling and supporting lending behaviors are regarded as legal civil acts, with complete civil effectiveness and judicial enforceability. The legal regulation focus is to crack down on illegal private usury rather than deny the validity of gambling-derived debt relationships.

2.2 Legal System of Gambling and Private Lending in Mainland China

Mainland China's legal system adheres to the core principle of prohibiting gambling and denying the validity of gambling-related debts, which runs through civil law, criminal law and judicial interpretations.

At the level of basic civil law, Article 153 of the *Civil Code of the People's Republic of China* stipulates that civil juristic acts violating the mandatory provisions of laws and administrative regulations or violating public order and good morals are invalid². Gambling is explicitly listed as an illegal act disrupting social public order in Mainland administrative and criminal laws. Therefore, all civil acts centered on gambling, including gambling debt generation and gambling-purpose private lending, are automatically invalid civil acts with no legal effect.

In terms of private lending judicial norms, the judicial interpretations on private lending in Mainland China clearly define that lending contracts signed for illegal purposes such as gambling are invalid contracts. Once the lender knows or should know that the borrower uses the loan for gambling activities, the people's court shall not protect the creditor's right to recover the principal and interest of the loan. Even if the two parties reach a written debt agreement or IOUs based on gambling behaviors, such documents

cannot generate legitimate creditor's rights and obligations in Mainland judicial practice.

In terms of criminal regulation, Mainland criminal law sets crimes such as gambling crime and opening gambling dens, and severely punishes gambling-related illegal and criminal behaviors. Meanwhile, lending behaviors that provide funds for gambling and profit from high interest rates will also be held criminally responsible for related illegal acts. Different from Macau's differentiated regulation logic, Mainland's legal system completely negates the legitimacy of gambling and all derivative lending behaviors from the source, and there is no legal space for the validity of gambling debts.

3. Core Legal Differences in Gambling-Related Private Lending Between Mainland China and Macau

3.1 Difference in Legal Validity of Debt Relationship

The most fundamental legal difference lies in the opposite judicial recognition of the validity of gambling-derived private lending debts.

Under Macau law, legitimate gambling activities carried out in licensed casinos conform to legal provisions, and the resulting winning and losing relationships constitute legitimate civil creditor's rights and debts. The borrower's repayment obligation arising from gambling is a statutory civil obligation, and the lender can file a lawsuit and apply for compulsory enforcement through Macau's judicial organs to realize creditor's rights. For private lending behaviors serving legitimate gambling activities, as long as they do not involve illegal usury and criminal violations, the lending relationship is legally valid and protected by judicial power.

Under Mainland China's law, regardless of whether gambling behaviors are legal in other regions, all private lending behaviors with gambling as the purpose are invalid. The gambling debt itself belongs to "natural debts unprotected by law", and

² Civil Code of the People's Republic of China, Article 153

the court will not support any claim for repaying gambling principal and interest. Even if the debt is confirmed by effective judicial judgment in Macau, Mainland judicial organs will refuse to recognize and enforce it on the ground of violating public order and good morals (Ma Zhe, 2025). This validity opposition directly leads to the dual legal status of cross-border gambling debts: legal and enforceable in Macau, but invalid and unenforceable in Mainland China.

3.2 Difference in Determination Standards of Lending Subjective Malice

In the judicial determination of gambling-related private lending disputes, the two jurisdictions have obvious differences in the identification standards of the lender's subjective fault.

Macau law adopts a relatively loose subjective identification standard. For legitimate casino formal credit lending, the lender's provision of gambling funds is a legal business act, which does not constitute subjective malice. For general private lending, only when the lender has the subjective purpose of illegal profit-making and implements usury lending for gambling, will it be deemed as an illegal act. Ordinary private lending that unintentionally provides financial support for gambling does not affect the validity of the debt relationship.

Mainland judicial practice adopts a strict presumption of fault standard. As long as the loan purpose is confirmed as gambling, the court will presume that the lender has subjective fault of knowing the illegal purpose, and directly deny the validity of the lending contract. The lender cannot claim legitimate creditor's rights on the ground of ignorance or unintentionality. This strict standard aims to cut off the capital supply chain of gambling behaviors from the judicial level and completely curb the breeding of gambling-related illegal lending.

3.3 Difference in Legal Consequences of Invalid Lending Behaviors

There are significant differences in the disposal rules of principal, interest and illegal gains after the invalidation of gambling-related private lending in the two legal systems.

In Macau, only illegal gambling usury behaviors are deemed invalid. After the invalidation of illegal lending contracts, the judicial organ usually orders the return of the principal of the loan, and confiscates the illegal high interest gains obtained by the lender in violation of legal provisions. The legitimate principal part of the loan is still protected to a certain extent, balancing the rights and interests of both parties to the transaction.

In Mainland China, all gambling-related lending contracts are completely invalid. According to judicial practice, the court will not protect either the principal or interest claims of both parties to the gambling lending. For the gambling principal and illegal gains that have been delivered, the people's court will confiscate them in accordance with the law and turn them over to the state treasury (Fang Ruian & Xue Yu, 2024). This severe legal consequence fully reflects Mainland's legislative attitude of severely cracking down on gambling-related capital transactions and completely eliminating the economic incentives of gambling behaviors.

3.4 Difference in Cross-Border Judicial Enforcement Rules

In terms of inter-regional judicial cooperation, the two jurisdictions have conflicting rules on the recognition and enforcement of gambling debt judgments.

Macau's judicial system adheres to the principle of territorial legality. It recognizes the legal effect of legitimate gambling debts generated in Macau, and supports the creditor's right enforcement procedures of cross-border subjects. However, in accordance with the inter-regional judicial arrangement between Mainland and Macau, Mainland judicial organs have the right to apply the

public order reservation clause. For effective Macau judicial judgments confirming gambling debts, Mainland courts will refuse recognition and enforcement on the ground that the content violates Mainland's public order and good morals and basic legal principles.

This enforcement conflict forms a typical inter-regional legal loophole: debtors often evade debt repayment obligations through Mainland judicial procedures, while creditors cannot realize legitimate creditor's rights confirmed by Macau law in Mainland judicial scenarios, resulting in serious imbalance of cross-border transaction rights and obligations.

4. Institutional Causes of Legal Differences

4.1 Divergent Legal Valuation of Gambling Behaviors

The root cause of all legal differences lies in the completely different legal and social valuation of gambling behaviors between the two jurisdictions. Macau takes the legalization and industrialization of gambling as an important part of regional economic development. Gambling industry, as one of Macau's pillar industries, drives regional tourism, service industry and fiscal revenue growth. Therefore, Macau's legal system designs normative rules around the legality of gambling, standardizes gambling behaviors and supporting financial lending activities through legislation, so as to maintain the stable operation of the gambling industry and regional economic order. Legitimate gambling is positioned as a legal entertainment and commercial behavior rather than an immoral or illegal act.

Mainland China's legal valuation is based on social public interest and public order and good morals. Gambling is deemed as a bad social custom that induces corruption, triggers economic disputes, endangers family harmony and social stability. From the perspective of maintaining overall social order, Mainland law completely denies the

legitimacy of gambling behaviors, and fundamentally prohibits all capital transactions and lending behaviors serving gambling purposes through invalid civil acts and criminal sanctions, so as to eliminate the social hazards of gambling³.

4.2 Differences in Legal System Origins and Legislative Purposes

Macau's civil law system inherits the framework of Portuguese civil law, which adheres to the principle of autonomy of private law and respects legitimate civil behaviors permitted by special laws. As long as the behavior does not violate mandatory prohibitions and public order, private legal relations are recognized and protected. The legislative purpose of Macau's gambling lending norms is to standardize industrial order, prevent illegal financial behaviors, and balance industrial development and risk supervision.

Mainland China's civil legal supervision of private lending takes social public interest protection as the core purpose. Based on the socialist legal concept of public order and good morals, it prioritizes social overall interests over individual private autonomy. The legislative design of prohibiting gambling-related lending aims to curb gambling customs, maintain social moral order, prevent private capital from flowing into illegal gambling fields, and avoid financial risks and social contradictions derived from gambling debts.

4.3 Differences in Financial Supervision Logics

In terms of financial supervision, Macau adopts differentiated industrial supervision logic for the gambling industry. It allows formal financial credit matching for legitimate industrial needs, and regulates gambling-related private lending through market-oriented and standardized legal rules to adapt to the operational needs of the legal gambling industry.

Mainland China's financial supervision adheres to the principle of financial risk prevention and illegal behavior containment. Private lending is positioned

³ Chambers and Partners. *Gaming Law 2025: Macau SAR Regulatory Overview*, 2025.

as a financial activity that needs strict supervision. All capital flows supporting illegal behaviors are strictly prohibited. The supervision logic is to completely cut off the capital source of gambling through the invalidation of lending contracts, so as to realize the fundamental governance of gambling illegal behaviors.

5. Judicial Dilemmas Caused by Legal Differences

5.1 Conflicting Judicial Results in Cross-Border Disputes

The binary legal system leads to completely opposite trial results for the same cross-border gambling-related private lending dispute. The same lending behavior that is legal and enforceable in Macau will be completely invalidated in Mainland judicial trials. This situation makes cross-border market subjects face huge legal uncertainty (Wang Changge, 2021). Market participants cannot form stable behavioral expectations, which not only affects the normal cross-border capital flow order but also easily induces malicious legal evasion behaviors.

5.2 Abuse of Judicial Relief Procedures by Parties

In judicial practice, many debtors who generate gambling debts in Macau often evade repayment obligations by resorting to Mainland judicial procedures. After Macau court confirms the validity of the gambling debt and makes an enforceable judgment, the debtor applies to Mainland court for non-recognition and non-enforcement on the ground that the gambling debt violates Mainland public order and good morals, resulting in the failure of the creditor's legitimate rights and interests to be realized. This procedural abuse seriously damages the judicial authority of Macau courts and the fairness of cross-border transactions.

5.3 Ambiguous Application Standards of Public Order Reservation Clause

The public order reservation clause is the core basis for Mainland courts to refuse to enforce Macau gambling debt judgments, but there is no unified

and clear quantitative standard for the specific application scope and boundary of this clause in judicial practice. Different courts have different judgment scales on whether gambling debts violate public order and good morals, resulting in inconsistent trial standards in similar cases, which further increases the legal uncertainty of cross-border private lending disputes.

5.4 Lack of Targeted Inter-Regional Judicial Coordination Mechanism

At present, the inter-regional judicial cooperation arrangements between Mainland and Macau are mostly general normative documents, lacking special institutional rules for gambling-related private lending dispute resolution (Wang Changge, 2021). There is no clear coordination mechanism for legal validity recognition, evidence admission, debt disposal and judgment enforcement of cross-border gambling lending behaviors, resulting in no institutional basis for resolving such legal conflicts.

6. Paths to Resolve Legal Conflicts of Cross-Border Gambling-Related Private Lending

6.1 Clarify the Boundary of Public Order Reservation Judicial Application

Judicial organs should formulate unified guiding cases and judicial interpretations, clarify the applicable boundary of the public order reservation clause in cross-border gambling debt disputes. It should be clearly stipulated that the public order reservation clause is only applicable to illegal gambling behaviors and malicious evasion of legal obligations, and moderate recognition should be given to legitimate gambling debts generated in Macau in accordance with the principle of territorial legality, so as to balance the maintenance of Mainland public order and the protection of legitimate cross-border transaction security.

6.2 Establish Special Cross-Border Private Lending Dispute Coordination Rules

Based on the judicial cooperation framework of the Guangdong-Hong Kong-Macao Greater Bay Area, formulate special normative documents for Macau gambling-related cross-border private lending disputes⁴. Clarify the identification standards of legitimate gambling lending and illegal gambling usury, unify the rules of evidence admission, legal validity judgment and debt disposal in two jurisdictions, and eliminate judicial conflicts caused by institutional differences.

6.3 Improve Cross-Border Judicial Recognition and Enforcement Mechanism

Optimize the inter-regional judgment recognition and enforcement procedure mechanism, establish a differentiated review system for Macau gambling debt judgments. For legitimate credit lending debts generated by licensed casino gambling in Macau, limit the application of public order reservation; for illegal private usury debts and malicious gambling debts, strictly implement the invalidity judgment standard of Mainland law, so as to realize classified governance of cross-border gambling debts.

6.4 Strengthen Cross-Border Legal Publicity and Risk Warning

Carry out targeted legal popularization and risk warning for cross-border investors and private lending participants, clarify the legal differences and judicial risks of gambling-related private lending between Mainland and Macau, guide market subjects to standardize cross-border capital transaction behaviors, avoid invalid lending behaviors that violate the legal provisions of either party, and reduce the occurrence of inter-regional legal disputes from the source.

7. Conclusion

The legal differences in gambling-related private lending between Mainland China and Macau are inherent institutional divergences derived from Macau's gambling legalization and Mainland's gambling prohibition system, rooted in the different legal valuations, legislative purposes and supervision logics of the two legal jurisdictions towards gambling behaviors. Such differences are specifically reflected in the validity of debt relationship, subjective fault identification, legal consequence disposal and cross-border judicial enforcement, triggering a series of inter-regional judicial dilemmas such as conflicting trial results, procedural abuse and inconsistent judicial standards.

In the context of continuous deepening economic and judicial integration in the Guangdong-Hong Kong-Macao Greater Bay Area, resolving the legal conflicts of cross-border gambling-related private lending is of great significance for standardizing cross-border financial order, maintaining judicial unity and protecting the legitimate rights and interests of market subjects. To solve such conflicts fundamentally, it is necessary to adhere to the principle of "one country, two systems", respect the independent legal systems of the two regions, clarify the boundary of public order reservation judicial application, establish special dispute coordination rules, optimize inter-regional judicial cooperation mechanisms, and form a classified and standardized cross-border gambling debt governance system. Only by balancing social public order maintenance and cross-border transaction security protection can we effectively resolve inter-regional legal conflicts and promote the standardized and orderly development of cross-border private lending business in the Greater Bay Area.

⁴ Judicial Interpretations of the Supreme People's Court on Several Issues Concerning the Trial of Private Lending Cases.

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