

205 CMR: MASSACHUSETTS GAMING COMMISSION

205 CMR 138.00: UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND  
INTERNAL CONTROLS FOR GAMING

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138.01: Definitions

As used in 205 CMR 138.00, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

Annuity Jackpot means any slot machine payout offered by a gaming licensee, where a patron is entitled to receive cash payments at specified intervals in the future.

Asset Number means a unique number permanently assigned to a slot machine and a slot cash storage box for purposes of tracking that machine and storage box while owned by a gaming licensee.

Bank is defined in M.G.L. c. 167B, § 1.

Cage Supervisor means any person who supervises personnel and functions within the cashiers' cage.

Cash means currency or coin.

Cash Equivalent means a certified check, cashier's check, treasurer's check, personal checks, travelers' check, money order, or other instrument deemed a cash equivalent by the commission.

Check is defined in M.G.L. c. 106, §§ 3 through 104.

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Chief Gaming Executive means the individual employed by a gaming establishment who is responsible for the daily conduct of a gaming licensee's gaming business. Unless the chief gaming executive also serves as the chief executive officer of the gaming licensee, the chief gaming executive shall report directly to the chief executive officer of the gaming licensee.

Closer means the original of the Table Inventory Slip upon which each table inventory is recorded at the end of each shift.

Debit Card Cash Transaction means a transaction in which a patron obtains cash, chips, plaques, or slot tokens from a cashier by presenting a recognized debit card.

Derogatory Information means issues that have a negative bearing on one's casino credit including such things as a patron credit account being partially or completely uncollectible, checks returned unpaid by the patron's bank, settlements, liens, judgments, other credit problems of the patron, or any other information provided by a gaming licensee's security or surveillance department.

Electronic Fund Transfer is defined in M.G.L. c. 167B, § 1.

Handle means the total value of coins, slot tokens, including foreign slot tokens, currency, coupons, gaming vouchers, and electronic credits invested by a patron to activate the play of a slot machine or other electronic gaming device.

Identification Credential means government issued photo identification which contains the person's signature.

Imprest means the basis on which cashiers' cage and slot booth funds are replenished from time to time in exactly the value of the net of expenditures made from the funds and value received.

Incompatible function means a function that places any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of their duties. For example, anyone recording transactions and having access to assets ordinarily would be considered to be in a position to perpetrate errors or irregularities. Persons may have incompatible functions if such persons are members of departments which have supervisors not independent of each other.

Master Game Report means a record of the computation of the win or loss or, for the game of poker, the poker revenue, for each gaming table, each game, and each gaming day.

Multi-state State Jackpot means any progressive slot machine jackpot offered by one or more gaming licensees in conjunction with a licensee from another jurisdiction pursuant to a multi-state progressive slot system agreement.

Opener means the duplicate copy of the table inventory slip upon which each table inventory is recorded at the end of each shift and serves as the record of each table inventory at the beginning of the next succeeding shift.

Outstanding Patron Check means any Counter Check or replacement check that is not due for deposit or presentation pursuant to 205 CMR 138.45 and has not in fact been deposited or presented for payment or redeemed by the drawer.

Patron Check means a Counter Check or a replacement check.

Patron Deposit means the total value of cash, cash equivalents, complimentary cash gifts, slot tokens, prize tokens, gaming chips or plaques deposited with a gaming licensee by a patron for his or her subsequent use pursuant to 205 CMR 138.40.

Poker Revenue means the total value of rake charged to patrons at all poker tables pursuant to 205 CMR.

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Replacement Check means a counter check which replaces one or more previously issued counter checks.

Slot Drop Container shall include slot drop buckets, slot drop boxes and slot cash storage boxes.

Slot Machine Drop means the total value of coins, slot tokens, and foreign slot tokens in a slot drop bucket or a slot drop box, the total value of currency, gaming vouchers and coupons in a slot cash storage box, and the total value of electronic credits withdrawn from patron accounts, if applicable.

Slot Machine Win means the value of the drop less any jackpots paid less any change to the hopper inventory.

Supervisor means a key gaming employee or gaming employee employed in the operation of a gaming establishment in a supervisory capacity or empowered to make discretionary decisions which regulate gaming operations, including but not limited to, boxpersons, floorpersons, pit bosses, poker shift supervisors, table games shift managers, the gaming manager, and the assistant gaming manager.

Suspicious Gaming Voucher means any gaming voucher that appears to have been counterfeited, tampered with or altered in any way that would affect its integrity, suitability, validity or value.

Table Game Drop means the sum of the total value of currency, coin, or coupons deposited in the drop box at a gaming table.

Table Game win or loss means the amount of table game drop minus the change in the tables chip inventory, including chips issued during fills and chips removed during credits for tables other than poker tables.

Third Party Check means a check endorsed by its payee to another party who becomes the holder in due course.

Unscanned Gaming Voucher means any gaming voucher that a gaming licensee elects to redeem when its gaming voucher system or any component thereof is inoperable and, as a result, the system is unable to determine the validity of the voucher.

Unsecured Currency, Unsecured Gaming Voucher, Unsecured Ticket, and Unsecured Coupon means currency, a voucher, ticket, or coupon found inside a bill changer but outside a bill validator box.

Unverified Gaming Voucher means any gaming voucher, other than a suspicious gaming voucher, that the gaming voucher system fails to verify and electronically cancel in the system when it is presented for redemption and scanned.

Wire Transfer means a transfer of funds through Fedwire Funds Service as governed by 12 CFR Part 210, Subpart B - *Funds Transfers Through Fedwire*.

138.02: Licensee's System of Internal Controls

(1) At least 60 days prior to commencing operations a gaming licensee shall submit to the commission its proposed minimum system of internal procedures and administrative and accounting controls (internal controls) in accordance with 205 CMR 138.02(4). An Operations Certificate shall not be issued to a gaming licensee for the commencement of gaming operations in accordance with 205 CMR until the submission is approved in accordance with 205 CMR 138.02(2). The commission or its designee may perform any inspection necessary in order to determine conformance with the approved internal controls.

(2) The commission shall refer the proposal submitted in accordance with 205 CMR 138.02(1) to the Executive Director who shall review the submission for compliance with

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M.G.L. c.23K, 205 CMR 138.00 and other applicable sections of 205 CMR. Upon completion of review the Executive Director shall either approve the submission or advise the gaming licensee in writing of any deficiency, and may include any other recommendations and/or required changes intended to ensure that a robust system of internal controls is implemented. The gaming licensee may either accept a recommendation or required change in writing or advise the Executive Director in writing as to the reason for its disagreement. The gaming licensee may dispute any determination or recommendation made by the Executive Director to the commission which shall resolve the issue.

The commission or the Executive Director may revisit any provision of the internal controls at any time and direct adjustment if necessary, and provide for a reasonable implementation period, to ensure that a robust system of internal controls is in effect. Upon approval by the Executive Director the gaming licensee shall be issued a writing evidencing the approval of its internal controls including any associated conditions.

(3) At least 15 business days prior to changing any provision of the approved internal controls a gaming licensee shall submit the proposed change, including an explanation therefor, and new certifications from its chief legal and financial officers consistent with 205 CMR 138.02(4)(i) and (j), to the commission. The commission shall refer the proposed change to the Executive Director who shall review the proposal to determine whether it complies with 205 CMR 138.00. Changes to the system of internal controls will generally be permitted if the proposed change does not lessen the applicable administrative, accounting, or physical control. Upon completion of review the Executive Director shall either approve the proposed change or advise the gaming licensee in writing as to why the proposal does not comply with 205 CMR 138.00. The gaming licensee may appeal the Executive Director's determination to the commission which shall resolve the issue. Approved changes shall be maintained as part of the approved internal controls.

Modifications to internal controls may not be implemented until approved by the Executive Director or the commission. Provided, however, if the Executive Director does not object or otherwise respond to the submission in writing within 15 business days of receipt of the submission, the gaming licensee may make the proposed change subject to further direction by the Executive Director in accordance with 205 CMR 138.02(3).

(4) The internal controls shall include the following:

- (a) Administrative controls which include, as their primary objective, policies and procedures designed to assure that all activities and transactions of the gaming licensee are instituted and completed in accordance with the applicable policy and/or procedure.
- (b) Accounting controls, as detailed in 205 CMR, which include, as their primary objective, procedures to assure that all activities and transactions of the gaming licensee are accurately reported and recorded in accordance with generally accepted accounting principles.
- (c) Reporting controls which shall include policies and procedures for the timely reporting of economic and social impact reports, and standard financial and statistical reports and information in accordance with 205 CMR.
- (d) Surveillance controls as detailed in 205 CMR 141.00: *Surveillance of the Gaming Establishment*.
- (e) Physical controls which include, as their primary objective, the safeguarding of company assets to include safeguards in the form of organizational safeguards, such as segregation of duties between incompatible functions, and physical safeguards such as restricted access to assets and routine security devices such as cameras and locking doors.
- (f) A network security plan as described in 205 CMR 143.12: *Network Security*.
- (g) A plan to ensure compliance with 205 CMR 140.00: *Gross Gaming Revenue and Tax Remittance and Reporting*.
- (h) All applicable policies and procedures required pursuant to 205 CMR 138.04 through 138.70.

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- (i) A certification by the gaming licensee's chief legal officer that the submitted procedures conform to M.G.L. c. 23K, 205 CMR 138.00, and any applicable regulations referenced therein; and
- (j) A certification by the gaming licensee's chief financial officer that the submitted procedures provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls, and conform to generally accepted accounting principles and 205 CMR.
- (5) Nothing in 205 CMR 138.00 shall be interpreted so as to limit a gaming licensee's use of technology, provided that, if the gaming licensee intends to utilize any new technology not identified in its initial proposal, it shall submit the changes to its system of internal controls to incorporate the use of any such new technology to the commission which shall refer the proposed change to the Executive Director who shall review the proposal in accordance with 205 CMR 138.02(3).
- (6) (a) If a gaming licensee desires to incorporate a provision in its internal controls that is not in conformance with 205 CMR 138.00, or to exclude a provision required by 205 CMR 138.00, it may petition to do so by including its proposal in its internal controls filing, or petition to change a provision of the internal controls in accordance with 138.02(3), along with a citation to the applicable provision of 205 CMR 138.00 and a written explanation as to why the variance is being requested. The Executive Director may allow the variance upon a finding that the proposal is at least equivalent to the relevant provision contained in 205 CMR 138.00 and/or that the proposal is likely to achieve the same outcome as if the provision contained in 205 CMR 138.00 were incorporated. Such variance shall be identified in the written approval issued in accordance with 205 CMR 138.02(2) and a report filed with the commission that identifies the provision of 205 CMR 138.00 that a variance was granted from and provides the general reason the variance was granted. Provided, however, that a gaming licensee may not seek a variance from any of the provisions of 205 CMR 138.40 through 138.47.
- (b) In the event that a gaming licensee will be temporarily unable to abide by a provision of its system of internal controls, the Director of the IEB, or his or her designee, may upon request by the gaming licensee grant a limited temporary variance from a provision of the gaming licensee's system of internal controls, provided that such variance shall be for a set period of time not to exceed 48 hours, that the provision at issue shall relate to the gaming operation of the gaming establishment, and that it be based on good cause shown such that the health, safety or welfare of the public or the integrity of gaming will not be adversely impacted. Provided, that a gaming licensee may not seek a limited temporary variance from any of the provisions of 205 CMR 138.40 through 138.47. Where the circumstances warrant, such a variance may be renewed by the Director of the IEB, or his or her designee, for one additional 48- hour period. All such requests and determinations shall be documented and submitted to the Executive Director for review as promptly as possible.
- (7) Upon approval in accordance with 205 CMR 138.02(2) and (3), the gaming licensee shall implement and abide by its system of internal controls ~~within a period spanning no more than 30 days~~. The commission and the IEB may take any steps necessary to determine whether the internal controls are being followed and to enforce compliance. The gaming licensee shall periodically compare its approved system of internal controls, as written, to the system actually in place and operating for the purpose of identifying areas of non-compliance, if any, so as to take immediate corrective action. The periodic comparison shall be performed by either independent auditors or internal auditors.
- (8) The gaming licensee shall maintain in its records and at all times a complete set of its system of internal controls in effect at that time.
- (9) When possible, all filings and records required to be submitted to the commission in accordance with 205 CMR 138.00 shall be done electronically unless otherwise directed by the commission.

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(10) To the extent a third-party is involved in or provides any of the internal controls required in 205 CMR 138.00, the gaming licensee's controls must document the roles and responsibilities of the third-party and must include procedures to evaluate the adequacy of and monitor compliance with the third-party's system of internal controls.

(11) A gaming licensee that is also licensed as a Sports Wagering Operator shall comply with 205 CMR 138.00 as well as 205 CMR 238.00. Where compliance with provisions of both regulations is not possible, the Gaming Licensee shall comply with 205 CMR 138.00 with respect to gaming operations and 205 CMR 238.00 with respect to Sports Wagering Operations and identify its intent to do so in a written system of Internal Controls.

138.03: Records Regarding Company Ownership

All records regarding ownership, as described in 205 CMR, shall be maintained at a location as determined by the gaming licensee; provided that the commission is notified of such location where the records are to be stored. The commission shall be granted prompt and unfettered access to all such records upon request.

138.04: Gaming Licensee's Organization

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR

138.02 shall include tables of organization, which shall provide for:

- (a) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;
- (b) The segregation of incompatible functions so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of his or her duties;
- (c) Primary and secondary supervisory positions which permit the authorization or supervision of necessary transactions at all relevant times; and
- (d) Areas of responsibility which are not so extensive as to be impractical for one person to monitor.

(2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR

138.02 shall include provisions detailing the structure, function, and area of responsibility for the following mandatory departments and supervisory positions, with each of the mandatory departments and supervisors cooperating with, yet performing independently of, all other mandatory departments and supervisors of the gaming licensee as follows:

- (a) A surveillance department supervised by an executive who shall be responsible for the management of the surveillance department. The chief surveillance executive shall be subject to the reporting requirements specified in 205 CMR 138.04(4). The surveillance department monitoring room shall be supervised by an individual licensed as a key gaming employee in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations* who shall be present in the room at all times or, if not present, be within immediate contact and at a known location at the gaming establishment.
- (b) An internal audit department supervised by an audit department executive. The audit department executive shall be subject to the reporting requirements specified in 205 CMR 138.04(4).
- (c) An IT department supervised by an executive who shall be responsible for the management of the IT department.
- (d) A casino games department supervised by an executive who shall be responsible for the management of the casino games department. The chief casino games executive shall be responsible for the operation and conduct of all authorized games and gaming devices in a gaming establishment

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(e) A security department supervised by an executive who shall be responsible for the management of the security department.

(f) A gaming accounting department supervised by an executive who shall be responsible for the management of the gaming accounting department. The chief gaming accounting executive shall be responsible for all gaming related accounting control functions.

(g) A compliance committee consisting of at least three members, at least one of whom shall be independent of the gaming licensee. The compliance committee may consist of less than three members on a temporary basis upon a showing of good cause by the gaming licensee, but, under all circumstances, a compliance committee must include at least one independent member. The compliance committee may be created at either the gaming licensee level or at the level of a parent, holding or intermediary company. The compliance committee shall provide its policies and procedures to the commission, which policies and procedures shall provide for, at a minimum, the following:

1. The monitoring of policies, procedures, material transactions and proposed transactions for purposes of avoiding impropriety or the appearance thereof;
2. The review of payments to individuals and entities and the provision of services, gifts or anything of value to or on behalf of any public official provided, that review of such conduct as it relates to foreign public officials may be performed by legal counsel to the gaming licensee who shall then report their findings to the compliance committee;
3. The review of political contributions;
4. Ensuring compliance with all applicable federal, state and local laws and regulatory requirements;
5. Protecting against unethical or unlawful behavior by employees;
6. The conduct of due diligence reviews and investigations of directors, officers, executive level employees and those entities and individuals having material associations with the gaming licensee; and
7. Providing the commission with the minutes of its meetings within 45 days of the conduct of those meetings. If necessary, minutes in draft form may be submitted followed by final minutes when approved.

(h) An independent audit committee consisting of at least three members provided, however, that the independent audit committee may be comprised of less than three members on a temporary basis upon a showing of good cause to the commission. The independent audit committee may be created at either the gaming licensee level or at the level of a parent, holding or intermediary company. The Committee shall provide the commission with the minutes of its meetings within 45 days of the conduct of those meetings. If necessary, minutes in draft form may be submitted followed by final minutes when approved.

(3) Each mandatory department shall be supervised at all times by at least one individual who has been licensed as a key gaming employee in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*.

(4) The chief executives of the surveillance and internal audit departments required by 205 CMR 138.04(2) shall comply with the following reporting requirements:

(a) Each executive shall report directly to the chief gaming executive of the gaming licensee regarding administrative matters and daily operations provided, however, a gaming licensee may allow each of these executives to report directly to a management executive of the licensee other than the chief gaming executive if that management executive reports directly to the chief gaming executive.

(b) Each executive shall report directly to one of the following persons or entities



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regarding matters of policy, purpose, responsibility, and authority. The hiring, termination, and salary of each executive shall also be controlled by one of the following persons or entities:

1. The independent audit committee of the gaming licensee's board of directors;
  2. The independent audit committee of the board of directors of any holding company of the gaming licensee which has absolute authority to direct the operations of the gaming licensee;
  3. The senior surveillance or internal audit executive of any holding company included in 205 CMR 138.04(4)(b)2. if such executive reports directly to the independent audit committee of the board of directors of the holding company; or
  4. For gaming licensees or holding companies which are not corporate entities, the non-corporate equivalent of any of the persons or entities listed in 205 CMR 138.04(4)(b)1. through 3.
- (5) In the event of a vacancy in the chief executive officer position, the chief gaming executive, or in any executive position responsible for management of one of the mandatory departments set forth in 205 CMR 138.04(2)(a) through (f), the gaming licensee shall:
- (a) Provide written notice to the commission no later than five days from the date of the vacancy, advising of the following:
    1. The vacant position;
    2. The date on which the position became vacant; and
    3. The date on which it is anticipated that the vacancy will be filled on a permanent basis.
  - (b) Within 30 days, the gaming license shall either fill the vacant position described in 205 CMR 138.04(5) on a permanent basis or designate an individual to assume the duties and responsibilities of the vacant position on a temporary basis, which appointment shall not exceed 120 days, subject to extension upon approval by the commission. An individual temporarily designated shall not simultaneously function as the department supervisor for any department identified in 205 CMR 138.04(2) and such individual's areas of responsibility shall not be so extensive as to be impractical for one individual to monitor.
  - (c) Within five days of filling any vacancy, whether on a temporary or permanent basis, the gaming licensee shall provide written notice to the commission advising of the following:
    1. The position;
    2. The name of the person designated;
    3. The date that the vacancy was filled; and
    4. An indication of whether the position has been filled on a temporary or permanent basis.
- (6) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include, and a gaming licensee shall maintain on file, a current table of organization delineating the lines of authority for all personnel engaged in the operation of the gaming establishment, which shall, for each department and division, include direct and indirect lines of authority within the department or division.
- (7) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for ensuring that all gaming employees employed in the gaming establishment are properly trained in their respective professions. Proper training of a gaming

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employee in the respective field for which the gaming employee is or shall be employed by the gaming licensee may be established as follows:

- (a) Satisfactory completion by the employee of a course of instruction in the employee's respective field provided by a person recognized by the commission as a certified training school in accordance with 205 CMR 137.00: *Gaming Schools*;
- (b) Satisfactory completion by the employee of a course of instruction or on the job training program provided by the gaming licensee in the employee's respective field;
- (c) Relevant prior work experience of the employee in the employee's respective field; or
- (d) Other relevant training or experience.

138.05: System for Ensuring Employees Are Properly Licensed or Registered

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for ensuring that all individuals employed in the gaming establishment are properly licensed or registered in accordance with 205 CMR 134.01: *Key Gaming Employee Licensees*, ~~205 CMR~~ 134.02: *Gaming Employee Licensees*, and ~~205 CMR~~ 134.03: *Gaming Service Employees*, and 235.00: *Sports Wagering Occupational Licenses*. The system of internal controls shall include without limitation the following:

- (a) Procedures for assuring that only properly licensed and/or registered individuals are employed in each position for which a license or registration is required;
- (b) Procedures to prepare and submit petitions for temporary licenses to individuals for employment in the gaming establishment pursuant to 205 CMR 134.12: *Temporary Licenses* or 205 CMR 235.06: *Temporary Occupational Licenses*;
- (c) Procedures to assure the timely renewal of licenses and registrations of individuals employed in the gaming establishment;
- (d) Procedures for terminating or suspending or modifying the relevant responsibilities of the employment of individuals licensed or registered pursuant to 205 CMR 134.01: *Key Gaming Employee Licensees*, ~~205 CMR~~ 134.02: *Gaming Employee Licensees*, and ~~205 CMR~~ 134.03: *Gaming Service Employees*, or *Sports Wagering Occupational Licenses*, 235.00, within 24 hours of notification from the commission that the license, registration, or application of such individual has been revoked, suspended, or denied; and
- (e) Procedures for compliance with the employee reporting information required to be submitted to the commission on a bi-monthly basis in accordance with 205 CMR 138.05(2).

(2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for reporting the following to the commission on a bi-monthly basis and in a format as directed by the commission. For each individual licensed or registered in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*, ~~205 CMR~~ 234.00: *Sports Wagering Vendors*, and 205 CMR 235.00: *Sports Wagering Occupational Licenses*:

- (a) License or registration number;
- (b) Last name, first name, middle initial;
- (c) Date of birth;
- (d) Position or job title, represented by a job code that corresponds with a position or job title in the gaming licensee's job compendium;
- (e) Initial hire date;
- (f) Effective date of any change in individual's position or job title;

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- (g) Access code, if any, assigned to the individual, designating the restricted areas that the individual is permitted to enter;
- (h) For each individual who has been suspended or terminated since the most recent prior report was submitted to the commission:
  - 1. The information in 205 CMR 138.05(2)(a) through (g); and
  - 2. The effective date of suspension or termination.
- (i) A record of any and all designations to describe categories of employees, including without limitation, "full time," "part time" or "seasonal;" the number of individuals in each category; and the total number of individuals in all categories.
- (j) The date on which the information submitted in the report was compiled.

138.06: System for Business Dealings with Vendors

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for ensuring that all persons conducting business with a gaming licensee as a vendor to a gaming establishment are properly licensed or registered in accordance with 205 CMR 134.04: ~~Vendors~~ or 205 CMR 234.00. The system of internal controls shall include, without limitation, the following:

- (a) Procedures for assuring that only properly licensed and/or registered vendors are conducting business with a gaming licensee;
- (b) Procedures to prepare and submit petitions for temporary licenses of vendors pursuant to 205 CMR 134.12: ~~Temporary Licenses~~ and 205 CMR 234.07;
- (c) Procedures to assure the timely renewal of licenses and registrations of vendors; and
- (d) Procedures for terminating or suspending the conduct of business with a vendor licensed or registered pursuant to 205 CMR ~~134.04: Vendors~~ 134.00 or 205 CMR 234.00 within 24 hours of notification from the Commission that the license, registration, or application of such vendor has been revoked, suspended, or denied.

(2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a plan for providing a Disbursement Report to the Commission on a bi-monthly basis and in a format as directed by the Commission. The Disbursement Report shall reflect, for each vendor licensed or registered in accordance with 205 CMR 134.04: ~~Vendors~~ or 205 CMR 234.00, the following information:

- (a) Name of vendor;
- (b) Vendor license or registration number;
- (c) The amount of each individual disbursement drawn by the gaming licensee to the vendor, and the amount of each individual disbursement drawn by the vendor to the gaming licensee;
- (d) The date of each disbursement;
- (e) The total of all disbursements made during the reporting period by vendor; and
- (f) The date and amount of any payment to or from a vendor subsequently voided or corrected.

(3) Agreements with Vendors. Each gaming licensee shall maintain a fully signed copy of every written agreement and records with respect to every unwritten agreement to which it is a party which provide, at a minimum, the terms of the agreement, the parties to the agreement, a description of the goods and/or services to be provided under the agreement, and details regarding the exchange of direct compensation under the agreement including, but not limited to, dollar amounts for any person doing business for the benefit of the gaming

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licensee and/or the gaming establishment, any person doing business relating to the construction, maintenance, renovation, and/or expansion of the gaming establishment, and any person doing business on the premises of the gaming establishment.

138.07: Floor Plans

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions for the production and updating of a floor plan for the gaming establishment. Further, provisions shall be included to ensure that no gaming operations or Sports Wagering occur without an approved floor plan, and that the configuration of the gaming area remains compliant with the approved plan at all times unless amended in accordance with the process outlined by 205 CMR 138.07(2) or (3). The initial floor plan for a gaming establishment resulting from the process described in 205 CMR 138.07 shall be reviewed as part of the 205 CMR 138.02 approval process.

The gaming area depicted in a floor plan shall be arranged in such a manner as to provide optimum security for the gaming operations. A floor plan shall accurately depict the entire layout, including equipment positioning, in the gaming area and support areas; shall be drawn to at least 1/8" scale (1/8" = one foot); and shall depict, at a minimum, the location of the following:

- (a) The gaming area, and any simulcasting facility or Sports Wagering Area including, at a minimum, the proposed total square footage thereof and a clear delineation of the respective perimeter of each;
- (b) Each gaming pit, its pit location number, and any alternate configurations;
- (c) Each table game, noting its table number;
- (d) Each CCTV camera, noting its type and camera number;
- (e) Each slot booth, noting its booth number;
- (f) Each cashier's cage and its component offices and areas;
- (g) Each window at the cashiers' cage, noting its window number;
- (h) Each count room;
- (i) Each slot zone, its slot zone location letter or number and the total number of authorized slot machine locations within that slot zone, and at the gaming licensee's option, a maximum of four alternate configurations or locations for that slot zone and the alternate slot zone location number for each (for example, Slot Zone 2A);
- (j) Each authorized slot machine or other electronic gaming device location, which location shall contain no more than one slot machine at a time, noting its slot machine location number and any slot zone location letter or number;
- (k) Each automated coupon redemption ~~machine or~~ kiosk, noting its location number;
- (l) Each automated jackpot payout machine, noting its location number;
- (m) Each gaming voucher redemption ~~machine~~ kiosk, noting its location number;
- (n) Each satellite cage and its component offices and areas;
- (o) Each area approved for the storage of gaming chips or plaques;
- (p) Each room or area approved for the storage of dice or playing cards;
- (q) Each other room or area that is accessible directly from the gaming area;
- (r) For those establishments with a simulcasting facility:

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1. Each simulcast counter and any ancillary simulcast counter, along with their component offices, areas and equipment;
2. Each credit voucher machine, noting its location number;
3. Each self-service pari-mutuel kiosk, noting its location number; and
4. Each other area or room designated by the commission.

(s) For those gaming establishments with a Sports Wagering Area:

1. Each Sports Wagering counter and any ancillary Sports Wagering counter, along with their component offices, areas and equipment;
2. Each credit voucher machine, noting its location number;
3. Each Sports Wagering Kiosk, noting its location number; and
4. Each other area or room designated by the commission.

(2) Temporary Amendments to Floor Plan.

- (a) In order to temporarily amend the floor plan approved in accordance with 205 CMR138.07(1) and reconfigure one or more approved table game pit areas or slot machine zones (areas) in the gaming area, a gaming licensee must first seek the Bureau's approval by filing a written request with the Bureau at least 24 hours prior to implementing such reconfiguration. The request shall be accompanied by a certification from the licensee's surveillance department that adequate surveillance coverage will be in place for the temporary reconfiguration. If the gaming licensee does not receive a response from the Bureau within 24 hours of submitting the request, the gaming licensee may proceed with the reconfiguration. (Movement of a slot machine must also be done in accordance with 205 CMR 144.00: *Approval of Slot Machines and Other Electronic Gaming Devices and Testing Laboratories*). The Bureau may deny any request that will result in a violation of any law, regulation, or approved internal control, or may jeopardize the safety and/or security of a patron or the integrity of the gaming operation.
- (b) A reconfigured gaming area, table game pit, or slot machine zone (area) shall not:
  1. Exceed the dimensions approved in the existing approved floor plan for the area unless the request for temporary amendment includes any required approval of the municipal building official. Such approval may be required in instances including, but not limited to, the egress from the gaming floor or area is altered, structural modification is proposed, or the use or occupancy classification for the area is modified;
  2. Result in improper surveillance coverage under the approved surveillance plan.
- (c) Each table game pit shall have an alarm system, approved by the Bureau, which enables an employee of the gaming establishment to transmit a signal that is audibly and visually reproduced in each of the following locations whenever there is an emergency in the pit:
  1. The surveillance monitoring rooms;
  2. The ~~casino~~ security department; and
  3. The on-site Bureau office.
- (d) A temporary reconfiguration may only remain in place for 30 days from approval. Upon request, the Bureau may approve one 30-day extension of the temporary approval. In order for an amendment to the configuration to remain in place for a longer period of time, the amendment process described in 205 CMR 138.07(3) shall be followed.
- (e) All reconfigurations made pursuant to a temporary amendment to an approved floor

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plan shall be subject to inspection by the Bureau to ensure compliance with all applicable laws and regulations and the gaming licensee's approved system of internal controls.

(f) The Bureau may approve a request for a temporary amendment to an approved floor plan on less than 24 hours notice in its discretion provided that all pertinent information is provided to its satisfaction.

(3) Amendments to Approved Floor Plan.

(a) A floor plan approved in accordance with 205 CMR138.07(1) may be amended upon request by a gaming licensee and approval by the Bureau. Such request shall be filed with the Bureau in writing at least 72 hours prior to the time for which implementation of the amendment(s) is sought. Such request shall include, at a minimum, the following information as applicable:

1. A depiction of any new configuration to the gaming area, a table game pit, or a slot machine zone (area) in comparison with the existing configuration;
2. A depiction of any new outer perimeter of the gaming area, table game pit area, or slot machine zone (area) in comparison with the existing perimeter;
3. A statement of the resulting square footage of the area to be amended in comparison with the existing square footage for the area;
4. A narrative from a design professional certifying the changes to the floor plan, and/or any necessary approval from the municipal building official; and
5. Identification of any necessary amendments to the gaming licensee's surveillance plan to ensure adequate coverage of the configuration.

(b) Within 72 hours of receipt of a request to amend a floor plan filed by a gaming licensee, the Bureau, shall review the proposed change set forth in the application to ensure that it will not result in a violation of any law, regulation, or approved internal control, or may jeopardize the safety and/or security of a patron or the integrity of the gaming operation. After review, the Bureau may preliminarily approve the request, deny the request, request further information from the gaming licensee, or request that the licensee's request be modified. The gaming licensee shall not implement any changes until receiving preliminary approval from the Bureau.

(c) The gaming licensee shall notify the Bureau in writing upon implementing a preliminarily approved amendment to the floor plan. The Bureau shall inspect the physical changes to ensure that they conform to the approved amendment. Following such inspection the Bureau may issue a final approval for the amendment, request that changes be made to conform to the preliminary approval, or request that changes be made to ensure compliance with applicable laws, regulations, or approved internal controls, or to ensure the safety and/or security of a patron or the integrity of the gaming operation.

(4) An approved copy of the floor plans, and amendments thereto, shall be filed with the Bureau in the gaming establishment ~~every three months, or upon the request of the Bureau.~~ A copy shall be kept on file with the gaming licensee's security office, and with the gaming licensee's monitoring rooms.

(5) Prior to commencing gaming operations with the amended configuration, an updated Table Games Master List shall be filed to ensure compliance with 205 CMR 138.66(3)(a).

138.08: Accounting Records

(1) A gaming licensee shall maintain complete, accurate, and legible records of all transactions pertaining to the revenues and costs for the gaming establishment, including those required in accordance with 205 CMR.

(2) General accounting records shall be maintained on a double entry system of accounting with transactions recorded on the accrual basis. Detailed, supporting, subsidiary records sufficient to meet the requirements of 205 CMR shall also be maintained.

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138.09: Retention, Storage and Destruction Records

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a records retention schedule, and provisions related to the storage and destruction of records that at a minimum incorporates the following provisions:

(a) The following records shall be retained indefinitely; unless permission for destruction is requested by the gaming licensee and approved by the commission:

1. Corporate records required by 205 CMR 138.02;
2. Records of corporate and due diligence investigations and associated procedures;
3. Current employee personnel files; and
4. A record of any record destroyed, identifying the particular record, the period of retention and the date of destruction.

(b) All financial, accounting, contract, payroll, personnel, employee and budget documents shall be retained for the periods prescribed in sections D and E of the *Massachusetts Statewide Records Retention Schedule*, 02-11. (References in the *Schedule* to the state comptroller, state accounting system and other similar terms shall be read to refer to the Licensee and its accounting systems).

(c) All tax return filings and related records referenced in section L3 Tax Filing #1 of the *Massachusetts Statewide Records Retention Schedule*, 02-11 shall be retained for six years.

(d) All tax revenue accounting records referenced in section L5 Tax Collection #12 of the *Massachusetts Statewide Records Retention Schedule*, 02-11 shall be retained in accordance with the periods prescribed in the *Schedule*.

(e) In addition to those records referenced in 205 CMR 138.09(1)(a) through (d), the Licensee's records retention schedule shall include provisions by category relative to:

1. All gaming related records;
2. Security related records;
3. Surveillance related records (subject to 205 CMR 141.05(7));
4. Records relative to junkets; and
5. Records relative to vendors

(2) (a) A gaming licensee may petition the commission at any time for approval of a facility off the site of the gaming establishment to be used to generate or store records required to be retained in accordance with 205 CMR 138.09(1). Such petition shall include:

1. A detailed description of the proposed off-site facility, including security and fire safety systems; and
2. The procedures pursuant to which commission agents will be able to gain access to the records retained at the off-site facility.

(b) A gaming license may store any records electronically or via other suitable medium.

(3) A gaming licensee shall, except as otherwise provided, notify the commission and the Gaming Enforcement Division of the Massachusetts Attorney General's Office in writing at least 60 days prior to the scheduled destruction of any record required to be retained in accordance with 205 CMR 138.09(1). Such notice shall list each type of record scheduled for destruction, including a description sufficient to identify the records included; the retention period; and the date of destruction.

(4) The commission or the Gaming Enforcement Division of the Massachusetts Attorney

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General's Office may prohibit the destruction of any record required to be retained in accordance with 205 CMR 138.09(1) by so notifying the gaming licensee in writing within 45 days of receipt of the notice of destruction pursuant to 205 CMR 138.09(3) or within the specified retention period. Such original record may thereafter be destroyed only upon notice from the commission, the IEB, the Massachusetts Attorney General's Office, or by order of the commission upon the petition of the gaming licensee or by the commission on its own initiative.

(5) The gaming licensee may utilize the services of a disposal company for the destruction of any records required to be retained in accordance with 205 CMR 138.09(1) except those related to credit. Any cash complimentary coupons to be destroyed by a disposal company shall be cancelled with a void stamp, hole punch or similar device, or must contain a clearly marked expiration date which has expired.

(6) Nothing in 205 CMR 138.00 shall be construed as relieving a gaming licensee from meeting any obligation to prepare or maintain any book, record or document required by any other federal, state or local governmental body, authority or agency or as otherwise required in its capacity as a Sports Wagering Operator pursuant to M.G.L. c. 23N and 205 CMR.

138.10: Jobs Compendium Submission

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a jobs compendium detailing job descriptions, chains of command, and lines of authority for all personnel engaged in the operation of the gaming establishment. The licensee shall maintain and update the jobs compendium on a regular basis.

(2) A jobs compendium shall include the following sections, in the order listed:

(a) An alphabetical table of contents listing the position title and job code for each job description included in 205 CMR 138.10(1) and the page number on which the corresponding job description may be found;

(b) A table of organization for each department and division, including all positions, and illustrating by position title, direct and indirect lines of authority within the department or division. Each page of a table of organization shall specify the following:

1. The date of its submission;
2. The date of the previously submitted table of organization which it supersedes; and
3. A unique title or other identifying designation for that table of organization.

(c) A description of each employee position which accurately corresponds to the position title as listed in the table of organization and in the alphabetical table of contents. Each position description shall be contained on a separate page, organized by departments or divisions, and shall include, at a minimum, the following:

1. Position title and corresponding department;
2. Job duties and responsibilities;
3. Detailed descriptions of experiential or educational requirements;
4. Proposed registration or license rank consistent with 205 CMR 134.01 through 134.03;
5. The date of submission of each employee position job description and the date of any prior job description it supersedes; and
6. The date of submission and page number of each table of organization on which the employee position title is included.

(3) A proposed amendment to a previously approved jobs compendium for any job position requiring licensure or registration, including any amendment to a table of organization, may



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be implemented by the gaming licensee without the prior approval of the commission in accordance with 205 CMR 138.02(3), provided that:

- (a) The amendment is immediately recorded in the jobs compendium maintained by the licensee on its premises; and
  - (b) The amendment is submitted to the commission by the end of the business day on the date of implementation including, at a minimum, the following:
    - 1. A detailed cover letter listing by department each position title to which modifications have been made, a brief summary of each change, instructions regarding any changes in page numbers and the date of implementation; and
    - 2. The proposed changes to the information required by 205 CMR 138.10(2), including the corresponding job descriptions and tables of organization, contained on pages which may be used to substitute for those sections of the jobs compendium previously approved by the commission.
- (4) If a gaming licensee wishes to amend a job description for any position which has been exempted from the registration requirements pursuant to 205 CMR 134.03(b), it shall be required to obtain the approval of the commission in advance of implementing such change. The request for approval shall contain, at a minimum, the following:
- (a) A detailed cover letter listing by department the position title to which modifications are to be made, a brief summary of each change, instructions regarding any changes in page numbers and the date of implementation; and
  - (b) The proposed changes to the information required by 205 CMR 138.10(2), including the corresponding job description and tables of organization, contained on pages which may be used to substitute for those sections of the jobs compendium previously approved by the commission.
- (5) Notwithstanding any other requirement of 205 CMR, each gaming licensee shall submit a complete and up-to-date jobs compendium in accordance with 205 CMR 138.02 to the commission 18 months after approval of its system of internal controls in accordance with 205 CMR 138.02 and every two years thereafter, unless otherwise directed by the commission.
- (6) Each gaming licensee shall maintain on its premises a complete, updated copy, which may be maintained electronically, of its jobs compendium.
- (7) No provision of 205 CMR 138.00 shall be construed so as to limit a gaming licensee's discretion in utilizing a particular job title for any position in its jobs compendium.

138.11: Personnel Assigned to the Operation and Conduct of Gaming

Each gaming licensee shall be required to employ the following personnel in the operation of its gaming establishment regardless of the position titles assigned to such personnel by the gaming licensee in its approved jobs compendium:

- (1) Each gaming licensee shall at all times maintain a level of staffing that ensures the proper operation and effective supervision of all authorized games and simulcast wagering in the gaming establishment.
- (2) Each gaming licensee shall be required to employ a gaming manager. The gaming manager shall be the executive assigned the responsibility and authority for the supervision and management of the overall operation of a gaming licensee's casino games department including, without limitation, the hiring and terminating of all gaming establishment employees.
  - (a) In the absence of the gaming manager and the assistant gaming manager, should the gaming establishment have an assistant gaming manager, a table games shift manager or slot shift manager, as applicable, who is employed within the casino games department shall be designated by the gaming licensee as the person responsible for the overall operation of the casino games department and such person shall have the authority of a gaming manager.

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- (b) The slot department shall be supervised and managed by a slot department manager/shift manager at all times in accordance with 205 CMR 138.11(4)(h)5.
- (3) The following personnel shall be used to operate the table games in a gaming establishment:
- (a) Gaming clerk shall be the employee located at a desk in the pit to prepare documentation required for the operation of table games including, without limitation, Requests for Fills, Requests for Credits, Counter Checks and documents that evidence the exchange of gaming chips or plaques.
  - (b) Dealers shall be the employees assigned to each table game to directly operate and conduct the game.
  - (c) Stickperson shall be the dealer assigned to each craps table to control the dice and may be responsible for the proposition wagers made at the craps table. A stickperson may also be assigned to a mini-craps table, in addition to the required dealer, to control the dice and may be responsible for the proposition wagers made at the mini-craps table.
  - (d) Boxperson shall be the first level supervisor assigned the responsibility of directly participating in and supervising the operation and conduct of the craps game.
  - (e) Floorperson shall be the second level supervisor assigned the responsibility for directly supervising the operation and conduct of a craps game, and the first level supervisor assigned the responsibility for directly supervising the operation and conduct of all other table games.
  - (f) Pit boss shall be the third level supervisor assigned the responsibility for the overall supervision of the operation and conduct of a craps game and the second level supervisor assigned the responsibility for the overall supervision of the operation and conduct of all other table games other than poker.
  - (g) Poker shift supervisor shall be the supervisor assigned with the responsibility for directly supervising all activities related to the operation and conduct of poker. A poker shift supervisor may also supervise table games other than poker in *lieu* of a pit boss.
  - (h) Table games shift manager shall be the supervisor assigned to each shift with the responsibility for the supervision of table games conducted in the gaming establishment provided, however, that:
    - 1. If a gaming licensee chooses to establish an independent slot department a gaming manager may personally perform the required duties of a table games shift manager when the gaming manager is present in the gaming establishment; and
    - 2. A gaming licensee may, as part of its revised supervision plan as set forth in 205 CMR 138.11(6), permit its table games shift manager to provide a break, for a reasonable period of time, for a pit boss on duty during the hours of 12:00 A.M. to 12:00 P.M.
- (4) Each gaming licensee shall maintain the following minimum levels of staffing:
- (a) One gaming clerk shall be assigned to the entire gaming establishment;
  - (b) One dealer shall be assigned to each table for any table game other than craps and baccarat;
  - (c) Three dealers shall be assigned to each craps and baccarat table;
  - (d) One boxperson shall be assigned to each craps table;
  - (e) One floorperson shall supervise not more than:
    - 1. Six tables comprised of any combination of table games excluding baccarat, minibaccarat (when using the dealing procedure in 205 CMR), craps, mini-craps, and

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pai gow tiles; or

2. One baccarat table; or
  3. As to the game of minibaccarat, when using the dealing procedure in 205 CMR:
    - a. Two minibaccarat tables using the dealing procedure in 205 CMR; or
    - b. One minibaccarat table using the dealing procedure in 205 CMR and one table of any other table game excluding baccarat, mini-craps and pai gow tiles (unless the pai gow tiles table has continuous, dedicated surveillance camera coverage); or
  4. As to the game of craps:
    - a. Two craps tables; or
    - b. One craps table and one table of any other table game excluding baccarat, mini-craps and pai gow tiles; or
    - c. One mini-craps table.
  5. As to the game of pai gow tiles:
    - a. One pai gow tiles table; or
    - b. Two pai gow tiles tables if the tables are in a side-by-side configuration and continuous, dedicated surveillance camera coverage is maintained for the pai gow tiles tables; or
    - c. One pai gow tiles table with continuous, dedicated surveillance camera coverage and one table of any other table game excluding baccarat, craps and mini-craps.
  6. As to the game of poker:
    - a. Six poker tables if the poker shift supervisor is supervising both poker tables and table games other than poker; or
    - b. Ten poker tables if the poker shift supervisor is supervising only poker tables; or
    - c. 12 poker tables if the poker shift supervisor is supervising only poker tables and no floorperson assigned to poker by a gaming licensee has any responsibilities for seating players.
- (f) One pit boss shall supervise not more than 24 gaming tables, provided that all of the tables are within view of each other; and
- (g) One poker shift supervisor shall supervise all open poker tables; provided, however, that the poker shift supervisor may supervise a total of not more than 16 poker tables and table games other than poker (in *lieu* of a pit boss) if fewer than 16 poker tables are open.
1. Notwithstanding the provisions of 205 CMR 138.11(4)(g):
    - a. If a gaming licensee has six or fewer poker tables open for gaming activity, no poker floorperson shall be required and the poker tables may be supervised by the poker shift supervisor, provided that the poker shift supervisor is not supervising any other table games; and
    - b. If a gaming licensee has at least one but fewer than four poker tables open for gaming activity, the poker shift supervisor may supervise any combination of not more than four poker tables and table games other than poker (in *lieu* of a pit boss) and no floorperson shall be required to supervise the poker tables provided

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that the floorperson supervision requirements for games other than poker are satisfied.

2. Notwithstanding the provisions of 205 CMR 138.11(4)(g), a gaming licensee may implement a plan for revised supervision by floorpersons, poker shift supervisors, pit bosses or slot shift managers. A plan for revised supervision of table games shall not include any gaming tables at which the cards shall be used for more than 24 hours pursuant to 205 CMR. In any plan for revised supervision:
  - a. One floorperson may supervise not more than eight tables comprised of any combination of table games excluding baccarat, minibaccarat (when using the dealing procedure in 205 CMR, craps, mini-craps, pai gow tiles and blackjack when offering the streak wager permitted under 205 CMR;
  - b. One pit boss may supervise not more than 36 gaming tables, provided that all of the tables are within view of each other;
  - c. One poker shift supervisor may supervise a total of not more than 30 poker tables and gaming tables other than poker (in *lieu* of a pit boss), provided that:
    - i. The poker shift supervisor is supervising all poker tables which are open to the public; and
    - ii. One floorperson may supervise not more than eight poker tables;
  - d. One floorperson may supervise two craps tables and one additional table of any other table game excluding baccarat, minibaccarat (when using the dealing procedure in 205 CMR, mini-craps, and pai gow tiles);
  - e. One floorperson may supervise one craps table and two additional tables comprised of any combination of table games excluding baccarat, minibaccarat, mini-craps, and pai gow tiles;
  - f. One floorperson assigned to poker may supervise not more than 12 poker tables if the poker shift supervisor is supervising only poker tables; and
  - g. One floorperson assigned to poker may supervise not more than 14 poker tables if the poker shift supervisor is supervising only poker tables and no floorperson assigned to poker has any responsibilities for seating players.
- (h) The following personnel shall be used to maintain and operate the slot machines, electronic gaming equipment, and bill changers in a gaming establishment:
  1. Slot mechanics shall be the persons assigned the responsibility for repairing and maintaining slot machines, electronic gaming equipment, and bill changers in proper operating condition and participating in the filling of payout reserve containers.
  2. Slot attendants shall be the persons assigned the responsibility for the operation of slot machines and bill changers, including, but not limited to, participating in manual jackpot payouts and filling payout reserve containers.
  3. Slot supervisors shall be the first level supervisors assigned the responsibility for directly supervising the operation of slot machines and bill changers.
  4. Slot shift manager shall be the second level supervisor with the responsibility for the overall supervision of the slot machine and bill changer operation for each shift.
  5. The slot department manager shall be the executive assigned the responsibility and authority for the supervision and management of the overall operation of the gaming licensee's slot machines, electronic gaming equipment, and bill changers. In the absence of the slot department manager, the slot shift manager shall have the authority of the slot department manager.
- (i) If a gaming licensee will offer automated table games for which part, but not all, of

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the game play requires manual involvement by an employee, the gaming licensee's staffing plan shall incorporate staffing of these games such that proper operation and effective supervision will be provided.

(5) Nothing in 205 CMR 138.11 shall be construed to limit a gaming licensee from utilizing personnel in addition to those described in 205 CMR 138.11 nor shall anything in 205 CMR 138.11 be construed to limit the discretion of the commission to order the utilization of additional personnel by the gaming licensee as necessary.

(6) The gaming manager or table games shift manager shall notify the IEB no later than 24 hours in advance of implementing or changing any plan for revised supervision for table games, and the slot shift manager, provided, however, that notice may be provided less than 24 hours in advance in circumstances which are emergent or may otherwise not reasonably be anticipated.

(a) Any notice of a plan for revised supervision of table games shall include, without limitation, the following information:

1. The pit number and configuration of any pit affected;
2. The type, location and table number of any table affected;
3. The standard staffing level required for the gaming table or tables and the proposed variance therefrom;
4. The start date and time, and the duration, of the revised supervision; and
5. The basis for the request to revise the number of supervisory personnel, which shall include any relevant factors which demonstrate that proper operation and effective supervision of the affected gaming tables will be maintained, such as, as applicable, a showing:
  - a. That the revised supervision is justified by a reduced volume of play at the specified times and gaming tables in the gaming establishment;
  - b. That the particular dealers or supervisors assigned to the affected tables possess a degree of skill and experience indicative of sufficient ability to operate the affected tables with revised supervision, in which case a record of the personnel assigned to such tables during the period of revised supervision shall be maintained;
  - c. That a reduced number of gaming tables will be operating in the affected pits, which are in a configuration to ensure proper supervision and operation; or
  - d. Any other facts or circumstances which establish that a revision in the number of supervisory personnel is appropriate.

(b) The commission may, at any time upon 12 hours notice, direct that the plan for revised supervision be terminated and that the licensee maintain standard staffing levels as defined in 205 CMR 138.11.

138.12: Alcoholic Beverage Control

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures designed to ensure compliance with 205 CMR 136.00: *Sale and Distribution of Alcoholic Beverages at Gaming Establishments* including, at a minimum, procedures designed to ensure proper training of employees involved in the service of alcoholic beverages, procedures designed to prevent serving alcoholic beverages to underage or visibly intoxicated individuals, procedures to ensure that visibly intoxicated or impaired patrons are not permitted to play slot machines or table games (as further detailed in 205 CMR 138.14), and procedures to ensure that alcohol is properly secured and stored. If the gaming licensee intends to serve alcoholic beverages between the hours of 2:00 A.M. and 4:00 A.M., it shall include policies and procedures in its alcoholic beverage control submission designed to ensure that such service is only provided to patrons who are in the

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gaming area and actively engaged in gambling as defined by M.G.L. c. 23K, § 2.

138.13: Complimentary Services or Items and Promotional Gaming Credits

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a detailed complimentary distribution program consistent with M.G.L. c. 23K, § 28 and a description of its proposed use and distribution of promotional gaming credits. The program shall include provisions detailing the protocols and procedures for the distribution of complimentary alcoholic beverages to patrons in the gaming area. Further, if in accordance with 205 CMR 136.07(4), alcoholic beverages will be provided free of charge to patrons in a licensed area outside of the gaming area, and paid for by a third party other than the gaming beverage licensee or jointly responsible person or will be paid for using a form of monetary-like consideration other than money, the gaming licensee shall detail the manner in which such payments will be made and/or accepted and records of the transaction maintained.

(2) The gaming licensee's complimentary distribution program shall be such that reasonable assurance is provided that any complimentary services or items, as defined by M.G.L. c. 23K, § 2, whether provided directly to the patron and the patron's guests by the gaming licensee or indirectly to the patron and the patron's guests on behalf of a third party, are:

(a) Issued by employees authorized for such purposes in accordance with the program;

(b) In accordance with M.G.L. c. 23K, § 28(c), valued in an amount based upon the retail price normally charged by the gaming licensee for the service or item. The value of a complimentary service or item not normally offered for sale by a gaming licensee or provided by a third party on behalf of a gaming licensee shall be the cost to the gaming licensee of providing the service or item, as determined under rules adopted by the commission;

(c) Recorded, compiled and maintained in such a way so as to allow a system of reporting in accordance with M.G.L. c. 23K, § 28(b) that can report complimentaries by date, issuer, recipient, type, and value.

(3) A gaming licensee may include in its policy and procedure provisions for the discretionary discounting of the amount of an outstanding Counter Check to be redeemed by a patron for any marketing related reason.

(4) The gaming licensee's complimentary distribution program shall include provisions ensuring that each patron who has been issued a rewards card by the gaming licensee (or its parent or other associated entity) in Massachusetts is issued a monthly statement, mailed to the patron at the patron's physical mailing address, which shall include the patron's total bets, wins and losses in Massachusetts in accordance with M.G.L. c. 23K, § 29. For purposes of 205 CMR 138.13(4), the following shall apply:

(a) An email address provided by the patron at the time a rewards card is applied for may be considered a physical mailing address. If a gaming licensee will provide the required notices *via* email, its program submission shall describe the manner in which the email contact list will be compiled and maintained.

(b) Notice of the issuance of a monthly statement shall be provided to the applicant at the time of application for a rewards card. The applicant shall be given the opportunity to decline issuance of a monthly statement at that time. Notice shall also be provided to the applicant that they may later opt-out of being issued a monthly statement by providing a written or online request to the gaming licensee or affiliate. The complimentary distribution program submission shall describe these notice and opt-out provisions.

(c) The program submission shall describe the information to be contained on the monthly statement including the terms and categories to be represented and a brief description as to how monetary figures are to be calculated.

(d) If monthly total bets, wins and losses associated with a rewards card will be available to a patron *via* password protected log-in on the gaming licensee's website, or

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via similar means, the gaming licensee may provide the patron a monthly notice (via email or otherwise) advising where the information is available and how to access it, in lieu of incorporating the actual information into a monthly statement. If a gaming licensee elects this method the process shall be fully described in its complimentary distribution program submission.

(e) Upon written request by a patron, information relative to total bets, wins and losses associated with the patron's rewards card shall be made available to the patron in writing at a gaming establishment upon reasonable notice.

(f) If there is no gaming activity tied to a patron's rewards card for a period of at least two years the gaming licensee may cease providing notices to the patron in accordance with 205 CMR 138.13(4).

138.14: Internal Control Procedures for Security Department

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions describing the duties and operation of its security department. Such provisions shall include details relative to the design, construction, and location of primary and secondary armored car routes to and from the armored car bay, including provisions for the security of such routes.

138.15: Internal Control Procedures for Access Badge System and Issuance of Temporary License Credentials, and Restricted Areas

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions related to credentials. All key gaming employees, gaming employees, ~~and~~ gaming service employees, and Sports Wagering Occupational Licensees while engaged in the performance of their duties on the premises of the gaming establishment, shall visibly display a credential issued by the gaming licensee on his or her person at all times. The system of internal controls related to credentials shall at a minimum incorporate the following credentialing system.

(2) Access Badge System: (Reserved).

(3) The credential format shall be in a shape and legibility that will enhance surveillance capability and visual acuity. The final design shall be subject to approval by the IEB. The credential shall include, at a minimum:

(a) A unique number or code identifying the employee (e.g., gaming service employee registration number);

(b) Employee's name; and

(c) Access code letter in accordance with 205 CMR 138.15(1).

(4) Notwithstanding 205 CMR 138.15(1), the Director of the IEB or his or her designee, may, upon written request by a gaming licensee, and upon a showing of good cause, exempt certain positions, titles, or persons from the requirements of 205 CMR 138.15(1).

(5) Commission employees, agents or contractors or employees of agencies authorized to conduct regulatory or regulatory related activities pursuant to M.G.L. c. 23K at a gaming establishment shall carry their agency credentials on their person at all times while engaged in the performance of their duties. Credentials may not be utilized for unofficial, social, or non-employment related access, purpose, or presence within any gaming establishment.

(6) A temporary credential shall only be issued by the security department if the following criteria are verified:

(a) The employee to whom the credential is to be issued is listed in the gaming licensee's current employee status report;

(b) The employee is properly licensed or registered in accordance with 205 CMR 134.00, 234.00 or 235.00: Licensing and Registration of Employees, Vendors, Junket

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~~Enterprises and Representatives, and Labor Organizations~~, as applicable;

- (c) The employee is authorized by his or her supervisor to possess the specific credential to be working in the designated or restricted area authorized by such credential; and
  - (d) The employee has not been issued more than 12 temporary credentials within the preceding 12 month period from the issuance of the first temporary credential.
- (7) The temporary credentials may be issued to an employee only for a 24 hour period and shall contain the following information:
- (a) A prominent space to allow the insertion of the name of the specific employee to whom it is issued;
  - (b) The date and time of issuance by the security department;
  - (c) Name and credential number of issuing security officer;
  - (d) The conspicuous notation that the credential is "VOID AFTER 24 HOURS"; and
  - (e) A sequential number reflecting the number of temporary credentials issued at that gaming establishment that is to be recorded in both an on-site IEB and security department bound log book or database.
- (8) The IEB shall approve the design of the temporary credentials. The gaming licensee's security department shall secure the temporary credentials until needed for issuance in compliance with 205 CMR 138.15(7). The security department shall provide a monthly report to the IEB identifying the number, names, departments and frequency of temporary credentials issued as well as any missing, stolen, destroyed, or replaced credentials. The IEB may require additional information regarding any credential issuance or utilization and the gaming licensee shall provide all such information in a timely fashion.

138.16: Access to Public and Restricted Areas

- (1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions relative to access to restricted areas. No gaming licensee shall permit any individual to have access to any restricted area in its gaming establishment unless such access is permitted in accordance with the gaming licensee's internal controls. Restricted areas shall, at a minimum, include the following areas:
- (a) Count Rooms. All employees designated with the "C" access code, as provided by 205 CMR 138.15(1), whose duties require access may enter this restricted area. Employees designated with the "A" and "M" access codes, as provided by 205 CMR 138.15(1), may have access with limitations described under their access letter. Any employee may enter this area with a valid reason, permission of the restricted area supervisor, and permission of an IEB agent on duty.
  - (b) Cashiers Cage, Satellite Cashiers Cage, Master Coin Bank, Slot Booths, and Runways. All employees designated with the "A" and "C" access codes, as provided by 205 CMR 138.15(1), may enter these restricted areas. Employees must be listed on the cage access list to gain access to the cage. Employees designated with the "M" access code, as provided by 205 CMR 138.15(1), may have access with the limitations described under their access letter. Any licensed employee may enter this area with a valid reason and permission of the restricted area supervisor. The cage secretary and/or a cage area cleaner may enter the cashier's cage without a security escort to complete their job function; however these individuals must have the permission of the cage area supervisor and are the sole responsibility of that supervisor. All employees designated with the "CS" access code, as provided by 205 CMR 138.15(1), may enter the slot booths, and runways. They may enter the cashier's cage only when access is needed to gain entrance to a slot coin booth. At no time shall a "CS" access code, as provided by 205 CMR 138.15(1), have access to the master coin bank.
  - (c) Slot Repair Room. All employees designated with the "A", "CS", and "S" access code, as provided by 205 CMR 138.15(1), may enter this restricted area. Employees



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designated with the "M" access code, as provided by 205 CMR 138.15(1), may have access with limitations described under their access letter. Any employee may enter this area with a valid reason and permission of the restricted area supervisor.

(d) Simulcast Counters and Sports Wagering Counters. All employees designated with the "A" and "C" access code, as provided by 205 CMR 138.15(1), may enter this restricted area. Employees designated with the "M" access code, as provided by 205 CMR 138.15(1), may have access with the limitations described under their access letter. Any employee may enter this area with a valid reason and permission of the restricted area supervisor.

(e) Computer Room. All employees designated with the "A" and "M" access code, as provided by 205 CMR 138.15(1), may enter this restricted area. Any licensed employee may enter this area with a valid reason and permission of the restricted area supervisor. A MIS secretary and/or computer room area cleaner may enter the computer room without a security escort to complete their job function, however these individuals must have the permission of the computer room supervisor and shall be the sole responsibility of that supervisor. Any employee may enter this area with a valid reason, permission of the restricted area supervisor, and permission of an IEB agent on duty.

(f) Card and Dice Storage Room. All employees designated with the "A" access code, as provided by 205 CMR 138.15(1), and those games/poker department employees who hold the position of casino/poker shift manager or above may enter this restricted area. Any employee may enter this area with a valid reason and permission of the restricted area supervisor.

(g) Card and Dice Destruction Room. All employees designated with "A" access code, as provided by 205 CMR 138.15(1), may enter this restricted area.

(h) Pit Areas. All employees designated with the "A" and "P" access code, as provided by 205 CMR 138.15(1), may enter this restricted area. Employees designated with the "M", and "C" access codes, as provided by 205 CMR 138.15(1), may have access with limitations described under their access letter. Any employee may enter this area with a "valid" reason and permission of the restricted area supervisor.

(i) Surveillance Room and Catwalks. All employees designated with the "A" access code, as provided by 205 CMR 138.15(1), who are surveillance room employees may enter this restricted area. All other employees designated with the "A" access code may have access with the limitations described under their access letter. Employees designated with the "M" access code, as provided by 205 CMR 138.15(1), may have access with the limitations described under their access letter. Anyone who enters this restricted area, who is not a surveillance room employee or a member of the IEB, must sign the surveillance room entry log prior to entering the restricted area. The surveillance room secretary and/or surveillance room area cleaner may enter the surveillance room without a security escort to complete their job function, however these individuals must have the permission of the surveillance room area supervisor and are the sole responsibility of that supervisor. Any employee may enter this area with a valid reason, permission of the restricted area supervisor, and permission of an IEB agent on duty.

(j) Access to Restricted Area for Employees Who Do Not Hold a Gaming Employee License or Occupational License. All employees who would not otherwise be afforded access to a restricted area in accordance with 205 CMR 138.15(1) may be granted access to restricted areas with a valid reason, a security escort, and permission of the restricted area's department manager with limitations on the count rooms, surveillance room. Access may be granted to the count rooms while the counts are not in progress and with permission of the IEB Agent on duty or the Gaming Enforcement Division of the Massachusetts Attorney General's Office. Access to the surveillance room/catwalks may be granted only with a valid work related reason and permission of the Director of Surveillance.

(2) A gaming licensee may deny or limit access to any public areas of the gaming establishment for any reason necessary to ensure public safety and/or the integrity of the gaming operations, including, but not limited to, the following reasons:

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(a) Persons excluded in accordance with 205 CMR 133.00: *Voluntary Self Exclusion* or M.G.L. c. 23K, § 45;

(b) Persons excluded in accordance with 205 CMR 233.00: *Sports Wagering Voluntary Self-Exclusion* or M.G.L. c. 23N, § 13;

(c) ~~(b)~~ Underage persons in a prohibited area;

(d) ~~(c)~~ Players required by a gaming licensee to leave the game of poker in accordance with 205 CMR.

(3) Nothing in 205 CMR 138.16 or a gaming licensee's system of internal controls shall limit the authority of commission employees or agents or the Gaming Enforcement Division of the Massachusetts Attorney General's Office from obtaining access to restricted areas in the performance of their respective duties and responsibilities.

138.17: Searches of Employees and the Workplace by the Gaming Licensee

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include internal policies and procedures for the gaming licensee's security department to conduct searches of employees, including screening for drugs and alcohol, and employee workplaces, workspaces, and personal receptacles, specifically describing the policies and procedures with respect to searches conducted at random and based upon reasonable suspicion. Examples of "workspaces" include, but are not limited to, desks, closets, lockers, and drawers located within the gaming establishment.

(2) If the policies and procedures referenced in 205 CMR 138.17(1) are approved by the commission, such policies and procedures shall be set forth in writing, prior to implementation, as a portion of the gaming licensee's employee personnel policy manual. The content of this manual shall include a requirement that the employee consents to searches conducted in the described workplace areas and subject to the described circumstances as a condition of employment with the gaming licensee. This manual shall be distributed to all employees. Each employee shall acknowledge in writing, by way of the employee's signature, receipt of the manual and an understanding of its contents, and specifically an understanding that the employee consents to the policy and understands it. The gaming licensee shall maintain the written acknowledgements in a central repository.

138.18: Vendor Access Badges

(1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions related to vendor access badges. Access badges may be issued to personnel of a gaming vendor and non-gaming vendor licensed or registered in accordance with 205 CMR 134.00: ~~*Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*~~ or a *Sports Wagering Vendor licensed or registered in accordance with 205 CMR 234.00* who in the course of providing their goods or services require access to a restricted area of the gaming establishment. Access badges shall be issued by the security department of the gaming licensee upon a verification of the identification of the specific employee with at least two forms of identification, at least one of which must be a government issued photo identification, and the employee's work schedule. Each access badge shall be effective only for the term of the service to be provided, issued on a daily basis after confirmation of identity, and shall be surrendered to the security department at the end of each day.

(2) The access badge shall contain the following information:

(a) A prominent space to allow the insertion of the name of the specific person to whom it is issued and identify the vendor employer;

(b) The date and time of issuance by the security department;

(c) Name and access badge number of issuing security officer; and

(d) A sequential number reflecting the number of total badges issued at that gaming establishment that is to be recorded in both an onsite IEB and security department access

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badge log book or database.

138.19: Count Rooms; Physical Characteristics; Count Protocols

(1) A gaming licensee shall have one or more rooms to be known as a "count room" specifically designated, designed, and used for counting the contents of table drop boxes, and slot drop boxes containers. If a gaming licensee's system of internal controls provides for counts of the contents of slot drop buckets and slot drop boxes in a different room from the room where the table drop boxes and slot cash storage boxes are counted, that latter shall be known as the "soft count room", and the former shall be known as the "hard count room".

(2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of all equipment used in the counting and recording process and all other systems used for purposes related to the counting of gross revenue and shall otherwise comport with the requirements of 205 CMR 138.19.

(3) A gaming licensee shall design and construct each count room to provide maximum security with, at a minimum, the following security measures:

(a) A metal door installed on each entrance and exit equipped with a lock which shall be maintained and controlled by the security department;

(b) An alarm device, which audibly signals the surveillance, security departments, and the on-site IEB office whenever a count room door is opened;

(c) A light system, which illuminates one or more lights in the surveillance department and at each count room door, for purposes of maintaining constant surveillance on the entrance and exits to the count room;

(d) Closed circuit television cameras wired to the surveillance department capable of, but not limited to, the following:

1. Video monitoring of the entire count process; and
2. Continuous video-monitoring of the interior of the count room, including storage cabinets or trolleys used to store drop boxes, slot drop containers, and emergency drop boxes.

(e) For the soft count room only, microphones wired to the surveillance department for audio monitoring of the entire count process. Any room that is wired for audio monitoring shall have, conspicuously posted on the entrance and the walls within, a notice indicating that the room is subject to such monitoring.

(4) In addition to the requirements of 205 CMR 138.19(3), a count room used to count coin slot drop boxes and buckets shall have:

(a) A fixed-door type or a hand-held metal detector used by a security department member to inspect all persons exiting the hard count room; and

(b) A separate light system or other device approved by the IEB which shall provide a continuous visual signal at the count room door, whenever any access door to the count room is opened while the system is activated. The light system or device shall:

1. Maintain the visual signal until the system is reset or deactivated; and
2. Be designed so as to permit its activation, deactivation or resetting only by a member of the security department.

(5) In addition to 205 CMR 138.19(3), the soft count room shall have:

(a) A table constructed of clear glass or similar material for the emptying, counting, and recording of the contents of drop boxes and slot cash storage boxes which shall be known as the "count table";

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- (b) A table constructed of clear glass or similar material for the stacking of the contents of table drop boxes and slot cash storage boxes which have been counted, prior to the recount and acceptance by the cage cashier or cashier supervisor. The table shall be known as the "banking table"; and
- (c) A locked accounting box, the key to which shall be maintained and controlled by a supervisor in the casino gaming accounting department with no incompatible functions.
- (6) The count room doors shall be secured at all times except when opened for the following authorized purposes:
- (a) To allow one or more members of the count team to change shifts or take a work break;
  - (b) To permit access to equipment by authorized IT department employees;
  - (c) To permit table drop boxes or slot cash storage boxes to be secured in the count room;
  - (d) To permit empty table drop boxes, slot cash storage boxes, emergency table game drop boxes or emergency slot cash storage boxes that were not part of the current count to be removed from the count room;
  - (e) To allow a main bank cashier or cage supervisor to enter the count room to recount and accept the drop;
  - (f) To allow the count team to exit the room at the conclusion of the count; or
  - (g) In the event of an emergency.
- (7) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a workflow diagram that shall indicate, at a minimum, the location of all equipment in a count room, all equipment used in the counting process and the flow of all currency, coupons, gaming vouchers and paperwork from the start of the count to the conclusion of the count.
- (8) The count team may simultaneously count the contents of the table drop boxes and the slot cash storage boxes provided that the contents of the table drop boxes remain segregated from the contents of the slot cash storage boxes throughout the count and acceptance by the main bank cashier or cage supervisor.
- (9) Except during an emergency, with the exception of the count team and agents of the IEB, prior to anyone entering or leaving a count room during the soft count process, all contents that have been removed from either a drop bucket, drop box or slot cash storage box shall be counted at least once and secured. Any trolleys that contain uncounted drop boxes or slot cash storage boxes shall be secured.
- (10) The opening, counting, and recording of the contents of table drop boxes, and slot drop containers shall be performed in the presence of a count room supervisor. The count shall be performed by at least three employees (count team), which shall include the count room supervisor. The counting and recording process shall be discontinued where the minimum number of count room personnel is not present or are not capable of performing their responsibilities.
- (11) All persons present in the count room during the counting process, except agents of the IEB, shall:
- (a) Wear as outer garments, only a full-length, one-piece, pocketless garment with openings only for the arms, feet, and neck;
  - (b) Not be permitted to wear a long sleeve garment under the outer garment; and
  - (c) Not be permitted to carry a bag, pocketbook or other container unless it is transparent.
- (12) Access to the count room during the counting process shall be limited to the count

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team, internal audit personnel, other persons authorized by the IEB, or agents of the IEB. No count room employee shall, during the soft count process, enter a storage area for table drop boxes or slot cash storage boxes adjacent to the count room to perform any function not directly related to the counting process.

(13) No person shall remove his or her hands from or return them to a position on or above the count table, banking table or counting equipment unless the backs and palms of his or her hands are first held straight out and displayed to other members of the count team and surveillance cameras. In addition, whenever any person enters or leaves the count room during the counting process, any employee remaining in the count room shall be required to step away from the count table, banking table and counting equipment until the person has entered or left the ~~count room~~ count room.

(14) Immediately prior to the commencement of the count, doors to the count room shall be securely locked and remain locked at all times, except when opened for an authorized purpose in 205 CMR 138.19(6). A count team member shall notify surveillance that the count is about to begin, after which surveillance shall make a continuous video and, if applicable, audio recording, with the time and date inserted thereon, of the entire counting process. A count room member shall also notify surveillance whenever a count room door will be opened during the count.

(15) Once all currency, gaming vouchers, coupons, coin and/or slot tokens have been counted and the final count totals have been obtained, no employee shall be permitted to leave the count room, except in an emergency, until the recount and acceptance of the drop is completed by a cage cashier or cashier supervisor.

(16) The count room supervisor shall prepare a record of the names and credential or license numbers of each employee who was present in the count room during any part of the count process. Such record shall be forwarded to the accounting department at the conclusion of the count.

138.20: Possession of Firearms

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a policy prohibiting any person from possessing a firearm within or upon the premises of a gaming establishment. If the gaming licensee learns that an individual possesses a firearm within or upon the premises of a gaming establishment, the gaming licensee must immediately notify an official within the on-site office of the IEB and the individual violating the policy shall be removed from the premises of the gaming establishment by officers assigned to the Gaming Enforcement Unit. Thereafter, the gaming licensee shall promptly, and in any event no later than 48 hours of such removal, or violation of the policy, notify the Chief of the Gaming Enforcement Division of the Massachusetts Attorney General's Office.

(2) Notwithstanding 205 CMR 138.20(1), the following individuals may, in the course of their official duties, possess a firearm within or upon the premises of a gaming establishment:

- (a) A member of the Massachusetts State Police assigned to the Gaming Enforcement Unit;
- (b) A law enforcement officer of the host community police department assigned to work at the gaming establishment pursuant to the memorandum of agreement required to be executed in accordance with M.G.L. c. 23K, § 6(f);
- (c) An official who is specifically authorized to do so by the commission or the IEB; and
- (d) A federal law enforcement officer.

(3) Any law enforcement officer in possession of a firearm, other than a member of the Massachusetts State Police assigned to the Gaming Enforcement Unit, shall provide notification to an official within the on-site office of the State Police Gaming Enforcement Unit at the gaming establishment prior to arrival or upon arrival at the gaming establishment. This notification shall be documented with the onsite office of the State Police Gaming Enforcement Unit.

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(4) The gaming licensee shall post in a conspicuous location at each entrance to the gaming establishment a legible sign that states:

*"No firearms are allowed within or upon the premises of this gaming establishment. This prohibition extends to all areas of this facility: public, non-public, restricted, and non-restricted areas. Persons violating this restriction will be removed from the premises and subject to further investigation and, if appropriate, prosecution. If you have any questions about this prohibition, please request to see an official from the Massachusetts Gaming Commission Office before proceeding.*

*Certain law enforcement officers may be exempt from this prohibition; however they must notify the Massachusetts State Police of their presence by either visiting the Massachusetts State Police Gaming Enforcement Unit Office on-site or by calling the State Police Gaming Enforcement Unit at [number to be provided by the IEB]."*

138.21: Protection of Minors and Underage Youth

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include the internal policies and procedures as required in 205 CMR 150.00: ~~Protection of Minors~~ and ~~Underage Youth~~ 250.00.

138.22: Critical Incident Preparedness Plan

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a detailed critical incident preparedness plan to enhance the prevention of, preparedness for, and response to critical incidents, including without limitation natural disasters, workplace violence, dangerous substance, and active shooter crisis incidents. This plan shall include a training component which is designed to enhance awareness of pre-incident indicators and describe actions to take to prevent and prepare for potential crisis incidents. This plan also shall include an action plan that describes the gaming establishment's preplanning and coordination for a series of activities and procedures involving the gaming licensee's management and security personnel; the commission on-site officials; the on-site responding Massachusetts State Police personnel; the responding local, county, state law enforcement personnel; EMS and other first responder personnel, all in response to potential or actual critical incidents. The gaming licensee shall review its crisis preparedness plan annually. The gaming licensee's submission shall be evaluated in terms of its adequacy to assure that reasonable preparation and steps have been taken to ensure public safety, inter-agency crisis communication, tactical coordination, site facility identification and pre-staging, which as a whole, shall serve to maximize the protections afforded to the public, patrons, employees, law enforcement officers, and first responders and maximize the efficacy of first responder actions in emergent critical incident situations.

138.23: Drop Boxes for Table Games; Gaming Table Slot Cash Storage Boxes

(1) A secure, tamper-resistant container known as a "drop box" shall be attached to each gaming table and any other gaming device at which currency, coupons, or other items of value are accepted by the gaming establishment. The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include:

(a) Specifications for the construction and material composition of drop boxes and housing, identification of the asset number or serial number to be used on gaming equipment, and whether the asset number will be imprinted on such equipment electronically or permanently.

(b) A detailed plan identifying which of the gaming licensee's department(s) will be involved in handling the table drop. The plan must include at least one key gaming employee on the drop team and shall also include the following:

1. Identification of the department having primary responsibility for the drop;
2. An outline of the responsibilities of all gaming employees involved in handling the drop;
3. A chain of command in the event the gaming licensee uses multiple departments to handle the drop; and

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4. A chain of command in the event the gaming licensee uses multiple departments to handle the count responsibilities.
- (c) A detailed procedure for independent verification of the count as performed in accordance with 205 CMR 138.19. The procedure shall include:
1. Separation of duties such that the person performing the daily of the counting machine shall not also perform the duties to determine the final numbers;
  2. Procedures to be followed in the event unaccounted currency is found in accordance with 205 CMR 138.33(7) and (8); and
  3. Procedures governing the use and redemption of both valid and invalid coupons.
- (d) A detailed variance and discrepancy procedure to be followed in the event the final count does not balance. The procedure shall include:
1. Identification of the department responsible for reporting the drop to the Bureau and a timeline for when that reporting is due; and
  2. The count procedure to be followed in the event the gaming licensee's count machines are not functioning.
  3. A detailed schedule of table drop and how often it will be performed, including a procedure for the removal of drop boxes from table games.
- (e) A procedure for the storage of unused drop box locks. The procedure shall include:
1. The location where emergency drop boxes will be stored;
  2. The location where spare drop boxes will be stored; and
  3. Identification of the person or department responsible for replacement and storage of drop box locks.

138.24: Cashiers' Cage; Satellite Cages; Master Coin Bank; Coin Vaults

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures relative to the cashiers' cage, satellite cages, master coin banks (if any), and coin vaults (if any) that incorporate, at a minimum, the following:

- (l) Each establishment shall have on or immediately adjacent to the gaming area a physical structure known as a cashiers' cage (cage) to house the cashiers and to serve as the central location in the gaming area for the main bank, the marker bank, the kiosk bank, and the chip bank, which shall be responsible for the following pursuant to 205 CMR 138.29 and 205 CMR 138.24:
- (a) The custody of the cage inventory comprising currency including cash, patrons' deposits, coin, patron checks, gaming chips and plaques, and of forms, documents, and records normally associated with the operation of a cage;
  - (b) The approval, exchange, redemption, and consolidation of patron checks received for the purposes of gaming;
  - (c) The receipt, distribution, sale and redemption of gaming chips and plaques;
  - (d) The issuance, receipt and reconciliation of imprest funds used by slot attendants in the acceptance of currency and coupons from patrons in exchange for currency;
  - (e) The issuance, receipt and reconciliation of imprest chip funds and currency used by chippersons in the acceptance of coin, currency, slot tokens and coupons from seated poker patrons in exchange for chips; and

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- (f) Such other functions normally associated with the operation of a cage.
- (2) If a gaming establishment will make use of coins or tokens in its gaming operation it shall have within the cage or in such other area, as approved by the commission, a physical structure known as a master coin bank to house master coin bank cashiers. The master coin bank shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein and serve as the central location in the gaming establishment for the following:
- (a) The custody of currency, coin, prize tokens, slot tokens, forms, documents and records normally generated or utilized by master coin bank cashiers, slot cashiers, changepersons, and slot attendants;
  - (b) The exchange of currency, coin, coupons, prize tokens and slot tokens for supporting documentation;
  - (c) The responsibility for the overall reconciliation of all documentation generated by master coin bank cashiers, slot cashiers, changepersons, and slot attendants;
  - (d) The receipt of coin and slot tokens from the hard count room; and
  - (e) Such other functions normally associated with the operation of the master coin bank.
- (3) The cage shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein; such design and construction shall, at a minimum, include the following features and specifications:
- (a) It shall be fully enclosed except for openings through which materials such as gaming chips and plaques, slot tokens and prize tokens, patron checks, cash, records, and documents can be passed to service the public, gaming tables, and slot booths;
  - (b) It shall have a manually triggered silent alarm system for the cage, ancillary office space, and any related vault, which systems shall be connected directly to the monitoring rooms of the closed circuit television system, IEB office and the security department office;
  - (c) It shall have double door entry and exit system (MAN-TRAP) that will not permit an individual to pass through the second door until the first door is securely locked. In addition:
    - 1. The first door adjacent to the gaming floor of the double door entry and exit system shall be controlled by one department (electronically and manually). The second door of the double door entry and exit system shall be controlled by a separate department from the first;
    - 2. The system shall have closed circuit television coverage which shall be monitored by the security department or surveillance department; and
    - 3. Any entrance to the cage that is not a double door entry and exit system shall be an alarmed emergency exit door only.
  - (d) It shall have separate locks on each door of the double door entry and exit system, the keys to which shall be different from each other.
- (4) Each master coin bank located outside the cage shall meet all the requirements of 205 CMR 138.24(3).
- (5) Each gaming establishment may have separate areas for the storage of coin, prize tokens and slot tokens (coin vaults) in locations outside the cage or master coin bank.
- (6) Each coin vault shall be designed, constructed and operated to provide maximum security for the materials housed and activities performed therein, and shall include at least the following:



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- (a) A fully enclosed room, located in an area not open to the public;
  - (b) A metal door with one key that shall be maintained and controlled by the main bank or master coin bank, which shall establish a sign-in and sign-out procedure for removal and replacement of that key;
  - (c) An alarm device that signals the monitors of the gaming licensee's close circuit television system whenever the door to the coin vault is opened; and
  - (d) Closed circuit television cameras capable of accurate visual monitoring and taping of any activities in the coin vault.
- (7) Each gaming establishment may also have one or more "satellite cages" separate and apart from the cashiers' cage, but in or adjacent to a gaming area or simulcasting facility or Sports Wagering Area, established to maximize security, efficient operations, or patron convenience and comfort and designed and constructed in accordance with 205 CMR 138.00. Subject to commission approval, a satellite cage may perform any or all of the functions of the cashiers' cage. The functions which are conducted in a satellite cage shall be subject to the applicable accounting controls set forth in 205 CMR.
- (8) Each gaming licensee shall file with the commission the names of all persons possessing the combination or keys to the locks securing the entrance to the cage, any satellite cages, master coin bank and coin vaults; as well as all persons possessing the ability to operate alarm systems for the cage, any satellite cages, master coin bank and coin vaults.
- (9) Notwithstanding 205 CMR 138.24(2), each gaming licensee may, with prior commission approval, operate its cashiers' cage without the master coin bank, provided that the main bank serves as the central location in the gaming establishment for the transactions enumerated in 205 CMR 138.24(2)(a) through (e), and provided further, that the references therein and elsewhere in 205 CMR 138.00 to:
- (a) Master Coin Bank Cashiers shall apply instead to the main bank cashiers assigned the duties and performing the functions that would otherwise be assigned to or performed by master coin bank cashiers; and
  - (b) The Master Coin Bank shall apply instead to the main bank, but only insofar as it is authorized to perform master coin bank functions.
- (10) Whenever the approved internal controls of a gaming licensee require or authorize documents to be transported from the cashiers' cage to a satellite cage or from a satellite cage to the cashiers' cage or another satellite cage, the gaming licensee shall, unless specified otherwise, transport the documents through the use of a pneumatic tube system or a ~~casino~~ security department representative.

138.25: Simulcast Counter: (Reserved)

138.26: Keys for Dual Locks; Gaming Licensee-controlled Keys and Locks; Notice to the IEB and Surveillance Department upon Malfunction and Repair, Maintenance or Replacement

- (1) Any key, locking mechanism or locking system that is required by 205 CMR 138.00 shall be subject to review and approval by the IEB. Such key shall be capable of unlocking the locking device on no more than one type of secure box, compartment or location used or maintained within the gaming establishment.
- (2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a process for obtaining, reproducing, inventorying and identifying each controlled key, locking mechanism, or locking system and setting forth the procedure by which the key, locking mechanism, or locking system shall be controlled. Such internal controls shall, at a minimum, include an enumeration of those incidents which would be considered to compromise the security of any part of the gaming establishment.
- (3) The types of secure boxes, compartments or locations that require a unique key, locking

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mechanism, or locking system shall include, without limitation, the following:

- (a) Drop boxes;
  - (b) Slot drop containers;
  - (c) Trolleys to transport drop boxes from gaming tables to a secure location;
  - (d) Trolleys or cabinets used to transport or store, respectively, slot cash storage boxes;
  - (e) Count room entrance and exit doors;
  - (f) Compartments housing slot drop buckets containers;
  - (g) Areas in which slot cash storage boxes are located;
  - (h) Compartments housing microprocessors or other control units controlling progressive meter(s) for progressive slot machines;
  - (i) Locations housing a computer that controls a progressive payout wager system for gaming tables offering a progressive payout wager; and
  - (j) Storage cabinets or trolleys for unattached slot drop boxes.
- (4) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include inventory procedures for any key required to be controlled and maintained by a gaming licensee and for any corresponding locking device including, without limitation, any key and locking device required by 205 CMR 138.00 for a dual control locking system. The key and locking device inventory controls of each gaming licensee shall include, at a minimum, procedures for:
- (a) Maintenance of inventory ledgers by identified, authorized personnel for purposes of documenting:
    - 1. The requisitioning of keys and locking devices from vendors;
    - 2. The receipt of blank key stock;
    - 3. The storage and issuance of keys and locking devices;
    - 4. Any loss, removal from service, and subsequent replacement of keys and locking devices;
    - 5. The destruction of keys and locking devices; and
    - 6. The results of physical inventories.
  - (b) The storage of duplicate keys and locking devices, including a physical description of any storage location and the identification of authorized personnel in control of such location;
  - (c) The destruction of keys and locking devices, including documentation detailing in whose presence any destruction shall occur; and
  - (d) Physical inventories of all keys and locking devices at least once every ~~three~~12 months.
- (5) A gaming licensee shall notify the IEB and its surveillance department immediately upon becoming aware of any malfunction of any alarm system or alarmed door, and upon any emergency service to restore their proper function. In addition, a gaming licensee shall provide the IEB and its surveillance department with at least 24 hours written notice prior to effecting any non-emergency repair, maintenance or replacement of any such alarm system or alarmed door including, without limitation:

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- (a) Alarm systems for any emergency exit from the gaming floor or simulcasting facility or Sports Wagering Area;
- (b) Alarm systems for the cage, its ancillary office space and any related vault;
- (c) Alarm systems for any master coin bank located outside the cage;
- (d) Alarmed emergency exit door(s) for the cage;
- (e) Alarmed doors to vaults signaling the closed circuit television system;
- (f) Alarmed doors to count rooms signaling the monitoring rooms and the security department;
- (g) Alarm systems providing for a continuous visual signal whenever any access door to the count room is open; and
- (h) Alarm systems for any slot cashier window in a slot booth.

138.27: Internal Controls B: (Reserved)

138.28: Gaming Day

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall specify the hours of operation for the gaming establishment and incorporate a “gaming day” for accounting purposes that begins at 6:00 A.M. and ends the following day at 5:59 A.M.

138.29: Accounting Controls for the Cashiers’ Cage, Satellite Cages, Master Coin Bank and Coin Vaults

(1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall detail the responsibilities and functions of the main bank, which shall include:

- (a) Receipt of cash, value chips, winning Sports Wagering tickets, gaming vouchers, jackpot payout slips, and personal checks received for gaming purposes from cage cashiers in exchange for cash;
- (b) Receipt of cash from the count room;
- (c) Preparation of the overall cage reconciliation and accounting records, and independent verification of all bank assets by the main banker;
- (d) Preparation of the daily bank deposit for cash, cash equivalents, counter checks, and personal checks;
- (e) Issuance, receipt, and reconciliation of imprest funds used by slot attendants; and
- (f) Receipt of unsecured currency and vouchers.

A copy of the cage cashiers' count sheets and documentation shall be sent to the gaming licensee's accounting department.

(2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall detail the responsibilities and functions of the marker bank, which shall include:

- (a) Maintenance of credit application information;
- (b) Setting minimum and maximum amounts for patron credit lines;
- (c) Maintenance of serially prenumbered forms used in sequential order accounted for by employees with no incompatible functions;

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- (d) Marking originals and copies of void marker slips "void" and including the signature of the individual responsible for preparing the slip(s);
- (e) Accountability for marker slips, which must be a five-part form (redemption, accounting, issuance, and acknowledgement copy along with the original) attached in a book, which shall be maintained by the finance department but may be issued to the table games department.
1. Marker slips may be issued for chips, cash, or gaming vouchers.
  2. Marker ~~chips~~slips shall include the signature of the marker bank cashier, who shall time stamp the acknowledgment copy of the five-part form.
  3. The original and redemption copies of the marker slips shall be maintained in marker bank.
- (3) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall detail the responsibilities and functions of the kiosk bank, including the following:
- (a) Replenishment of empty cassettes with full imprest cassettes, which shall be performed by the main banker;
  - (b) Daily receipt of, and accountability for, gaming vouchers that have been redeemed for cash;
  - (c) Receipt of bill validator boxes from the main bank and counting of the currency therein.
- (4) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall detail the responsibilities and functions of the chip bank, which shall include:
- (a) Procedures to be followed with respect to fills, including, at a minimum:
    1. That fill slips be prepared by a chip bank cashier either manually or electronically;
      - i. If manually prepared, that they be prepared using a four-part form that includes drop box, acknowledgement, chip bank, and accounting copies and inserted into a locked dispenser which has access maintained and controlled by finance department employees with no incompatible functions; and
      - ii. If electronically prepared, that they be prepared on a three-part form that includes a drop box, acknowledgement, and chip bank copy which may not be changed or removed by any personnel involved in its preparation;
    2. That fill slips be serially prenumbered forms and used in sequential order;
    3. That fill slips contain the following information upon preparation:
      - i. Denominations of chips being distributed;
      - ii. Total amount of each denomination;
      - iii. Total amount of all denominations;
      - iv. Game and table number where chips are being distributed;
      - v. Date and shift;
      - vi. Signature of chip bank cashier and/or the identification code;
    4. When applicable, that fill slips be marked "void" and signed by the cashier;

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- (b) Procedures to be followed with respect to credits, including, at a minimum:
1. That credit splits be prepared by a chip bank cashier either manually or electronically;
    - i. If manually prepared, that they be prepared using a four-part form that includes drop box, acknowledgement, chip bank, and accounting copies inserted into a locked dispenser which has access maintained and controlled by finance department employees with no incompatible functions;
    - ii. If electronically prepared, that they be prepared on a three-part form that includes a drop box, acknowledgement, and chip bank copy which may not be changed or removed by any personnel involved in its preparation;
  2. That credit slips be serially prenumbered forms and used in sequential order;
  3. That credit slips contain the following information:
    - i. Denominations of chips being returned to the chip bank;
    - ii. Total amount of each denomination;
    - iii. Total amount of all denominations;
    - iv. Game and table number where chips are being removed;
    - v. Date and shift;
    - vi. Signature of chip bank cashier;
  4. When applicable, that fill slips be marked "void" and signed by the cashier.
- (5) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall outline the procedures for accepting deposit checks from gaming patrons.
- (a) The procedures shall include the responsibilities of the cage cashier, which shall include, at a minimum:
1. Endorsing the check "for deposit only";
  2. Initialing the check;
  3. Date- and time-stamping the check;
  4. Verifying signatures using either an ID card or the gaming licensee's personnel file;
  5. Ensuring that patrons do not exceed authorized daily amounts;
  6. Exchanging the check for cash in an amount equal to the amount for which the check is written.
- (b) Refusal to accept checks made payable to an individual, including social security checks, unemployment checks, disability checks, and payroll checks.
- (c) Refusal to accept funds obtained using a cash advance from a credit card.
- (d) Accepting personal checks only if they are:
1. Written on a commercial bank or credit union;
  2. Written for a specific amount;

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3. Made payable to the licensee; and

4. Currently dated.

(6) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall require that incompatible functions are segregated such that no employee is in a position to both commit an error or commit a fraud and to conceal the error or fraud in the normal course of the employee's duties.

138.30: Accounting Controls within the Simulcast Counter: (Reserved)

138.31: Procedure for Accepting Cash and Coupons at Gaming Tables

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures for accepting cash and coupons at gaming tables, including:

- (a) Whether a dealer accepting cash at a gaming table will fan out the cash face up or face down;
- (b) The method by which cash of each denomination shall be placed on the game table;
- (c) A provision that coupons may only be accepted at a gaming table on even money wagers;
- (d) Rules related to coupon use, if any; and
- (e) Procedures related to the issuance of promotional chips.

138.32: Table Game Drop Boxes, Transport to and from Gaming Tables; Storage Boxes

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include:

- (a) Specifications related to the material and construction of the drop box and housing as well as the construction and security of drop carts.
- (b) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include detailed procedures regarding transport of the drop from the gaming floor to the count room. These procedures shall include:
  1. When the drop will take place;
  2. Which department(s) will handle the drop;
  3. How many days per week the drop will take place;
  4. Which department(s) will be accountable for the drop boxes during pickup from the gaming floor and be responsible for the verification form;
  5. Which department(s) will have keys to access the game table, outside door, and cash door, and at what time such areas will be accessed;
  6. A requirement that the drop team and the count team have separate access keys as well as a requirement that each include a minimum of two security members;
  7. A process governing drop boxes for unopened pits or games;
  8. The route that will be taken through the gaming establishment; and
  9. A requirement that the boxes be secured during all stages of transport.
- (c) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include the locations of storage areas for emergency drop boxes,

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spare drop boxes, alternate drop boxes, and full drop boxes, and shall include procedures for the use of emergency drop boxes.

138.33: Removal of Slot Drop Containers; Unsecured Funds; Recording of Meter Readings for Slot Machine Drop

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures and protocols relative to the removal of slot drop containers, unsecured currency, and the recording of meter readings for slot machine drop that, at a minimum, incorporates the following requirements:

(1) A gaming licensee shall file with the IEB a drop schedule setting forth the specific times at which the slot drop containers will be brought to or removed from the slot machines and the routes to be utilized. The schedule shall include the number of slot drop containers to be removed each day by zone or other designation. At a minimum, the schedule shall provide for removal at least once per week.

(2) All slot drop containers which are not actively in use shall be stored in the count room or other secure area outside the count room as approved by the IEB to prevent unauthorized access. In addition, slot drop containers in use shall be stored in an enclosed storage cabinet or trolley, secured by a key. The key must have restricted access and may be maintained and controlled by either the security department or by means of an electronic key control system which documents the date, time, and electronic signature of any person signing out/in the aforementioned keys. Such electronic key control system also must have the ability to restrict access and ensure keys are released only when the properly authorized individual(s) are present. An electronic signature shall include a unique employee PIN and key card swipe, or PIN and employee biometric identification.

(3) Slot drop containers shall be removed from a slot machine by at least three employees, two of whom shall be members of the ~~casino~~ security department and one of whom shall be a member of the accounting department (the drop team). At least one member of the drop team shall be licensed as a key gaming employee in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*. Other than the security department members, all employees participating in the removal of slot drop containers shall wear as outer garments only a full-length, one-piece pocketless garment with openings only for the hands, feet and neck.

(4) A drop team member shall notify the surveillance department at the commencement of the slot drop process. Surveillance shall make a continuous video recording, with the time and date inserted thereon, of the entire slot drop process.

(5) All slot drop containers removed from the slot machines shall be transported directly to, and secured in, the count room by a ~~casino~~ security department member and a member of the accounting department. The process shall be documented in writing ensuring that the number of slot drop containers brought into the gaming area and the number of slot drop containers removed from the gaming area are reconciled with a drop box verification form.

(6) Emergency drop procedures to remove a full or inoperable slot drop container or for removal for other legitimate reasons, as approved by the IEB, outside of the slot drop schedule shall require at least three employees (two of whom shall have no incompatible functions, and one of whom shall be licensed as a key gaming employee in accordance with 205 CMR 134.00: *Licensing and Registration of Employees, Vendors, Junket Enterprises and Representatives, and Labor Organizations*), be replaced with an empty emergency slot drop container of the same type if the slot machine is to remain available for play by patrons, and include at a minimum established procedures as follows:

(a) A security department member shall notify the surveillance department which shall monitor and record the transaction. If more than one slot drop container is being removed, such notification shall include the sequence in which the containers will be removed and replaced;

(b) The security department member shall complete an emergency box form documenting the replacement of the slot drop container. The form shall include at a minimum:

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1. The date and time;
  2. The asset and location number;
  3. The reason for the removal; and
  4. The signatures of all employees participating in the process.
- (c) The emergency box form shall be distributed by a member of the emergency drop team as follows:
1. The original affixed to the emergency slot drop container;
  2. The duplicate placed in a locked accounting box; and
  3. The triplicate delivered to the cage to be routed within 24 hours of preparation to the IEB's on-site office.
- (d) A slot department member, in the presence of the other members of the emergency drop team, shall remove the slot drop container from the slot machine and replace it with the empty emergency slot drop container if the slot machine is to remain available for play by patrons;
- (e) The slot drop container removed from the slot machine shall be transported by a minimum of two members of the emergency drop team to the count room where it must be secured in an emergency drop box cabinet or trolley; and
- (f) For each slot drop container removed, an emergency drop team participant shall record on an emergency box log, to be maintained with the emergency drop box cabinet or trolley, the following:
1. The date and time the slot drop container was secured in the cabinet or trolley;
  2. The slot drop container location and asset number; and
  3. The signatures of at least two members of the emergency drop team participating in the emergency slot drop container process.
- (7) Whenever currency, a gaming voucher, or a coupon is found inside a slot machine but outside of the slot drop box during the collection of slot drop boxes, it shall be deemed "unsecured funds." When unsecured funds are located, a count team member and a member of the ~~casino~~ security department shall complete and sign an unsecured funds form which includes the asset number in which the unsecured funds were found, the date the unsecured funds were found, and the total value of the unsecured funds. The unsecured funds and the original unsecured funds form shall be transported to the cashier's cage. A determination shall be made as to whether the unsecured funds registered on the coin-in meter of the slot machine from which they were retrieved. If the unsecured funds registered on the coin-in meter of the slot machine, the funds shall be recorded as part of the gross gaming revenue for the slot machine and recorded with the contents removed from the corresponding slot drop box. If it is determined that the unsecured funds did not register on the coin-in meter of the slot machine, the funds shall be processed as unclaimed cash in accordance with 205 CMR 138.68(1)(b).
- The duplicate of the unsecured funds form shall be placed in a locked accounting box. Upon completion of the count, the original unsecured funds form, relative to funds that registered on the coin-in meter, shall be placed in a locked accounting box located in the count room. The accounting department shall retrieve the original form and reconcile it to the duplicate. A copy of the form shall be provided to the IEB.
- (8) Whenever unsecured funds are found inside a slot machine but outside of the slot drop box at times other than the collection of slot drop boxes, a slot department member shall notify the surveillance department and complete and sign the unsecured funds form referenced in 205 CMR 138.33(7). The unsecured funds and the original form shall be



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transported by the slot department member, escorted by a security department member, to the cashiers' cage where a cashier shall sign the form acknowledging receipt. The unsecured funds and original form shall be handled in accordance with the process described in 205 CMR 138.33(7).

(9) Upon receipt of an unsecured gaming voucher or coupon, the cage cashier in the presence of the slot department member shall deface or otherwise deactivate the gaming voucher or coupon, to the extent necessary, so as to prevent subsequent redemption.

(10) At the end of the gaming day, at a minimum, the original unsecured funds forms and as applicable, gaming vouchers and coupons, shall be forwarded to the accounting department. The accounting department shall reconcile the original and duplicate forms and record the appropriate amount on the Slot Win Report or unclaimed cash report, as applicable. Reconciliation of unsecured funds shall be completed by the end of the gaming day on which the count of the slot machine drop for the machine in which the unsecured funds were located is performed.

(11) In conjunction with the removal of any slot drop box, a gaming licensee shall manually read, or cause an approved slot monitoring system to record, the slot machine's accounting meters that are used to calculate gross gaming revenue, as described by GLI-11, 5.4.1 *Electronic Accounting and Occurrence Meters*, including the in-meter, drop meter, out-meter, attendant paid jackpots meter, attendant paid cancelled credits meter, bill meters and handle pull meter. In addition, the following meters shall be read and recorded:

- (a) If the slot machine accepts gaming vouchers, the numerical and value cashable gaming voucher meters, and the numerical and value non-cashable gaming voucher meters;
- (b) If the slot machine accepts coupons enrolled in the gaming voucher system, the numerical and value cashable coupon meters and numerical and value non-cashable coupon meters;
- (c) If the slot machine accepts promotional credits, the electronic cashable credit meter and the electronic non-cashable credit meter; and
- (d) If the slot machine accepts funds from an account based wagering system, the wagering account transfer-in meter and the wagering account transfer-out meter.

(12) The slot monitoring system shall provide a report to the accounting department for a comparison of the meter readings to the count room reports and the calculation of each slot machine's payout percentage. In the event it is determined after a count that a shortage or overage exists between the total registered on a slot machine's accounting meters that are used to calculate gross gaming revenue, as described by GLI-11, 5.4.1 *Electronic Accounting and Occurrence Meters*, and the total value of the contents of the drop box, the licensee shall investigate to determine the cause and record the findings. Only members of the accounting department shall have the authority to adjust meter readings subsequent to the count, provided that notification is provided to the IEB and the commission's finance office if the shortage or overage was caused by a technical malfunction. The IEB and/or finance office may take any action necessary to ensure the integrity of the adjustment prior to the month end reconciliation and public reporting of gross gaming revenue.

(13) Nothing in 205 CMR 138.00 or a gaming licensee's internal controls shall preclude the IEB from requiring a gaming licensee to read a slot machine meter manually as a remedial measure in the event of a malfunction or as it may otherwise deem necessary to ensure the integrity of gaming and the accurate reporting of gross revenue.

138.34: Procedures for Acceptance of Tips or Gratuities from Patrons

- (1) In accordance with M.G.L. c. 23K, § 25(g), no key gaming employee or any other gaming employee who serves in a supervisory position shall solicit or accept a tip or gratuity from a player or patron in the gaming establishment where the employee is employed.
- (2) In accordance with M.G.L. c. 23K, § 25(g), a dealer may accept tips or gratuities from a patron at the table game where such dealer is conducting play provided, however, that such

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tips or gratuities shall be placed in a pool for distribution among other dealers. A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures governing the manner in which tips and gratuities shall be set aside for the dealer pool as well as the manner of distribution among dealers, which shall, at a minimum, incorporate the following principles:

- (a) At their election, the dealers shall be responsible for the collection, counting, and distribution of the tips and gratuities;
  - (b) The gaming licensee shall cooperate in the collection, counting, and distribution process undertaken by the dealers, and shall provide surveillance, cashier, payroll and other systems necessary for the administration and security of the process;
  - (c) Tips shall be calculated on a weekly basis, unless the dealers specifically elect to calculate the tips on a daily basis, and shall be distributed based on time spent dealing;
  - (d) The policies and procedures shall be subject to approval by the dealers in a manner provided by the dealers; and
  - (e) The policies and procedures shall be in accordance with M.G.L. c. 149, § 152A and other applicable law of the Commonwealth.
- (3) The policies and procedures required in accordance with 205 CMR 138.34(2) shall, at a minimum, include:
- (a) The method utilized by a dealer for acceptance of the tip or gratuity;
  - (b) The physical characteristics of the transparent locked box utilized for purposes of depositing such tips or gratuities;
  - (c) The method for ensuring that any non-value chips received as a tip at any table game, authorized by the commission to utilize non-value chips for play, is expeditiously converted into value chips and deposited in a the locked box reserved for that purpose; and
  - (d) The method of collecting, accounting for and placing such tips and gratuities in a common pool for distribution *pro-rata* among all dealers in accordance with the policies and procedures established in accordance with 205 CMR 138.34.
- (4) If a gaming licensee offers the game of poker, the policies and procedures required in accordance with 205 CMR 138.34(2) may provide for a separate common pool for tips and gratuities received by poker dealers to be established. Provided, however, at the dealers' option, if a separate common pool is established for poker dealers, the policies and procedures may provide for distribution from the pool in accordance with the precise amount contributed. A gaming licensee, with the dealers' assent, may also designate a percentage of the prize pool or other such amounts as designated in a poker tournament submission, as approved by the commission, to be withheld for distribution to the tournament dealers on a *pro-rata* basis.
- (5) A tip or gratuity may be provided electronically to a dealer upon initiation and authorization by a patron. A gaming licensee shall include in its internal controls the method utilized for the distribution of electronic tips or gratuities and ensure that a report listing all electronic tips shall be available from the system where the transaction occurred.

138.35: Table Inventory; Table Inventory Container; Chip Reserve Compartment

- (1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall outline the instances in which the table inventory will be changed during the course of a gaming day. Such outline shall include procedures for:
- (a) Opening a table;
  - (b) Fills and credits;

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- (c) Issuance of chips, currency, or other form of value based on the player's previously-issued credit pursuant to 205 CMR 138.43; and
  - (d) Closing a table.
- (2) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall:
- (a) Include procedures to address errors in recording a table game bankroll, including error notification and incorrect table inventory slip form procedures;
  - (b) Indicate whether the gaming licensee will use a chip reserve compartment at its game tables; and
  - (c) Require that the table inventory slip can be seen through the float at closed tables.

138.36: Procedures for Counting Table Inventory, Opening Tables for Gaming, Shift Changes at Gaming Tables, and Closing Gaming Tables

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall require that the table inventory be verified at the start of each day on a table inventory slip form, which shall be signed and placed in the drop box. The verification process shall include:

- (a) Procedures for verification of the accuracy of the bankroll in the opening of the day;
- (b) Procedures for inspection of the bankroll;
- (c) Procedures for handling discrepancies on the table inventory slip form, including error notification to the department(s) affected by the discrepancy and providing both the correct and incorrect forms along with a manager's signature;
- (d) Procedures for removal and verification of gaming stacks;
- (e) Procedures for closing a game, including locking and verifying all bankrolls and removing all stacks and amounts from the bankroll.

138.37: Procedure for Distributing and Removing Gaming Chips, Coins and Plaques to Gaming Tables

A system of internal controls submitted by a gaming licensee, in accordance with 205 CMR 138.02, shall include procedures relative to distributing and removing gaming chips, coins, and plaques to and from gaming tables that must include participation of personnel from at least three departments with incompatible functions.

138.38: Administrative Action

- (1) Grounds for Action. A gaming licensee may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if it is determined that the gaming licensee has:
- (a) failed to abide by any provision of 205 CMR 138.00;
  - (b) failed to abide by any provision of M.G.L. c. 23K or M.G.L. c. 23N related to internal controls;
  - (c) failed to abide by any provision of the gaming licensee's system of internal controls approved in accordance with 205 CMR 138.02.
- (2) Finding and Decision. If the Bureau finds that a gaming licensee has violated a provision of 205 CMR 138.07(1), it may issue a written notice of decision recommending that the commission suspend, revoke, and or condition said gaming licensee. Either in conjunction with or in *lieu* of such a recommendation, the Bureau may issue a written notice assessing a civil administrative penalty upon said licensee. Such notices shall be provided in writing and

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contain a factual basis and the reasoning in support of the decision, including citation to the applicable statute(s) or regulation(s) that supports the decision.

(3) Civil Administrative Penalties. The Bureau may assess a civil administrative penalty on a gaming licensee, in accordance with M.G.L. c. 23K, § 36, for a violation of 205 CMR 138.07(1).

(4) Review of Decision. A recommendation made by the Bureau to the commission that a gaming license be conditioned, suspended or revoked shall proceed directly to the commission for review in accordance with 205 CMR 101.01: *Hearings Before the Commission*. If the gaming licensee is aggrieved by a decision made by the Bureau to assess a civil administrative penalty, in accordance with 205 CMR 138.07(2) and (3), it may request review of said decision in accordance with 205 CMR 101.00: *M.G.L. c. 23K: Adjudicatory Proceedings*.

138.39: Internal Controls D: (Reserved)

138.40: Procedure for Acceptance of Checks, Cash Equivalents, Wire Transfers, and Credit/Debit Cards; Issuance of Counter Checks

A system of internal controls submitted by a gaming licensee, in accordance with 205 CMR 138.02, shall include policies and procedures relative to the acceptance of checks and cash equivalents presented by patrons, and the issuance of counter checks to patrons for gaming purposes. These policies and procedures shall include, but not be limited to:

- (1) The specific locations in the gaming establishment where patron deposits may be received;
- (2) The specific form of deposits that will be accepted including cash, chips, plaques, slot tokens, jackpots, tournament winnings, casino checks, personal checks, certified checks, traveler's checks, wire transfers, electronic fund transfers, money orders, and other cash equivalents. Provided, procedures shall be included to ensure that the gaming licensee does not accept or cash government-issued checks, or third party checks, other than bank issued cashier's checks or travelers checks;
- (3) Identification requirements at such time that a patron deposits funds, including controls in place to assure that any cash received on deposit is done so in accordance with required currency transaction reporting and anti-money laundering criteria;
- (4) Specific policies and procedures for patron deposit accounts if they will be utilized by the gaming licensee including the permitted uses of funds placed on deposit to include, but not be limited to, in exchange for chips, tokens or other forms of gaming value, to establish a deposit account against which future draws may be made, and as payment towards outstanding counter checks;
- (5) Procedures to refund any balance in a patron's deposit account at such time that it is requested;
- (6) Specific procedures for the issuance of counter checks, to include patron identification requirements, and documentation and accountability requirements to request a counter check, issue the counter check (whether at the main cage, gaming table or such other approved location), including disclosures, consistent with disclosures provided at the time the extension of credit was approved, which include the date or time period within which the counter check will be deposited with the patron's bank, and post the counter check transaction to the patron's account and the gaming licensee's books of account;
- (7) Specific procedures for the transfer and storage of documentation involved in all facets of the counter check process;
- (8) Procedures to ensure that any credit card or automated teller machine operating in the gaming establishment does not allow a patron to obtain cash from a government-issued electronic benefits transfer card and that it is otherwise in conformance with 205 CMR 138.47;

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- (9) Procedures to ensure that debit card cash transactions are not permitted to be initiated within 15 feet of the gaming area or simulcasting or Sports Wagering Area or Sports Wagering Facility;
- (10) Procedures to ensure that no Sports Wagers, gaming chips, plaques, tokens, and other forms of gaming value may be purchased with a credit card. Provided, patrons may be permitted to pay gaming tournament entry fees with a credit card with the exception of Sports Wagering tournaments;
- (11) Procedures, including the maintenance of a log, for accepting, verifying and accounting for wire transfers and electronic fund transfers, including wire transfer and electronic fund transfer fees, and procedures for sending funds by wire transfer or electric fund transfer; and
- (12) Procedures to ensure compliance with all applicable provisions of the Currency and Foreign Transactions Reporting Act of 1970 (commonly referred to as the Bank Secrecy Act) and corresponding FinCEN regulations including 31 CFR 1010: *General Provisions*, as applicable, and 31 CFR 1021: *Rules for Casinos and Card Clubs*.

138.41: Replacement Checks and the Redemption of Counter Checks

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures relative to replacement checks and the ~~redemption of~~ redemption of counter checks that contain, at a minimum, provisions for the following:

- (1) A listing of the locations where redemptions may occur, and a listing of the types of cash and cash equivalents and third party instruments (subject to the restrictions set forth in 205 CMR 138.40(2)) that may be accepted in redemption of a counter check;
- (2) A distinction between full redemptions and partial redemptions;
- (3) Detailed procedures to:
  - (a) Process and complete redemptions, and issue replacement checks;
  - (b) Verify the patron's or agent's identification at the time of completing a redemption;
  - (c) Maintain a written record and complete the appropriate forms used to record the redemption, including the specific information contained on said form(s) and the form(s) signature requirements so as to assign responsibility and accountability over the redemption transaction;
  - (d) Transfer the appropriate documents to the accounting department (or such other department) for accounting purposes; and
  - (e) Process payments received through the mail, wire transfer, or electronic fund transfer.
- (4) A description of permitted redemptions, in full or in part, when made by a third-party other than the gaming patron; and
- (5) A description of the type of checks that may be accepted in substitution of a counter check.

138.42: Acceptance of Payments Toward Outstanding Patron Checks

- (1) A gaming licensee may, in its discretion, permit the drawer of an outstanding patron check or any person acting for the benefit of such drawer to deposit cash, cash equivalents, casino checks, slot tokens, gaming chips or gaming plaques with a general cashier for the purpose of having such payment applied to the total or partial redemption of the patron check by the drawer.
- (2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR

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138.02 shall include policies and procedures relative to the acceptance of payments pursuant to 205 CMR 138.42(1) which shall, at a minimum, provide for:

- (a) A method of documenting or recording the receipt of each such payment, which method shall include, without limitation, the following:
    - 1. The names of the drawer and the person making the payment;
    - 2. The signature of the employee accepting the payment; and
    - 3. The issuance of a receipt to the person making the payment;
  - (b) The maintenance of the general cashier's imprest inventory; and
  - (c) The notation in the drawer's credit account of the receipt of the payment.
- (3) If any payments received by a gaming licensee pursuant to the procedure referenced in 205 CMR 138.42(2) entitle the drawer of a patron check to redeem the original patron check in its entirety by virtue of complete payment of the outstanding total, or if any such payments received in conjunction with the submission of a new patron check by the drawer in a lesser amount entitle the drawer of a patron check to redeem the original patron check in part due to such partial payment, the gaming licensee shall return the original patron check to the drawer.
- (4) If the drawer of a patron check fails to redeem it prior to the date on which the patron check must be deposited in accordance with the policy or procedure implemented in accordance with 205 CMR 138.45, the gaming licensee shall deposit the patron check regardless whether any payment has been received. The gaming licensee, after timely depositing the patron check and allowing a commercially reasonable time for the patron check to clear, shall apply any payments received in accordance with priorities established in the system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02.
- (5) If a patron check is dishonored by the drawer's bank upon presentation for payment and returned to the gaming licensee, any payments received, including payments that have been transferred to a patron deposit account pursuant to 205 CMR 138.40(4), that have not been returned to the drawer shall be used to reduce the amount to be collected from the drawer or to be deemed uncollectible pursuant to the provisions of 205 CMR 138.00.

138.43: Procedures for Establishing Patron Credit Accounts, and Recording Checks Exchanged, Redeemed or Consolidated

- (1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of its policies and procedures governing the issuance of credit to a patron to take part in gaming activity at its gaming establishment which policies and procedures shall prohibit the issuance of credit to a patron for Sports Wagering. A gaming licensee's policies and procedures governing the issuance of credit shall ensure at a minimum that:
- (a) Prior to issuing credit to a patron the creditworthiness of the patron is established in a commercially reasonable manner in the context of their ability to repay the amount of credit requested or to be extended according to the terms of the credit extension agreement and any disclosures;
  - (b) Credit is not extended to an individual in an amount beyond that which the information reviewed demonstrates that they have a reasonable ability to repay;
  - (c) Credit will only be extended to patrons who the gaming licensee determines qualify for a minimum threshold of \$10,000.00 and will not exceed the amount requested by the patron;
  - (d) Credit will not be offered to any individual who self-identifies as a problem gambler during the credit application process, places themselves on a voluntary credit suspension

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list in accordance with 205 CMR 138.44, or is on public assistance;

(e) Credit requests, including increases, will not be accepted from or granted to patrons who are visibly intoxicated or exhibiting behaviors suggestive of impaired mental competency;

(f) Credit applications require patrons to acknowledge that they have reviewed a problem gambling self-assessment and indicate a desire to proceed with the process; and

(g) Credit officers will obtain written or verbal verification from credit applicants that they are comfortable losing up to the amount of credit requested and granted.

(2) In addition to the provisions required in accordance with 205 CMR 138.43(1), the policies and procedures governing the issuance of credit shall contain provisions including, but not limited to, the following:

(a) The creation of a credit file for each patron shall be prepared by a general cage cashier or credit department representative with no incompatible functions prior to the gaming licensee's approval of a patron's credit limit. All patron credit limits and changes thereto shall be supported by the information contained in the credit file. Such file shall contain a credit application form upon which the following minimum information provided by the patron shall be recorded:

1. The patron's name;
2. The address of the patron's residence;
3. Patron's identification credential, credential number, place of issuance, and expiration date;
4. The patron's telephone number;
5. Banking information including:
  - a. The name and location of the patron's bank; and
  - b. The account number of the patron's personal checking account upon which the patron is individually authorized to draw and upon which all Counter Checks and and replacement checks will be drawn. Checking accounts of sole proprietorships shall be considered as personal checking accounts. Partnership or corporate checking accounts shall not be considered personal checking accounts even if a patron is individually authorized to draw on the account.
6. The credit limit requested by the patron;
7. The approximate amount of all other outstanding indebtedness including outstanding credit balances at other casinos or gaming establishments;
8. The amount and source of income and assets in support of the requested credit limit; and
9. The patron's signature indicating acknowledgement of the following statement, which shall be included at the bottom of every credit application form containing the information required to be submitted by the patron pursuant to 205 CMR 138.43(2)(a): *"I certify that I have reviewed all of the information provided above and that it is true and accurate. I authorize (name of the gaming licensee) to conduct such investigations pertaining to the above information in accordance with applicable federal and state laws and regulations as it deems necessary for the approval of my credit limit. Such investigation may include verification of the information I have provided with a consumer credit bureau, a casino credit bureau, my bank, and/or a bank verification service. I am aware that this application is required to be prepared in accordance with Massachusetts Gaming Commission regulations and I may be subject to civil or criminal liability if any material information provided by me is willfully false."*

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10. Prior to processing a gaming patron's credit application, a gaming licensee shall clearly and conspicuously provide the patron with the following disclosures on a piece of paper separate and apart from the credit application and any related documents; provided that each statement shall be separately signed, dated, and acknowledged by said patron. Upon signing said disclosures, a copy shall be provided to the gaming patron.

a. *"You are applying for a credit extension from [name of gaming licensee], facilitated through a personal check or counter check (also known as a 'marker') on your bank account. If you fail to repay [name of gaming licensee] by [the date specified in this agreement], [name of gaming licensee] will attempt to recover the amount identified on the personal check or 'marker' from your bank account (by date marker will be deposited with the bank) or thereafter. If there are insufficient funds in your account, [name of gaming licensee] may initiate debt collection proceedings against you. Failure to timely repay your debt to [name of gaming licensee] may result in legal consequences, and will likely have a negative effect on your credit."*

b. *"If you are concerned that you may have difficulty managing your gambling, or wish for any reason to exclude yourself from receiving credit from a gaming establishment in Massachusetts, you may add yourself to the gaming credit suspension list. Massachusetts gaming establishments are prohibited from providing credit to individuals appearing on this list. To sign up for the list, please visit [www.massgaming.com](http://www.massgaming.com) or call 1-800-426-1234."*

(b) Recording by a general cage cashier or credit department representative of the information required in accordance with 205 CMR 138.43 in the credit file prior to the gaming licensee's approval of a patron's credit limit.

(c) Prior to the gaming licensee's approval of the patron's credit limit, a general cage cashier or credit department representative with no ability to grant credit or credit limit increases shall perform the following in a commercially reasonable manner and document the patron's file accordingly:

1. Verify the address of the patron's residence;
2. Verify the patron's outstanding casino credit balances which shall include the following:
  - a. The date the patron's casino credit account(s) was established; and
  - b. The current balance and status of the patron's credit account at each casino and gaming establishment including checks deposited by a casino or gaming licensee that have not yet cleared the bank and derogatory information;
3. Verify the patron's outstanding indebtedness;
4. Verify the patron's personal checking account information which shall include, but not be limited to, the following:
  - a. Type of account (personal or sole proprietorship);
  - b. Account number;
  - c. Date the account was opened;
  - d. Average balance of the account for the last six months;
  - e. Current balance in the account;
  - f. Whether the patron can sign individually on the account; and
  - g. Name and title of the person supplying the information; and



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5. Verify that the patron's name is not designated on the list of individuals who have voluntarily requested suspension of credit privileges pursuant to 205 CMR 138.44 or placed their name on the voluntary self-exclusion list pursuant to 205 CMR 133.00: *Voluntary Self-exclusion*.

(d) All verifications performed by a general cage cashier or the credit department in accordance with 205 CMR 138.43(2)(c) shall be recorded in the credit file and accompanied by the signature of the general cage cashier or credit department representative who performed the required verifications or filed the relevant information. If at any time the gaming license has reason to believe a patron's information has changed, it shall re-verify the information in accordance with the following. The date and time of the signature of the general cage cashier or credit department representative shall be recorded either mechanically or manually contemporaneously with the transaction. If the employee is unable to obtain certain information despite using commercially reasonable efforts, the credit file shall be documented accordingly. The general cage cashier or gaming licensee's credit department shall fulfill the requirements of 205 CMR 138.43(2)(c) as follows:

1. Verification of the address of the patron's residence, as required by 205 CMR 138.43(2)(c)1., shall be satisfied by confirming the patron's address with a credit bureau or bank. If neither of these sources has the patron's address on file or will not provide the information, the gaming licensee may use an alternative source which shall not include any identification credentials required in 205 CMR 138.43(2)(a) or other documentation presented by the patron at the gaming establishment. The gaming licensee shall record the source of verification and the method by which such verification was performed in the patron's credit file. Verification of the patron's address may be performed telephonically.

2. Verification of the patron's current casino credit limits and outstanding balances, as required by 205 CMR 138.43(2)(c)2., shall be performed through a casino credit bureau and, if appropriate, through direct contact with other casinos at which the patron indicated on the credit application that they have a credit limit or outstanding balance. The gaming licensee shall record the source of verification and the method by which such verification was performed in the patron's credit file. If no casino credit information relating to the patron is available from these sources, this shall be noted in the patron's credit file and shall be deemed to satisfy the verification requirement. The verification may be performed telephonically, *via* email, or any medium prior to the credit approval provided the gaming licensee requests written documentation of all such information as soon as possible and includes such written documentation in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained.

3. Verification of the patron's outstanding indebtedness, as required by 205 CMR 138.43(2)(c)3., shall be performed by contacting a consumer credit bureau or other similar ~~organization~~ organization which is reasonably likely to possess information concerning the patron, and a casino credit bureau to determine whether the applicant has any liabilities or if there is any derogatory information concerning the applicant's credit history. Such contact shall be considered a verification of the outstanding indebtedness provided by the patron. The gaming licensee shall record the source of verification and the method by which such verification was performed in the patron's credit file. If either one or both of these credit bureaus do not have information relating to a patron's outstanding indebtedness this shall be recorded in the patron's credit file and the verification requirement shall be deemed satisfied. The verification may be performed telephonically prior to the credit approval provided the gaming licensee requests written documentation of all information obtained as soon as possible and includes such written documentation in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained.

4. Verification of the patron's personal checking account information, as required by 205 CMR 138.43(2)(c)4., shall be performed by the gaming licensee or a bank verification service directly with the patron's bank. A bank verification service utilized by a gaming licensee may make use of another bank verification service to

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make direct communication with the patron's bank. If a patron's bank is unwilling to provide information relative to an account, the gaming licensee may use an alternative source or note the unavailability of the information in the file in which case the verification requirement shall be deemed satisfied. The gaming licensee shall record the source of verification and the method by which such verification was performed, or attempted to be performed, in the patron's credit file. The verification may be performed telephonically *via* email, or any medium prior to the credit approval provided the gaming licensee or bank verification service requests written documentation of all information obtained as soon as possible and such written documentation is included in the patron's credit file. All requests for written documentation shall be maintained in the patron's credit file until such documentation is obtained.

(e) A gaming licensee may rely upon information compiled and verified by an affiliate in another jurisdiction relative to the credit application of a patron in satisfaction of a provision of 205 CMR 138.43(1) through (2)(d) if said verification was performed within 60 days of credit being extended to the same patron at a casino.

(f) The credit limit, and any changes thereto, must be approved by any one or more of the individuals holding the positions of credit manager, assistant credit manager, credit shift manager, credit executive, or a key gaming employee in a direct reporting line above the gaming manager or credit manager, or a credit committee composed of key gaming employees which may approve credit as a group, but whose members may not approve credit individually unless such person is included in the referenced job positions. The approval shall be recorded in the credit file and shall include:

1. Any other information used to support the credit limit and any changes thereto, including the source of the information, if such information is not otherwise recorded pursuant to 205 CMR 138.43(2);
2. A brief summary of the key factors relied upon in approving or reducing the requested credit limit and any changes thereto;
3. The reason credit was approved if derogatory information was obtained during the verification process;
4. The signature, on the manual credit file, of the employee approving the credit limit together with the date and time of such authorization, which signature, date and time shall be recorded before any actual extension of credit; and
5. If a computerized credit file is utilized, the authorization code of the employee approving the credit limit together with the date and time of the activation in the system, which authorization code, date and time shall be recorded by the system before any actual extension of credit.

(g) Prior to approving a credit limit increase, a representative of the gaming licensee's credit department shall:

1. Obtain a written request from the patron which shall include:
  - a. Date and time of the patron's request;
  - b. Amount of credit limit increase requested by the patron; and
  - c. Signature of the patron.
2. Verify the patron's current casino credit limits and outstanding balances, as required by 205 CMR 138.43(2)(c)2., unless such verification has performed earlier that same gaming day;
3. Verify the patron's outstanding indebtedness as required by 205 CMR 138.43(2)(c)3., unless such procedure has been performed within the previous 60 days;

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4. Verify the patron's personal checking account information, as required by 205 CMR 138.43(2)(c)4., unless such procedure has been performed within the previous 60 days;
- (h) Credit limit increases may be approved without performing the requirements of 205 CMR 138.43(2)(g)2. through 4. if the increases are temporary and are noted as being for this trip only in the credit file. Temporary increases shall be limited to one during any thirty day period provided that the increase is approved during a single trip to the gaming establishment consisting of consecutive gaming days and the amount of the temporary increase does not exceed 25% of the currently approved credit limit.
- (i) The gaming licensee's credit department shall verify the patron's address, current casino credit limits and outstanding balances, outstanding indebtedness, checking account information, confirm that the patron is not on the list of patrons who have requested suspension of their credit privileges, and confirm that the patron is not on the list of patrons who have placed themselves on the voluntary self-exclusion list, as required by 205 CMR 138.43(2)(c)1. through 5. prior to the issuance of a counter check to a patron whose credit file has been inactive for a six month period.
- (j) All derogatory information received by a gaming licensee concerning a patron's credit account shall be reported by the gaming licensee on a daily basis to a casino credit bureau used by all Massachusetts gaming licensees. Each gaming licensee shall request written documentation of any derogatory information pertaining to its patrons to be reported to that gaming licensee on a daily basis by a casino credit bureau used by all Massachusetts gaming licensees. All documentation obtained from the casino credit bureau relative to a patron account shall be maintained in the patron's credit file. Any gaming licensee desiring to continue the patron's credit privileges on the basis of a satisfactory explanation having been obtained for the derogatory information may do so if the gaming licensee records the explanation for its decision in the credit file before issuing any further counter checks to the patron along with the signature of the credit department supervisor accepting the explanation. Provided, the gaming licensee shall comply with the requirements of either 205 CMR 138.43(2)(g)2. or 3. whenever any derogatory information is received by a gaming licensee's credit department relating to the patron's continued creditworthiness.
- (k) All transactions affecting a patron's outstanding indebtedness to the gaming licensee shall be recorded in chronological order in the patron's credit file and credit transactions shall be segregated from the patron deposit account transactions. The following information shall be included:
1. The date, amount and check number of each Counter Check initially accepted from the patron;
  2. The date, amount and check number of each consolidation check and the check numbers of the checks returned to the patron;
  3. The date, method, amount and check number of each redemption transaction and the check number of the check returned to the patron;
  4. The date, amount and check number of each substitution transaction and the check number of the check returned to the patron;
  5. The date, amount and check number of each check deposited;
  6. The date, amount and check number of each check returned to the gaming licensee by the patron's bank and the reason for its return;
  7. The outstanding balance after each transaction; and
  8. The date, amount and check number of any checks which have been partially or completely written off by the gaming licensee and a brief explanation of the reason for such write off.
- (l) A log of all Counter Checks issued and of all checks received for redemption,

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consolidation or substitution shall be prepared, manually or by computer, on a daily basis, by check cashiers and such log shall include, at a minimum, the following:

1. The balance of the checks on hand in the cashiers cage at the beginning of each shift;
  2. For checks initially accepted and for checks received for consolidation, redemption, or substitution:
    - a. The date of the check;
    - b. The name of the drawer of the check;
    - c. The amount of the check;
    - d. The Counter Check serial number(s) for Counter Check(s) received; and
    - e. An indication as to whether the check was initially accepted or received in a redemption, consolidation or substitution.
  3. For checks deposited, redeemed by patrons for cash, cash equivalents, complimentary cash gifts, gaming chips and plaques, or any combination thereof, consolidated or replaced:
    - a. The date on which the check was deposited, redeemed, consolidated or replaced;
    - b. The name of the drawer of the check;
    - c. The amount of the check;
    - d. The Counter Check serial number(s) for Counter Check(s) and Slot Counter Check(s) deposited, redeemed, consolidated or replaced; and
    - e. An indication as to whether the check was deposited, redeemed, consolidated or replaced.
  4. The balance of the checks on hand in the cashiers' cage at the end of each shift.
- (m) A list of all Counter Checks on hand, and of all checks received for redemption, consolidation or substitution shall be prepared, manually or by computer, on a monthly basis, at a minimum, and shall include the following:
1. The date of the check;
  2. The name of the drawer of the check;
  3. The amount of the check; and
  4. The Counter Check serial number(s) for Counter Check(s) and received.
- (n) At the end of each gaming day, at a minimum, the following procedures shall be performed:
1. The daily total of the amounts of checks initially recorded as described in 205 CMR 138.43(2)(l) shall be agreed to the daily total of Counter Checks issued;
  2. The daily total of the checks indicated as deposited on a log required by 205 CMR 138.43(2)(l) shall be agreed by employees with no incompatible functions to the bank deposit slips corresponding to such check; and
  3. The balance required by 205 CMR 138.43(2)(l) shall be agreed to the total of the checks on hand in the cashiers' cage.

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(o) A patron may not be issued a Counter Check until the operator has established a signature file for the patron.

(3) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions for the maintenance of a patron identification file and the methodology the gaming licensee will utilize for verifying a patron's identity or signature for purposes of establishing a credit account which shall include, at a minimum, the following:

- (a) The patron's name;
- (b) The patron's address;
- (c) The patron's signature;
- (d) The type of identification credentials examined;
- (e) The date and time that the patron identification file was established; and
- (f) The name and signature of the gaming establishment employee who examined the identification credentials of the patron and established the patron identification file.

(4) The gaming licensee shall establish procedures for the organization and maintenance of data relative to the extension of credit, issuance of counter checks, and repayment of counter check for review upon request by the commission or its designee, and the Massachusetts Attorney General's Office. Such data shall include the following aggregated by month:

- (a) Total credit applications filed;
- (b) Total credit applications approved;
- (c) Total credit applications denied;
- (d) The amount of credit extended for each approved credit application;
- (e) The mean amount of credit extended;
- (f) Total credit increases approved;
- (g) Total temporary credit increases approved;
- (h) Total number of counter checks presented to banks;
- (i) The amount of each counter check presented to a bank;
- (j) Total number of uncollectable counter checks including amounts in accordance with 205 CMR 138.46(11); and
- (k) Number of debt collection proceedings commenced, the state and county where the proceedings were commenced, and the zip codes of the patron's residences.

138.44: Patron Request for Suspension of Credit Privileges

(1) Any person may voluntarily suspend his or her credit privileges at all gaming establishments by submitting a written request to the commission in accordance with 205 CMR 138.44. Such requests shall be submitted to a designated agent as described in accordance with 205 CMR 138.44(3) or mailed to a designated address with a notarized signature in accordance with 205 CMR 138.44(2)(h). An individual requesting suspension of credit privileges shall present a valid government issued photo identification.

(2) A request for suspension of credit privileges shall be submitted on a form prescribed by the commission, which shall include the following:

- (a) The name of the person requesting suspension of credit privileges;

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- (b) The address of the person's residence;
  - (c) The person's date of birth;
  - (d) The name of each gaming establishment where the person currently has an approved line of credit;
  - (e) The duration for which they wish to have their credit privileges suspended. An individual may select any of the following time periods as a minimum length of suspension:
    - 1. Six months;
    - 2. One year;
    - 3. Three years;
    - 4. Five years; or
    - 5. Lifetime.
  - (f) The signature of the person requesting suspension of credit privileges acknowledging the following statement: *"I certify that the information which I have provided above is true and accurate. I am aware that my signature below authorizes the Massachusetts Gaming Commission to direct all Massachusetts gaming licensees to suspend my credit privileges for a minimum period of six months from the date of this request and indefinitely thereafter, until such time as I submit a written request to the Commission for the reinstatement of any such credit privileges."*;
  - (g) If the request for suspension of credit privileges is made in person:
    - 1. The type of government issued photo identification examined; and
    - 2. The signature of the designated agent indicating that the signature of the person requesting suspension of credit privileges appears to agree with that contained on his or her government issued photo identification and that the photograph of the person appears to agree with his or her actual appearance; and
    - 3. If the request for suspension of credit privileges is made by mail, a certificate of acknowledgement executed by a notary public or other person empowered by law to take oaths attesting to the identity of the person who is making the request for suspension of credit privileges.
- (3) (a) An application for suspension of credit privileges made in person may only be accepted by a designated agent. An individual may only become a designated agent by successfully completing a course of training approved and administered by the commission or its designee. The course of training shall include, at a minimum, instruction on completion of the application, information relative to problem gambling and available resources, and an understanding of 205 CMR 138.40 through 138.46. A designated agent must be a licensed, certified, or registered health or mental health professional or employee thereof, or an employee of a gaming licensee, the commission, or other government entity. The commission may refuse to offer training to any individual whose service as a designated agent it determines would be contrary to the aims of 205 CMR 138.40 through 138.46.
- (b) Upon submission of an application, a designated agent shall review the application with the applicant. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.
  - (c) A designated agent may not sign an application if any required information is not provided.
  - (d) The designated agent shall forward the signed application for suspension of credit to

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the commission within 24 hours of completion in a manner directed by the commission.

- (e) Upon receipt of an application, the commission, or its designee, shall review it for completeness. If the application meets all requirements of 205 CMR 138.40 through 138.46 the application shall be approved, and the individual's name shall be added to the credit suspension list. If the application is incomplete, the commission, or its designee, may deny the application and make efforts to contact the applicant advising them of such.
  - (f) In addition to 205 CMR 138.44(3)(d), if an application is made in person at a gaming establishment, the designated agent shall promptly transmit a completed application to the gaming licensee's credit department such that any existing credit line for that individual may be immediately suspended and that no new credit may be extended.
- (4) The commission shall maintain an updated master list of all persons who have requested suspension of credit privileges pursuant to 205 CMR 138.44, and shall update the master list in the database.
- (a) Each gaming licensee shall suspend the credit privileges of any listed individual, promptly upon receipt of notice that such individual's name has been added to the list.
  - (b) Each gaming licensee shall note any suspension or reinstatement of credit privileges pursuant to 205 CMR 138.44 in any existing credit file for the affected patron, including the following:
    - 1. A copy of any applicable commission notice of the suspension or reinstatement of credit privileges;
    - 2. The date, time and signature of the credit department representative making the suspension or reinstatement entry in the credit file.
- (5) Any person whose credit privileges have been suspended pursuant to 205 CMR 138.44 may, no sooner than six months after the request for suspension of credit privileges, request reinstatement of his or her credit privileges by submitting a written request to the commission in accordance with the procedures specified in 205 CMR 138.44(1).
- (a) Such request shall be in a form prescribed by the commission, which shall include the following:
    - 1. The information specified in 205 CMR 138.44; and
    - 2. The signature of the person requesting reinstatement of credit privileges, indicating acknowledgement of the following statement: "*I certify that the information which I have provided above is true and accurate. I am aware that my signature below constitutes a revocation of my previous request for suspension of credit privileges, and authorizes the Massachusetts Gaming Commission to permit any Massachusetts gaming licensee to reinstate my credit privileges.*"
  - (b) The commission shall remove such individual's name from the list established pursuant to 205 CMR 138.44, and update the master list in the database within seven days of receipt of the request.
  - (c) Upon receipt of notice that such individual's name has been removed from the list, a gaming licensee may reinstate such person's credit upon re-verification of the information required by 205 CMR 138.43(2)(c)1. through 4., or may extend credit to such person in accordance with the procedures set forth in 205 CMR 138.43.
- (6) Information furnished to or obtained by the commission pursuant to 205 CMR 138.44 shall be securely maintained. No gaming licensee shall divulge any information relative to the placement of an individual's name on the master list other than to authorized credit department employees at the gaming establishment or to an authorized commission employee.

138.45: Procedure for Depositing Checks Received from Gaming Patrons

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A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of its policies and procedures governing the depositing of checks received from gaming patrons which incorporate, at a minimum, the following:

- (1) Unless redeemed or consolidated sooner, all checks received from gaming patrons shall be deposited in the gaming licensee's bank account or presented directly to the patron's bank no later than:
  - (a) The banking day after the date of the check for a non-gaming check; or
  - (b) A timeframe prescribed by the gaming licensee as part of its policy, submitted in accordance with 205 CMR 138.02, not to exceed 90 days from the date of the initial check.
- (2) In computing a time period prescribed by 205 CMR 138.45, a gaming licensee shall reference 205 CMR 102.05.
- (3) In the event of a series of consolidation or redemption transactions with a patron, the initial check shall be the earliest dated check returned to the patron in the first of the series of consolidation or redemption transactions.
- (4) Any check deposited into a bank will not be considered clear until a commercially reasonable time, as identified by the gaming licensee in its written protocol, has been allowed for such check to clear the bank.
- (5) If a gaming licensee determines, prior to the deposit or presentment of a Counter Check that the bank name, the bank routing number, the patron's bank account number or the micro-encoding number contained on the check are incorrect due to a data entry error (*e.g.*, a misspelling, a wrong number or a transposition of numbers), a check bank cashier may correct the erroneous entry. Such procedure shall include:
  - (a) A description of the manner in which the error will be corrected by the check bank cashier;
  - (b) The creation of documentation that will permit both the check bank cashier and the [casino gaming](#) accounting department to identify and compare a copy of the uncorrected check that was originally issued and the corresponding corrected check that was deposited or redeemed;
  - (c) The written approval of a cage supervisor prior to the alteration of any check by a check bank cashier; and
  - (d) A prohibition against using 205 CMR 138.45(8) to change the verified bank account on which the Counter Check was originally drawn.
- (6) A gaming licensee may include in its policy and procedure provisions in accordance with 205 CMR 138.13 for the discretionary discounting of the amount of an outstanding Counter Check to be redeemed by a patron for any marketing related reasons.

138.46: Procedure for Collecting and Recording Checks Returned to the Gaming Licensee after Deposit

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include a description of its policies and procedures governing the collection and recording of checks returned to the gaming establishment after deposit which incorporate, at a minimum, the following:

- (1) All dishonored checks returned by a bank after deposit shall be returned directly to the accounting department which shall notify the collections department and provide copies of the returned item(s). The original check will be given the check bank cashier who will control the item. Such employees shall have no incompatible functions.
- (2) All debt collection practices must be conducted in accordance with all applicable state and federal laws including 940 CMR 7.00: *Debt Collection Regulations*, M.G.L. c. 93A, § 2,



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and

M.G.L. c. 93, § 49. Provided, further, that a gaming licensee's debt collection policy shall:

- (a) not allow for placement of a lien on a patron's primary residence; and
  - (b) prohibit the commencement of criminal proceedings or other use of criminal process unless the gaming licensee can show that there were insufficient funds in the patron's account at the time the patron signed the counter check. Gaming licensees are prohibited from selling or pledging as collateral any debt owed to the gaming licensee as a result of a gaming loss, including the failure to pay off a counter check issued under an extension of credit, provided however, a gaming licensee may pledge such gaming debt as collateral for a commercial loan to finance the licensee's gaming operations or may sell such gaming debt in connection with the sale of all of its assets in connection with a change of ownership and/or control of the gaming establishment.
- (3) Debt collection shall be limited to key gaming employees or an attorney acting directly on behalf of a gaming licensee; provided, however, that a key gaming employee shall not make any such collections if that employee serves as a junket representative for the gaming licensee. Such procedure shall ensure that any key gaming employee engaged in debt collections does not have any incompatible functions. Any verbal or written communication with patrons regarding collection efforts shall be made with the full knowledge of the collection employees and shall be documented. Provided, 205 CMR 138.46(3) shall not be construed to prohibit marketing personnel licensed to the level of a key gaming employee from discussing with a patron the status of the patron's outstanding counter checks provided that any such communication is with full knowledge of the collection employees and is documented.
- (4) Continuous records of all returned checks shall be maintained by accounting department employees with no incompatible functions. Such records shall include, at a minimum, the following:
- (a) The date of the check;
  - (b) The name and address of the drawer of the check;
  - (c) The amount of the check;
  - (d) The date(s) the check was dishonored;
  - (e) The Counter Check serial number for Counter Checks; and
  - (f) The date(s) and amount(s) of any collections received on the check after being returned by a bank, including the date(s) and amount(s) of any complimentary cash gifts applied as payment on the check after being returned by a bank.
- (5) If a gaming licensee determines that a Counter Check was returned by a bank because the bank name, the bank routing number, the patron's bank account number or the micro-encoding number contained on the check was incorrect due to a data entry error (*e.g.*, a misspelling, a wrong number or a transposition of numbers), a check bank cashier may correct the erroneous entry and cause the check to be re-deposited. Any such procedure shall, at a minimum, include:
- (a) A description of the manner in which the error will be corrected by the check bank cashier;
  - (b) The creation of documentation and control procedures that will permit both the check bank cashier and the [easinegaming](#) accounting department to identify and compare a copy of the uncorrected check that was originally deposited and the corresponding corrected check that was re-deposited;
  - (c) The written approval of a cage supervisor prior to the alteration of any check by a check bank cashier; and
  - (d) A prohibition against using 205 CMR 138.46(5) as a basis to change the verified

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bank account on which the Counter Check was originally drawn.

- (6) Statements shall be sent to patrons and the collections department at the gaming establishment, by accounting department employees with no incompatible functions, in a reasonably prompt manner upon initial receipt of a returned check or immediately upon receipt of a check returned for a second time if the check was immediately re-deposited pursuant to 205 CMR 138.46(5), and such statements shall include, but not be limited to, the following:
- (a) The name and address of the drawer;
  - (b) The date of the check;
  - (c) The amount of the check; and
  - (d) The date(s) and amount(s) of any collections received on the check after being returned by the bank.
- (7) Patrons to whom statements are sent shall be advised of a contact telephone number, a return address and the department to which replies shall be sent.
- (8) Employees with no incompatible functions shall receive directly and shall initially record all collections.
- (9) Copies of statements and other documents supporting collection efforts shall be maintained and controlled by accounting department employees.
- (10) A record of all collection efforts shall be recorded and maintained by the collection area within the accounting department.
- (11) Listings of uncollectible checks shall be approved in writing by, at a minimum, the chief executive officer or the chief gaming executive, a key gaming employee identified and approved by the commission as part of the gaming licensee's system of internal controls, and the controller or the person to whom the controller directly reports; provided that, with the exception of the chief executive officer and chief gaming executive, none of the foregoing persons shall also have the authority to approve credit. All such uncollectible checks and listings shall be maintained and controlled by accounting department employees. A continuous trial balance of all uncollectible checks shall be maintained by employees of the accounting department. The continuous trial balance shall be adjusted for any subsequent collections.

138.47: Automated Teller Machines (ATM)

- (1) Use and operation of an Automated Teller Machine (ATM) or electronic branch, as defined by M.G.L. c. 167B, § 1, within a gaming establishment is governed by M.G.L. c. 167B and 209 CMR: *Division of Banks and Loan Agencies*.
- (2) No ATM or electronic branch, as defined by M.G.L. c. 167B, § 1, shall be located closer than 15 feet from the gaming area, simulcasting area, Sports Wagering Area, or Sports Wagering Area in a gaming establishment or Sports Wagering Facility.
- (3) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures that identify reasonable measures to be implemented that are tailored to inhibit the initiation and processing of any transaction allowing for the use of a card or card equivalent issued by a financial institution to obtain cash from a line of credit (e.g., credit card cash advance) in the gaming establishment by either an ATM or any other means. Such reasonable measures shall include, but not be limited to:
- (a) The conspicuous placement of signage on an ATM indicating that use of credit cards is prohibited;
  - (b) Ensuring that an ATM does not offer to a user any transaction option that is designed to enable the patron to obtain cash from a line of credit (i.e. no option to press a "credit

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card" or "cash advance" button); and

(c) Ensuring that no transaction in which a card or card equivalent issued by a financial institution is being used to obtain cash from a line of credit is, in whole or part, initiated or processed at the cage or elsewhere in the gaming establishment, by any employee or anyone else.

(4) No data relative to an individual patron that is collected by an ATM or electronic branch may be sold, transmitted, or otherwise used for marketing purposes by a gaming licensee or provider of such device.

138.48: Procedure for Opening, Counting and Recording Contents of Table Drop Boxes and Slot Cash Storage Boxes

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures relative to opening, counting, and recording contents of table drop boxes and slot cash storage boxes that include, at a minimum, the following provisions:

(1) Immediately prior to the commencement of the count process, a count room supervisor shall:

(a) Obtain a preliminary master game report which shall list forms and documents related to the table drop box count that were entered into the computer system at the time of preparation;

(b) Reconcile the number of boxes recorded on the drop box verification form to the number of boxes secured in the trolley;

(c) Remove the emergency drop box log and reconcile the log to the boxes removed from the emergency drop box cabinet or trolley; and

(d) Document any unresolved discrepancies on a two-part Drop Variance Report, the original of which shall be delivered to the IEB and the duplicate placed in the locked accounting box.

(2) A gaming licensee shall open, count and record the contents of each drop box in the soft count room except that an emergency slot cash storage box may be held and counted on the regularly scheduled count for the slot machine from which it originated. For currency, gaming vouchers, and coupons, a gaming licensee shall perform a second count to obtain the aggregate total of each denomination of currency and coupon, and the total number of gaming vouchers counted. The counts shall be independent of each other and access to the result of the first count shall not be available to the employee performing the second count until completion of the second count. At the completion of the second count, a comparison of the two counts shall be made and any discrepancies resolved by the count team supervisor.

(3) A gaming licensee shall use a counting machine, to be identified in the internal controls, to count currency, gaming vouchers, and coupons. An alternative procedure shall be provided in the event that a counting machine cannot be used due to mechanical failure or other emergent situation.

(a) A gaming licensee may use one counting machine that automatically provides the counts required in 205 CMR 138.48(2) of the items at different stages of the counting process. If the counts are not in agreement, the machine shall document the discrepancy and cease operation until the discrepancy is resolved by a count team member.

(b) If a gaming licensee does not use a counting machine described in 205 CMR 138.48(3)(a), two different counting machines shall be used. Upon completion of the count using the first machine, the cash storage bins or cassettes shall be emptied and displayed to the full view of a closed circuit television camera to assure that the contents have been emptied. The second machine count shall be performed to verify the totals of the first machine. If the counts are not in agreement, the count team shall resolve the discrepancy before continuing the second count.

(c) Each machine shall generate a report at the completion of its count documenting the

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following:

1. The total of each denomination of currency;
  2. The total of all currency;
  3. The total number of gaming vouchers;
  4. The total number and amount of coupons for which the count machine can determine the value of the coupon (machine count coupons); and
  5. The total number of coupons for which the count machine cannot determine the value of the coupon (manual count coupons).
- (4) A test count shall be conducted prior to the start of the first use of each counting machine, each gaming day, and prior to each count. The count room supervisor shall:
- (a) Verify that the counting machine has a zero balance on its display and cause a receipt to be printed which denotes 0 cash, gaming vouchers or coupons on hand, and 0 notes, gaming vouchers or coupons in the machine, or other approved means to indicate that the machine has been cleared of all currency, gaming vouchers and coupons;
  - (b) Visually check the counting machine to be sure there are no bills, gaming vouchers or coupons remaining in the various compartments of the machine;
  - (c) Supervise a count team member who shall select a drop box or slot cash storage box. If slot storage boxes are being counted that day, a slot cash storage box must be selected and it must contain currency, and if issued by the gaming licensee, gaming vouchers and coupons. The count team member shall place the entire contents of the table drop box or slot cash storage box into the first counting machine, which shall count the currency by denomination as well as any gaming vouchers and coupons. Any soiled or off-sorted bills, gaming vouchers or coupons shall be re-fed into the machine. Any items which the counting machine is not able to count automatically, such as coins, tokens, gaming chips or mutilated or torn currency, gaming vouchers, and coupons shall be manually counted, recorded either manually or entered into the counting machine, and segregated from items which the counting machine was able to count automatically. The count team member shall cause the counting machine, in conjunction with the gaming voucher system, to produce one or more test receipts of the count, and the count shall not be shown to anyone until completion of the final verification process;
  - (d) Supervise a second count team member, independent of the team member performing the initial count, who shall manually count or use a second counting machine to count and summarize the items on test receipts;
  - (e) Compare the totals on the test receipts for agreement. If the totals are in agreement, the count room supervisor shall sign and date the test receipts and place them in the locked accounting box to be forwarded to the [casino gaming](#) accounting department at the end of the count process. If the totals do not agree, the test count procedures shall be repeated. The test count procedures shall be repeated until the totals are in agreement or a determination is made that the count machine cannot be used. The count room supervisor shall not permit a counting machine to be used until these totals are in agreement;
  - (f) Supervise a count team member who, at the conclusion of the test procedure shall display the cash bin or storage cassettes to the full view of a closed circuit television camera to assure that the contents have been emptied prior to replacing cassettes into the counting machine; and
  - (g) Verify that the counting machine has a zero balance in accordance with 205 CMR 138.48(4)(a).
- (5) Procedures for the count of boxes shall be as follows:
- (a) The contents shall be segregated and counted so as to permit the contents to be recorded for the box from which it was removed. Each box shall be individually:

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1. placed on the count table at which time one count team member shall verbalize, in a tone of voice to be heard by all persons present and to be recorded by the surveillance audio recording device, the game and table number marked thereon for table drop boxes, or the asset or unique identification number marked thereon for slot cash storage boxes; and
  2. unlocked and the contents emptied on the count table. The inside of the box shall be held up to the full view of a closed circuit television camera to assure all contents of the drop box or slot cash storage box have been removed, after which the drop box or slot cash storage box shall be locked and placed in the storage area for drop boxes and slot cash storage boxes;
- (b) A count team member shall segregate:
1. Currency, machine count coupons, and gaming vouchers;
  2. Coin, tokens, gaming chips, manual count coupons and any mutilated or torn items; and
  3. Forms and documents;
- (c) A count team member shall attempt to match pieces of mutilated or torn items which shall be processed as follows:
1. Mutilated or torn currency shall be recorded as revenue if the bill includes one entire serial number and one letter and number of the serial number from the other half of the bill;
  2. Mutilated or torn currency that is not recorded as revenue shall be placed in a sealed transparent envelope or container and transferred to the main bank by the main bank cashier or cage supervisor at the end of the count; and
  3. All mutilated or torn coupons and gaming vouchers shall be recorded as revenue regardless of condition;
- (d) The value and number of coin, tokens, gaming chips, manual count coupons (by denomination) and any mutilated or torn items shall be manually entered into the counting machine for each drop box or slot cash storage box;
- (e) Currency, machine count coupons and gaming vouchers shall be placed in a counting machine. The counting machine shall count and calculate the value of the currency. The value of each gaming voucher or coupon shall be obtained from the counting machine or an approved gaming voucher system, as applicable;
- (f) Upon completion of the machine count:
1. For each drop box, the counting machine shall generate the report required by 205 CMR138.48(3)(c);
  2. The currency, table game coupons, coin, tokens, and gaming chips counted shall be placed on the banking table; and
  3. Any drop box coupon which has not already been cancelled upon acceptance or during the count shall be cancelled prior to the conclusion of the count;
- (g) The forms and documents shall be compared to the preliminary master game report for accuracy by a count team member who shall not simultaneously have access to currency. Any discrepancies shall be recorded on the preliminary master game report to be resolved by the [casinogaming](#) accounting department. The forms and documents and preliminary master game report shall be placed in the locked accounting box to be forwarded to the accounting department at the end of the count process; and
- (h) The count team supervisor shall prepare a detailed written report describing all count

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room incidents that may have negatively impacted the opening, counting and recording of the drop boxes (for example, a computer interface problem, dropped basket). The report shall include a description of any corrective action taken and shall be electronically filed with the IEB at the conclusion of the count.

- (6) As the contents of each table drop box are counted, if not already recorded in the computer system used to create the Master Game Report and supporting documentation, a count team member shall manually record or cause a computer system to record, the following information by game and table number:
- (a) The value of each denomination of currency counted;
  - (b) The value of coin, tokens and/or gaming chips counted;
  - (c) The total value of currency, coin, tokens and gaming chips counted;
  - (d) The value of each denomination and total value of coupons other than match play coupons;
  - (e) The value of each denomination and total value of match play coupons and table game wager coupons;
  - (f) 50% of the total value of match play coupons and table game wager coupons;
  - (g) The amount recorded on each document and the total of all documents evidencing a debit card chip transaction;
  - (h) The amount of the Opener;
  - (i) The amount of the Closer;
  - (j) The serial number and amount of each Counter Check and the total amount of all Counter Checks;
  - (k) The serial number and amount of each Pit Redemption Form and the total of all Pit Redemption Forms;
  - (l) The serial number and amount of each Fill and the total amount of all Fills;
  - (m) The serial number and amount of each Credit and the total amount of all Credits;
  - (n) The amount recorded on each Complimentary Vigorish Form and the total amount of all Complimentary Vigorish Forms;
  - (o) The table game win or loss or, for poker, the poker revenue; and
  - (p) The table game win or loss percentage.
- (7) In addition to the requirements of 205 CMR 138.48(6), the Master Game Report shall include:
- (a) The gaming date of the items recorded;
  - (b) The grand total for items in 205 CMR 138.46(6)(c) through (q);
  - (c) The total number of drop boxes opened and counted; and
  - (d) The date and time prepared.
- (8) If the gaming licensee offers the game of poker, the count room supervisor shall review the Master Game Report to ensure that negative poker revenue has not been reported for any poker table. If negative poker revenue has been reported for a poker table, the count room supervisor shall initial the Master Game Report for each such poker table and immediately notify the surveillance department of the poker table(s) and corresponding negative poker

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revenue reported thereon.

(9) As the contents of each slot cash storage box are counted, if not already recorded in the computer system used to create the Slot Cash Storage Box Report and supporting documentation, a count team member shall manually record or cause a computer system to record, the following information by asset number:

- (a) The asset number of the bill changer to which the slot cash storage box contents correspond;
- (b) The value of each denomination and total value of currency counted;
- (c) The number and value of each cashable coupon counted, and if a gaming voucher system is used to redeem coupons, the validation number and value of each coupon counted, and total number and value of all cashable coupons;
- (d) The number and value of each non-cashable coupon counted, and if a gaming voucher system is used to redeem such coupons, the validation number and value of each coupon counted, and total number and value of all non-cashable coupons;
- (e) A listing of the validation number and value of each gaming voucher counted, and total number and value of all gaming vouchers; and
- (f) Any additional information on the Slot Cash Storage Box Report as may be required by the IEB.

(10) In addition to the requirements of 205 CMR 138.48(9), the Slot Cash Storage Box Report shall include:

- (a) The gaming date of the items recorded;
- (b) The grand total for items in 205 CMR 138.48(9)(b) through (e);
- (c) The total number of drop boxes opened and counted;
- (d) The date and time prepared.

(11) After preparation of the Master Game Report or the Slot Cash Storage Box Report, the count room supervisor shall compare the total number of boxes counted to the number of boxes, including any emergency boxes, collected and recorded on the box reconciliation form. Any unresolved discrepancy shall be documented on the Drop Variance Report which shall be filed with the IEB.

(12) All suspected counterfeit currency shall be counted and recorded as drop on the Master Game Report or Slot Cash Storage Box Report. The counterfeit currency shall be segregated from all other currency and placed in a transparent container. A count room supervisor shall complete a Department of Treasury Counterfeit Note Report and place the container and report on the banking table.

(13) A count team member designated as the banker shall count each denomination of currency, table game coupons, tokens, and gaming chips, and verbalize the amounts. The count room supervisor shall verify the amount verbalized to the amount recorded on the Master Game Report or Slot Cash Storage Box Report. The banker and count team supervisor shall sign the report(s) attesting to the accuracy of the information recorded thereon. The information recorded thereon shall not be accessible to any person outside the count room until after the main bank cashier or cage supervisor (cashier) has verified and accepted the drop unless otherwise authorized by the IEB.

(14) All other count team members shall sign the Master Game Report and/or the Slot Cash Storage Box Report as evidence of their participation in the counting of the drop boxes and/or slot cash storage boxes.

(15) After the contents of the boxes have been counted and recorded on the Master Game Report and/or Slot Cash Storage Box Report, the count room supervisor shall notify the main

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cage. A cashier shall enter the count room and not have any access to the information recorded on the Master Game Report or the Slot Cash Storage Box Report. The cashier, in the presence of the banker, shall count the currency, table game coupons, coins, tokens, gaming chips, and mutilated or torn items.

(a) Currency, table game coupons, coin, tokens, and gaming chips shall be presented in the count room by the banker to a main bank cashier or cage supervisor (cashier). Prior to having access to the information recorded on the Master Game Report or the Slot Cash Storage Box Report, the cashier, in the presence of the banker, shall count the items in accordance with the following requirements:

1. The cashier shall have physical access to all items presented for counting and no currency or table game coupons presented for counting shall be wrapped or placed in any sealed bag or container until the entire count has been completed and the Master Game Report or the Slot Cash Storage Box Report has been signed by the cashier;
2. The cashier shall bulk count all strapped currency and table game coupons. The cashier shall count all partial straps, loose currency and table game coupons, mutilated or torn currency and coupons, coin, tokens, and gaming chips either by hand or with an approved counting machine. If a discrepancy in an individual denomination is discovered during the initial count, the cashier shall recount the currency of that denomination either by hand or with an approved counting machine;
3. The cashier shall randomly count the currency within at least 10% of the total number of straps. The count shall be by hand or with an approved counting device; and
4. The cashier shall randomly sample the table game coupons for intermixed denominations and proper cancellation.

(b) If the total currency or total coupons counted by the cashier do not agree with a total on the Master Game Report or Slot Cash Storage Box Report and the discrepancy cannot be resolved, a Drop Variance Report shall be completed by the count room supervisor. The original shall be delivered to the IEB and the duplicate placed in the locked accounting box in the count room. The report shall include, at a minimum, the following:

1. The date of preparation;
2. The source of the variance (currency and/or coupon);
3. The denomination(s) of the source of the variance;
4. The amount of the variance;
5. The measures taken to detect the source of the variance;
6. The name and signature of the count room supervisor; and
7. The name and signature of the cashier.

(c) Upon completion of the cashier's count, the cashier shall attest by signature on the Master Game Report and/or Slot Cash Storage Box Report, that the amount of cash from drop boxes counted, and the amount of coupons from table drop boxes counted as recorded on these documents, and if applicable, the Drop Variance Report, agree with the total amounts of cash and coupons counted by the count team. Upon attestation, all items other than coupons and vouchers shall be under the exclusive control of the cashier and shall not be handled by a count team member.

(16) Once all required signatures have been obtained, a copy of the totals page of the original Master Game Report, Slot Cash Storage Box Report and disc(s) detailing all gaming vouchers and coupons counted, shall be delivered to the IEB. In addition, an electronic copy of the Master Game Report and/or Slot Cash Storage Box Report shall be filed with the IEB within 48 hours of the completion of the drop.



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(17) Each copy of an original Master Game Report or Slot Cash Storage Box Report which is not part of a multi-part form shall be stamped with the word "copy" by the count room supervisor prior to its distribution.

(18) Any coupons and gaming vouchers for which the value could not be determined by the count machine or the gaming voucher system shall be segregated and placed in the locked accounting box for review.

(19) The original Master Game Report and Slot Cash Storage Box Report, after signing, and any other supporting documentation shall be placed in the locked accounting box located in the count room. A member of the ~~casino~~gaming accounting department with no incompatible functions shall retrieve the contents of the locked accounting box and the gaming vouchers and coupons which were processed during the count immediately after the cashier verifies, accepts, and removes the drop from the count room.

(20) For each trolley scheduled for the next drop, the count team supervisor shall determine that the number of empty boxes on the trolley is correct. The count team supervisor shall prepare and sign a drop box verification form as required by 205 CMR 138.00, with the following:

- (a) The trolley number;
- (b) The pit number and number of empty boxes by pit, if applicable;
- (c) The slot zone and number of empty boxes by zone, if applicable; and
- (d) The total boxes in the trolley.

(21) A count room employee shall conduct a thorough inspection of the entire count room and all counting equipment located therein to verify that no cash, tokens, gaming chips, gaming vouchers, or coupons remain in the room and shall certify the foregoing in a writing which shall be filed with the IEB.

138.49: Procedure for Opening, Counting and Recording the Contents of Bill Validator Boxes, Gaming Voucher Redemption MachinesKiosks, Determination of Gross Revenue Deduction

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures relative to opening, counting, and recording contents of bill validator boxes, ~~gaming voucher redemption machines~~kiosks, and determination of gross revenue deduction that include, at a minimum, the following provisions:

(1) At least once every seven days, a gaming licensee shall coordinate the removal of the bill validator boxes from all ~~gaming voucher redemption machines~~kiosks and the insertion of empty, replacement bill validator boxes into the ~~machines~~kiosks (the bill validator drop).

(2) Prior to the bill validator drop, a gaming accounting supervisor shall count the number of empty bill validator boxes to be exchanged as part of the bill validator drop and confirm, in writing on a bill validator drop form, that the count equals the number of boxes scheduled to be collected. Prior to the drop, the form shall include at a minimum:

- (a) The date;
- (b) The ~~gaming voucher redemption machine~~kiosk number(s) or location(s);
- (c) The number of boxes to be dropped; and
- (d) The signature of the accounting supervisor.

(3) A ~~casino~~ security department member and an accounting department member shall obtain the keys necessary to perform the bill validator drop from their respective departments.

(4) In the presence of the ~~casino~~ security department member, the accounting department member shall:

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- (a) Place the appropriate number of empty bill validator boxes required for the bill validator drop into a secure cart;
  - (b) Transport the cart and the boxes to the gaming area;
  - (c) Unlock the cabinet(s) housing the bill validator boxes;
  - (d) Exchange the bill validator boxes; and
  - (e) Place the boxes removed in the secure cart.
- (5) Immediately upon removal of each bill validator box, the ~~gaming voucher redemption machine shall generate~~kiosk or its back-office platform shall provide the information needed to prepare a receipt (Bill Validator Receipt) that documents the total value of each item (gaming vouchers, coupons and/or currency) in the bill validator box. Such receipt shall be placed into a locked accounting box by the accounting department member.
- (6) Prior to the movement of the collected boxes, the accounting department member shall verify and confirm in writing by signing the bill validator drop form, that the number of boxes being transported from the gaming area equals the number of boxes in 205 CMR 138.49(2)(c). Any discrepancies shall be immediately reported to the surveillance department and in writing to the IEB in-house office.
- (7) Accompanied by an accounting department member and a ~~casino~~ security department member, the locked cart containing the bill validator boxes shall be transported to:
- (a) The cashiers' cage for counting or a secure area approved by the IEB under the control of the main bank or master coin bank and stored there until counted; or
  - (b) The count room for counting only when the count of table game drop boxes or slot machine drop containers is not in progress.
- (8) The contents of the bill validator boxes shall be counted as follows:
- (a) If the boxes are counted in the cashiers' cage, a main bank or master coin bank cashier shall document their contents, by item and amount, on a two-part Balance Receipt.
    - 1. The cashier who documents the contents of boxes shall retain the original Balance Receipt as an inventory document until forwarded directly to the easinogaming accounting department with the main bank or master coin bank end-of-day paperwork.
    - 2. The cashier shall place the duplicate Balance Receipt in a locked accounting box.
  - (b) If the boxes are counted in the count room, the easinogaming accounting department member(s) performing the count shall document the count for each individual bill validator box on a Balance Receipt. If the counting equipment documents the count of each individual bill validator box, the gaming vouchers, coupons and currency need only be documented for the entire bill validator drop and not for each individual bill validator box. At the completion of the count, a main bank or master coin bank cashier shall verify the contents on the Balance Receipt.
    - 1. The accounting department member(s) shall transport the gaming vouchers and coupons directly to the accounting department together with the original Balance Receipt and the supporting documentation for each bill validator box.
    - 2. The main bank or master coin bank cashier shall transport the currency directly to the main bank or master coin bank together with the duplicate Balance Receipt.
- (9) A gaming licensee shall generate reports necessary to reconcile the funds placed into and dispensed by the ~~gaming voucher redemption machines~~kiosks.

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138.51: Accounting Controls for Gaming Voucher Redemption ~~Machines~~Kiosks

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions governing a computerized gaming voucher system for the redemption of gaming vouchers that comports with 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment* and for the reconciliation of the contents of the redemption ~~machines~~kiosks.

138.52: Slot Machines and Bill Changers; Coin and Token Containers; Slot Cash Storage Boxes; Entry Authorization Logs

A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures relative to slot machines and bill changers that include, at a minimum, provisions to ensure that all gaming devices and electronic gaming equipment in the gaming establishment comport with 205 CMR 143.00: *Gaming Devices and Electronic Gaming Equipment*.

138.53: Progressive Slot Machines

If a gaming licensee offers one or more progressive jackpots that increase in value as the machine is played based upon a set rate of progression and awarded when a player achieves a specific game outcome, the system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and protocols as provided by 205 CMR 143.02: *Progressive Gaming Devices*.

138.54: Linked Slot Machines Interconnected in More than One Gaming Establishment; Slot System Operator; Computer Monitor

Prior to participation by a gaming licensee in a multi-casino progressive slot system, the gaming licensee shall submit a system of internal controls in accordance with 205 CMR 138.02 specifying the manner in which the participating gaming licensees and slot system operators will satisfy the provisions of 205 CMR 143.02: *Progressive Gaming Devices*.

138.55: Inspection of Slot Machine Jackpots

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures governing the inspection of slot machines and electronic gaming devices including, at a minimum, the following provisions:

- (1) For all slot machine and other electronic gaming device jackpots over \$75,000 in cash, merchandise, or cash equivalent value, or any jackpot where there is evidence of a malfunction, the gaming licensee shall notify the IEB that a jackpot has been registered and permit the IEB to inspect any slot machine, progressive equipment or related equipment; and
- (2) Policies with respect to the payment of jackpots if an inspection is pending, but not yet completed, or an inspection is performed and the results are such that the jackpot may have been the result of an impropriety.

138.56: Attendant Paid Jackpots and Credit Meter Payouts

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures governing the payment of jackpots and credit meter payouts if and when the payment is not automatically disbursed from a slot machine or electronic gaming device in the form of a gaming voucher. Such procedure shall at a minimum address the provisions of 205 CMR 143.01(1)(n) and, if the gaming licensee elects to do so, incorporate provisions outlining the process to be followed for the aggregate reporting of slot machine winnings as allowed by 26 CFR §1.6041-10(g).

138.57: Slot Machine Tournaments and Promotional Events within the Gaming Area

- (1) Slot machine tournaments may not be played with cash, value chips, plaques, gaming

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vouchers or other cash equivalents.

(2) A gaming licensee may charge an entry fee to participate in a slot machine tournament. A gaming licensee that charges an entry fee shall submit an acknowledgment of the total fees collected to the IEB by 10:00 A.M. on the day following the conclusion of the tournament.

(3) A system of internal controls submitted in accordance with 205 CMR 138.02, which shall be maintained by the gaming licensee, shall set forth a process that provides for submission of a written notice to the Bureau at least five business days prior to the commencement of a slot machine tournament, which shall include, at a minimum, the following:

- (a) A general description of how the slot machine tournament will be conducted and a copy of the rules governing play;
- (b) The dates and times that the tournament will be conducted;
- (c) Participation eligibility requirements including:
  - 1. Who is eligible to participate;
  - 2. The minimum and maximum number of participants; and
  - 3. Entry fees charged.
- (d) The criteria used to determine the winners;
- (e) The monetary amount or description of the prizes to be awarded;
- (f) The details of when and how the prizes will be awarded;
- (g) The asset and gaming floor plan location numbers of the slot machines that will be used to conduct the slot machine tournament; and
- (h) How the slot machine tournament area will be segregated from patrons who are not participating in the slot machine tournament.

(4) In addition to filing a notice required under 205 CMR 138.57(3), a gaming licensee shall submit a copy of the notice to the Commission's finance department.

(5) Advertising to promote a slot machine tournament must, at a minimum:

- (a) Contain information regarding who is eligible to participate; and
- (b) Include a copy of the slot machine tournament rules or state how a copy of the rules may be obtained.

(6) A slot machine used for a slot machine tournament must:

- (a) Use tournament software certified in accordance with 205 CMR 144.00: *Approval of Slot Machines and Other Electronic Gaming Devices and Testing Laboratories*;
- (b) Maintain connectivity with the Central Monitoring System (CMS); and
- (c) Have the functionality of the bill validator, ticket printer and electronic funds transfer meters disabled during the slot machine tournament so that the slot machine does not accept cash or credits or make payouts during tournament play.

(7) Before and after a slot machine tournament, the gaming licensee shall:

- (a) Receive approval from the Network Operations Center to place the slot machine in and take it out of tournament mode; and
- (b) Ensure that the Network Operations Center has recorded all meter settings on all slot machines used in the tournament.

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(8) A gaming licensee shall maintain records related to the conduct of a slot machine tournament in accordance with 205 CMR 138.09. These records shall be made available to the commission upon request and must include, at a minimum:

- (a) A copy of the notice required under 205 CMR 138.57(3); and
- (b) The names and addresses of all prize winners and the prize each winner was awarded.

(9) An activity involving a slot machine or other gaming equipment which occurs on the gaming floor of a gaming establishment or in areas off the gaming floor where contests or tournaments are conducted and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a gaming licensee must have surveillance coverage.

138.58: Alternate Forms of Jackpot Payments

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions governing the offer and payment of alternate forms of jackpots to include, but not be limited to:

- (1) If the jackpot is in the form of an annuity or other non-cash instrument, the terms and conditions on which that jackpot will be authorized, awarded and accounted for, including for any annuity jackpot a provision ensuring that, except as otherwise directed by the recipient, any remaining payments will be paid to the recipient's estate after the recipient's death;
- (2) If the jackpot is in the form of merchandise, the terms and conditions on which that jackpot will be authorized, awarded and accounted for; and
- (3) That appropriate tax forms are completed.

138.59: Procedure for Filling Payout Reserve Containers of Slot Machines and Hopper Storage Areas

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures for filling payout reserve containers of slot machines and hopper storage areas, if utilized.

138.60: Procedure Governing the Removal of Coin, Slot Tokens and Slugs from a Slot Machine Hopper

If a gaming licensee ~~offers, at its table games, one or more progressive jackpots that increase in value as the game is played based upon a set rate of progression, and the jackpot is awarded to a patron when a specific result or outcome is achieved~~ uses slot machines at the gaming establishment that accept coins, the system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall ~~also include policies and protocols/procedures governing equal division of payouts and reset amounts in instances when a progressive jackpot that increases in value as the game is played is won by two or more patrons during the same round of play as provided by 205 CMR 143.02: Progressive Gaming Devices~~ the removal of coin, slot tokens, and slugs from a slot machine hopper.

138.61: Slot Accounting Requirements; Electronic Table Games Which Accept Gaming Vouchers or Coupons Redeemed by Gaming Voucher System

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include slot accounting procedures designed to ensure that the gaming licensee's slot activities are accurately and timely recorded and reported. Specifically, the policies and procedures, which shall comport with 205 CMR 143.03: *On-line Monitoring and Control Systems (MCS) and Validation System*, shall include, but not be limited to:

- (1) Identification of the specific types of gaming devices from which the revenue is considered slot revenue for reporting purposes.
- (2) The specific reports, by content and frequency, generated by the licensee's automated slot monitoring system, including the distribution thereof and the controls in place to

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maintain the integrity of the information contained therein.

(3) The specific procedures utilized by the accounting department to review reports generated by the slot monitoring system and compare the information contained therein to supporting documents to include, but not be limited to:

- (a) Records of currency, coupons and gaming vouchers inserted for credit;
- (b) Records of wagering activities from account based wagering reports;
- (c) Records of wagering activities from electronic fund sources;
- (d) Records of fills;
- (e) Records of jackpot and credit meter payouts;
- (f) Records of voucher payouts;
- (g) The contents, as counted, of slot cash storage boxes;
- (h) Variances reported in the slot cash storage box count process; ~~and~~
- (i) Such other documents that support the reported activity of a slot machine or other electronic gaming device.

(4) Its detailed procedures to investigate and resolve differences, identified by the accounting department, resulting from the comparisons identified in 205 CMR 138.61(3), including supervisory approval thereof.

(5) Its detailed procedures to audit and account for the activities of its slot machines on a manual basis, in the event that the automated slot monitoring system is not functional.

(6) The form and frequency of its completed slot revenue reports to include the specific information contained therein (for example, revenue by machine, revenue by denomination, etc.), in a manner that is consistent with other reporting requirements.

138.62: Payment of Table Game Progressive Payout Wagers; Supplemental Wagers Not Paid from the Table Inventory

If a gaming licensee offers; at its table games; one or more progressive jackpots that increase in value as the game is played based upon a set rate of progression; and the jackpot is awarded to a patron when a specific result or outcome is achieved, the system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall ~~also~~ include policies and protocols ~~governing equal division of payout and reset amounts in instances when a progressive jackpot that increases in value as the game is played is won by two or more patrons during the same round of play~~ as provided by 205 CMR 143.02: *Progressive Gaming Devices*.

138.63: Slot Machines and Other Electronic Gaming Devices; Authorized Locations; Movements

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions governing the movement and placement of electronic gaming devices, including Sports Wagering Kiosks, that, at a minimum, comport with 205 CMR 145.00: *Possession of Slot Machines and Electronic Gaming Devices*. Such provisions shall at a minimum ensure that:

- (1) All drop boxes, bill validator stackers, ticket vouchers, printer paper, tokens and revenue are removed from an electronic gaming device prior to removal from the gaming area or Sports Wagering Area; and
- (2) All security locks and slot seals affixed pursuant to 205 CMR 144.03(2)(b) are removed from an electronic gaming device in a secure location within the gaming establishment prior to shipment from the gaming establishment.

138.64: Accounting Controls for Chippersons and Chips

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The system of internal controls submitted by a gaming licensee in accordance with 205 CMR ~~138.02~~ shall include policies and procedures governing the processes of fills and credits. At a minimum, such policies and procedures shall:

- (a) Identify the department(s) and individual(s) responsible for performing the duties of fills and credits, including:
  1. The steps involved in the processes of both fills and credits;
  2. Whether the processes will be performed manually or electronically; and
  3. Signatures of the department(s) and individual(s) performing the fills and credits.
- (b) Explain the duties of table game employee(s), the duties of main bank employee(s), and the duties of security personnel, including detailed recording procedures of the fill or credit transaction.
- (c) Include notification to the surveillance department by the bank or by pit personnel that a fill or credit is being performed, including:
  1. Notification of errors pertaining to fills and credits;
  2. Identification of the department(s) and individual(s) responsible for correcting errors pertaining to fills and credits; and
  3. Procedures for voided transactions and manual transactions.

138.65: Cashless Wagering Systems: (Reserved)

138.66: Master Lists of Approved Table Games, Movements of Gaming Equipment; Amendments of Operation Certificates upon Filing Updated Master List

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions relative to the movements of gaming equipment that incorporate, at a minimum, the following provisions:

- (1) In order to conduct gaming or simulcast wagering, each gaming licensee shall file with the IEB office in the gaming establishment comprehensive lists of the table games in its gaming establishment (the Table Games Master List), if any.
- (2) At a minimum, each Table Game Master List shall contain the following information:
  - (a) The date on which the list was prepared;
  - (b) A description of each table by:
    1. Type of authorized game;
    2. Location number; and
    3. Serial and table number; and
  - (c) Such other information as the commission may require.
- (3) Whenever a gaming licensee proposes that gaming tables be brought into, removed from or moved within a gaming establishment, as applicable, the gaming licensee shall first:
  - (a) Ensure that the resulting table game configuration will be consistent with the approved floor plan in accordance with 205 CMR 138.07 and that the number of table games is within the authorized number allowed under the operations certificate issued in accordance with 205 CMR 151.01: *Issuance and Posting of Operation Certificate*; and
  - (b) Provide an authorized agent of the IEB with written notice at least 24 hours prior to

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the actual movement of each gaming table.

- (4) The gaming manager or his or her designee shall notify in writing the accounting department, the security department and the IEB, at least 24 hours in advance of all movements and removals of gaming tables. The notification shall include at a minimum:
  - (a) The date and time of movement or removal;
  - (b) The gaming table(s) or asset number(s), as applicable;
  - (c) Whether a movement or removal;
  - (d) The location from which gaming table will be moved;
  - (e) The location to which the gaming table will be moved; and
  - (f) The signature of a gaming manager or designee.
- (5) Prior to moving or removing a gaming table:
  - (a) The table inventory shall be credited from the table; and
  - (b) The table drop box shall be removed during a scheduled drop box pick-up and a replacement box not placed on the table.
- (6) Immediately after each gaming table is brought into, removed from or moved within a gaming establishment, the gaming licensee completing the move shall file and serve, in accordance with 205 CMR 138.66(1), updated master lists of its table games to the extent that the move causes a change in the information contained on the most recent version of the applicable list on file with the IEB.

138.67: Employee Signatures

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions relative to signatures required in accordance with the internal controls and 205 CMR in general that incorporate the following provisions:

- (1) Signatures shall, at a minimum, comply with either of the following requirements:
  - (a) If written, they shall be the signer's first initial, last name, and legible credential number, written by the signer, and be immediately adjacent to or above the title of the signer; or
  - (b) If electronic, they shall be the employee's name and identification number or other computer identification code issued to the employee by the gaming licensee, if the document to be signed is authorized to be generated by computer; and
  - (c) They shall signify that the signer has personally prepared forms, records, and documents, and/or authorized, observed, and/or participated in a transaction to a sufficient extent to attest to the accuracy of the information recorded thereon, in conformity with the internal controls.
- (2) Written signature records shall be prepared for each employee required to sign records and documents and shall include specimens of signatures, titles of signers and the date the signature was obtained. Such signature records shall be maintained alphabetically by last name either on a company-wide or departmental basis. The signature records shall be adjusted on a timely basis to reflect changes of personnel.
- (3) Signature records shall either be:
  - (a) Securely stored in the accounting department; or
  - (b) Stored in electronic form and maintained by the IT Department in a secure format so that such signature records can be promptly retrieved in the event of a computer failure.

138.68: Expiration of Gaming-related Obligations Owed to Patrons; Payment to the Gaming Revenue



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- (1) The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include provisions governing the expiration of gaming-related obligations, and unclaimed cash and prizes that provide, at a minimum, that:
  - (a) Any money that is owed to a patron by a gaming licensee as a result of a gaming transaction must be claimed within one year of the date of the gaming transaction or the obligation of the gaming licensee to pay the patron will expire. Upon expiration of the obligation, the involved funds must be transferred to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, §§ 53 and 59. In calculating the one year period referenced in 205 CMR 138.68(1) and in M.G.L. c. 23K, § 53, any period of time for which the gaming establishment was not in operation shall be excluded;
  - (b) Any unsecured funds that did not register on a slot machine's coin-in meter, as described in 205 CMR 138.33(7), must be claimed by the owner within one year of the date the funds are located or the obligation of the gaming licensee to pay the patron will expire. Provided, verification procedures designed to prevent fraudulent claims shall be included in the provision. Upon expiration of the obligation, the cash or equivalent cash value of the subject funds shall be transferred to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, §§ 53 and 59. In calculating the one year period referenced in 205 CMR 138.68(1) and in M.G.L. c. 23K, § 53, any period of time for which the gaming establishment was not in operation shall be excluded; and
  - (c) A gaming licensee shall maintain a record of all unclaimed cash and prizes and gaming-related obligations that have expired.
- (2) Before the end of each calendar month the gaming licensee shall report the total value of gaming debts owed to its patrons that expired during the preceding calendar month in a format prescribed by the commission.
- (3) Each gaming licensee shall submit a check with its monthly report payable to the Gaming Revenue Fund in accordance with M.G.L. c. 23K, § 59 in the amount of the gaming debts owed to its patrons that expired during the preceding month as stated in the report.
- (4) Upon the payment of the expired debt, the gaming licensee shall post the payment and remove the amount from its records as an outstanding debt.
- (5) Failure to make the payment to the Gaming Revenue Fund by the due date shall result in the imposition of penalties and interest as prescribed by 205 CMR.
- (6) Nothing in 205 CMR 138.68 shall preclude the gaming licensee from, in its discretion, issuing cash or other form of complimentary to a patron to compensate the patron for a gaming debt that has expired.

138.69: Entertainment, Filming or Photography within the Gaming Area

- (1) No entertainment, filming or photography shall be offered or conducted within the gaming area, or shall be significantly visible or audible from or in the gaming area, unless the gaming licensee files a written notice with the IEB, at least 24 hours prior to the commencement of such entertainment, filming or photography, which notice shall include, at a minimum, the following information:
  - (a) The date and time of the scheduled entertainment, filming or photography;
  - (b) A detailed description of the type of entertainment, filming or photography to be offered;
  - (c) The number of persons involved in the entertainment, filming or photography;
  - (d) The exact location of the entertainment, filming or photography in the gaming area;
  - (e) A description of any additional security measures that will be implemented as a result of the entertainment, filming or photography; and

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- (f) A certification from the supervisors of the gaming licensee's security, gaming operations, and surveillance departments that the proposed entertainment, filming or photography will not adversely affect the security and integrity of gaming operations.
- (2) The IEB may at any time require the gaming licensee to immediately cease any entertainment, filming or photography offered within the gaming area, if the entertainment, filming or photography provided material is in any manner different from the description contained in the submission filed pursuant to 205 CMR 138.69(1) or in any way compromises the security or integrity of gaming operations.
- (3) In reviewing the initial or continued suitability of an entertainment, filming or photography proposal, the IEB shall consider the extent to which the entertainment, filming or photography proposal may unduly disrupt or interfere with:
  - (a) Efficient gaming operations;
  - (b) The security of the gaming establishment or any portion thereof;
  - (c) Surveillance operations; or
  - (d) The security or integrity of gaming operations or any authorized game.

138.70: Technical Standards for Count Room Equipment

The system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall identify all equipment used in the counting process of the contents of drop boxes, slot cash storage boxes, slot drop buckets, and slot drop boxes that include, at a minimum, the provisions in 205 CMR 138.70(1) through (3):

- (1) A detailed description of the design and use of the computer equipment and any communication interfaces related to the counting process;
- (2) Names of all revenue files and who has access and what type of access they have to these files; and
- (3) Procedures for controlling changes to computer equipment, communication interfaces, configuration, and software which provide for, at a minimum, written or electronic notification in accordance with 205 CMR.

138.71: Table Game Tournaments and Promotional Events within the Gaming Area

- (1) A gaming licensee may conduct a gaming tournament for any table game authorized by the Commission pursuant to 205 CMR 147.00: *Uniform Standards of Rules of the Games*.
- (2) A system of internal controls submitted in accordance with 205 CMR 138.02, which shall be maintained by the gaming licensee, shall set forth a process that provides for submission of a written notice to the Bureau at least five business days prior to the commencement of a gaming tournament, which shall include, at a minimum, the following:
  - (a) The date(s), time(s), and location(s) of the scheduled gaming tournament;
  - (b) The number of participants expected;
  - (c) The game type;
  - (d) Rules concerning tournament play and participation;
  - (e) The prize structure;
  - (f) Dealer tips determined in accordance with 205 CMR 138.34, if applicable;
  - (g) Participant registration procedures;

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- (h) The methodology for determining winners;
  - (i) The equipment to be used;
  - (j) Forms utilized in connection with the tournament;
  - (k) A description of security and surveillance measures that will be implemented for the gaming tournament;
  - (l) A certification from the supervisors of the gaming licensee's security, gaming operations, and surveillance departments that the proposed gaming tournament will not adversely affect the security and integrity of gaming operations;
  - (m) A certification from the gaming establishment controller or designee that he or she has reviewed the rules for the tournament in regard to gaming tournament revenue reporting and certified conformance with 205 CMR 140.02(2)(c); and
  - (n) A certification from a holder of a key gaming employee license that the tournament will be conducted in accordance with the tournament rules developed pursuant to 205 CMR 138.71(2).
- (3) Tournaments may not be played with cash, value chips, plaques, gaming vouchers or other cash equivalents. Table game tournaments shall be conducted using tournament chips.
- (4) A gaming licensee may charge an entry fee to participate in a tournament. The gaming licensee that charges an entry fee shall submit electronically the revenue from the tournament at the end of gaming day following the conclusion of the tournament.
- (5) The IEB may at any time require the gaming licensee to immediately cease any tournament or promotional event offered within the gaming area if the tournament or promotional event provided is in any material manner different from the description contained in the submission filed pursuant to 205 CMR 138.71(2) or in any way compromises the security or integrity of gaming operations.
- (6) No false or misleading statements, written or oral, shall be made by a licensee or its employees regarding any aspect of any promotional activity.
- (7) The licensee shall maintain the rules of the event, including eligibility to participate, criteria for entry and winning prizes awarded, and prize winners, for a minimum of two years from the last day of the event. Written rules governing the tournament or promotional event shall be made immediately available to the public and the commission upon request.
- (8) All prizes offered in the promotional activity shall be awarded according to the rules governing the event.
- (9) Large tournaments and promotions held in non-gaming areas will be submitted and reviewed on a case-by-case basis.
- (10) Payouts from promotional activities are not winnings paid to patrons and as such shall not be deductible when calculating gross gaming revenue in accordance with 205 CMR 140.02: *Computation of Gross Gaming Revenue*.
- (11) Promotional coupons shall contain the following information preprinted on the coupon:
- (a) The name of the gaming establishment;
  - (b) The city or other locality and state where the gaming facility is located;
  - (c) The specific value of any monetary coupon stated in U.S. dollars;
  - (d) Sequential identification numbers, player tracking numbers with unique numbers added to them, or other similar means of unique identification of each coupon for complete and accurate tracking and accounting purposes;

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- (e) An expiration date; and
  - (f) All conditions required to redeem the coupon.
- (12) Licensees offering promotional coupons shall track the issuance and redemption of each promotional coupon. Documentation of the promotional coupon tracking shall be maintained on file for two years and made readily available to the Bureau upon request. The inventory of unissued promotional coupons must be maintained in a reasonable manner that prevents theft or fraud.
- (13) Promotional coupons shall be cancelled at the time they are redeemed in a manner that will prevent multiple redemptions of the same coupon.
- (14) An activity involving a table game or other gaming equipment which occurs on the gaming floor of a gaming establishment or in areas off the gaming floor where contests or tournaments are conducted and which results in an individual obtaining any money or thing of value from, or being owed any money or thing of value by, a gaming licensee must have surveillance coverage.

138.72: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation

- (1) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include policies and procedures, or incorporate by reference existing corporate policies, relative to ensuring a workplace free from unlawful discrimination, harassment and retaliation. These policies and procedures shall comply with all federal, state, and local laws relating to unlawful discrimination, harassment, and retaliation, and shall include, at a minimum:
- (a) Specific written policies prohibiting unlawful discrimination, harassment and retaliation in the workforce, as well as a statement that the gaming licensee complies with all applicable federal, state and local laws relating to unlawful discrimination, harassment and retaliation. Without limiting any of the below, such policies shall at a minimum incorporate all elements of the Massachusetts Commission Against Discrimination (MCAD) Model Sexual Harassment Policy;
  - (b) Specific written procedures outlining how concerns, allegations or claims regarding unlawful discrimination, harassment and retaliation are to be reported, including multiple reporting options such as reporting to: an employee's direct supervisor or another supervisor within the organization; any member of the human resources staff; the general manager or president of the property where the employee works; a reporting hotline; and/or any member of the gaming licensee's legal department. The procedures shall identify by name and/or title, address and telephone number at least two individuals to whom concerns of discrimination, harassment or retaliation may be reported; provided, further, that any employee with supervisory powers shall report complaints, concerns or other matters arising or reported under these policies and procedures to the representatives of the organization so identified, and shall be trained on the obligation to ensure immediate and appropriate corrective action in addressing harassment complaints. The licensee shall ensure and shall inform employees that individuals of different genders are available for reporting of complaints. The licensee's procedures may suggest, but need not require, a specific reporting process;
  - (c) The identification of a specific position at the property or corporate level (or both) that is responsible for overseeing and enforcing the policies and procedures;
  - (d) A requirement that each employee receive a copy of the policies and procedures as part of the gaming licensee's onboarding process;
  - (e) A requirement that training on unlawful discrimination, harassment and retaliation be provided by the gaming licensee to all employees within 90 days of the date of hire and every two years thereafter;
  - (f) A personal relationships policy that identifies prohibited personal relationships as well as the disclosure requirements for personal relationships;

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- (g) A statement in the policies and procedures that all concerns, allegations or claims will be investigated promptly and that all concerns, allegations or claims will be handled in a confidential manner to the extent possible to ensure a thorough and complete investigation of the concern, allegation or claim; and
- (h) A listing of the federal and state agencies located in the Commonwealth that enforce the unlawful discrimination, harassment and retaliation laws, including names and addresses of each location within the Commonwealth of the offices of such agencies.
- (2) A gaming licensee shall create a process and procedure to track that all employees attend training as required.
- (3) A gaming licensee shall review its policies and procedures every two years to ensure that such policies and procedures comply with all federal, state and local laws relating to unlawful discrimination, harassment and retaliation.
- (4) A gaming licensee and its corporate parent qualifying entity (as designated by the Bureau) shall each maintain the following information for the previous calendar year regarding their respective employees:
- (a) each concern, allegation or claim of unlawful discrimination, harassment or retaliation reported to the gaming licensee and/or to the corporate parent qualifying entity and the method used to report such concerns, allegations or claims.
- (b) for each concern, allegation or claim identified in 205 CMR 138.72(4)(a):
1. the identity, by name or title, of the representative of the licensee or corporate parent qualifying entity who investigated the concerns, allegations or claims;
  2. the manner in which the concerns, allegations or claims were investigated; and
  3. the ultimate resolution of the concern, allegation or claim, such as whether the concern, allegation or claim was resolved internally (by agreement, disciplinary action up to and including termination, or settlement and/or separation agreement) and/or filed with the appropriate federal, state or local authority; provided further, if the matter was resolved by settlement or separation agreement, the licensee or corporate parent qualifying entity shall maintain a copy of such agreement;
- (c) a general description of the concerns, allegations or claims, *i.e.*, sexual harassment, unlawful discrimination, retaliation;
- (d) a listing of the number of concerns, allegations or claims awaiting investigation or resolution;
- (e) a breakdown of the concerns, allegations or claims by the type of concern, allegation or claim and by the level of employee, member of the public/patron or vendor against whom the concern, allegation or claim was made;
- (f) the gaming licensee's unlawful discrimination, harassment or retaliation policies and procedures with any changes made to the policies and procedures within the last year highlighted;
- (g) information relating to the training required by 205 CMR 138.72(1)(e), including a listing of the training sessions provided and the number of employees trained by position records of the dates of training; names of participants/sign-in sheets; the identity and title of the trainers; and a brief description of the training; and
- (h) a statement signed by the gaming licensee's head of human resources at the gaming licensee's corporate level that the gaming licensee and the corporate parent qualifying entity have complied with their policies and procedures and that the information compiled as required in 205 CMR 138.72(4) is true and correct to the best of such representatives' knowledge and belief.

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The Commission shall have the right to review such information upon reasonable notice to the licensee. When providing information identified in 205 CMR 138.72(4)(a) through (d), for review, the licensee and the corporate parent qualifying entity may produce such information in a format that does not include: names of the individual(s) reporting the concern, allegation or claim; the names of witnesses; and specific details of the concern, allegation or claim which could be used to identify the individuals involved in the underlying incident(s).

(5) The gaming licensee shall ensure that any concerns, allegations or claims relating to unlawful discrimination, harassment or retaliation are investigated and resolved in accordance with 205 CMR 138.00 and all other applicable laws and regulations.

(6) The Commission shall have the right, upon request and notice to the gaming licensee, to review any gaming licensee records pertaining to the policies and procedures outlined in 205 CMR 138.72.

138.73: Personally Identifiable Information Security

(1) Any personally identifiable information, as defined in M.G.L. c. 93H and 201 CMR 17.00, obtained and maintained with respect to a patron, shall be ~~done~~obtained and maintained in compliance with the privacy regulations and standards observed by the Commission including the application of M.G.L. c. 93H and 201 CMR 17.00: *Standards for the Protection of Personal Information of Residents of the Commonwealth* for the protection of personally identifiable information for any patron regardless of residency.

(2) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures for the security and sharing of personally identifiable information, including:

(a) The designation and identification of one or more employees having primary responsibility for the design, implementation and ongoing evaluation of such procedures and practices;

(b) The procedures to be used to determine the nature and scope of all information collected, the locations in which such information is stored, and the storage devices on which such information may be recorded for purposes of storage or transfer;

(c) The measures to be utilized to protect information from unauthorized access; and

(d) The procedures to be used in the event the gaming licensee determines that a breach of data security has occurred, including required notification to the Commission.

(3) Patrons shall be provided with a method to request:

(a) Confirmation that their personally identifiable information is being processed;

(b) Access to a copy of their personally identifiable information as well as any other information about the personally identifiable information processing;

(c) Updates to their personally identifiable information; and

(d) Their personally identifiable information erased when it's no longer required to be maintained by the gaming licensee and/or to impose restrictions on processing of personally identifiable information.

(4) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures to record and process such requests from patrons, including maintaining records of such requests and providing reasons to the patron when such requests are denied or rejected. The patron shall be given a reason when the gaming licensee does not intend to comply with the request and also provided with the necessary information on the possibility to file a complaint with the Commission.

(5) Upon the patron's request, the gaming licensee shall forward to the patron the personally identifiable information which they have received from the same patron, in a structured,

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~~commonly used and machine readable format and transmit those data to another gaming licensee, where it is technically feasible to do so. This only applies to:~~

~~(a) Personally identifiable information which the patron has provided to the gaming licensee or personally identifiable information which is processed by automated means (i.e., this would exclude any paper records); and~~

~~(b) Cases where the basis for processing is personally identifiable information consent, or that the data is being processed to fulfil a contract or steps preparatory to a contract.~~

~~(6) The patron has the right to object to personally identifiable information processing:~~

~~(a) Based on legitimate interests or the performance of a task in the public interest or in the exercise of official authority;~~

~~(b) Used in direct marketing, including profiling to the extent that it is related to such marketing activities; and~~

~~(c) For scientific or historical research purposes or for the purpose of statistics.~~

~~(7) A system of internal controls submitted by a gaming licensee in accordance with 205 CMR 138.02 shall include procedures for the gaming licensee to comply with requests from patrons to have personally identifiable information erased and/or to prevent or restrict processing of personally identifiable information, including, in the following circumstances:~~

~~(a) Where the personally identifiable information is no longer necessary in relation to the purpose for which it was originally collected/processed;~~

~~(b) When the patron withdraws consent;~~

~~(c) When the patron objects to the personally identifiable information processing and there is no overriding legitimate interest for continuing the processing;~~

~~(d) The personally identifiable information was unlawfully processed; or~~

~~(e) The personally identifiable information has to be erased in order to comply with a legal obligation.~~

~~(8) The gaming licensee may not utilize solely automated decision making which:~~

~~(a) Produces legal effects on the patron such as those which result in the patron being subjected to surveillance by a competent authority; or~~

~~(b) Significantly affects the patron in a similar manner (e.g., it has the potential to influence the circumstances, behavior or choices of the patron).~~

REGULATORY AUTHORITY

205 CMR 138.00: M.G.L. c. 23K, §§ 4(28), 5, 25(d), 27 and 28, [M.G.L. 23N, §§ 4, 6, and 10](#)

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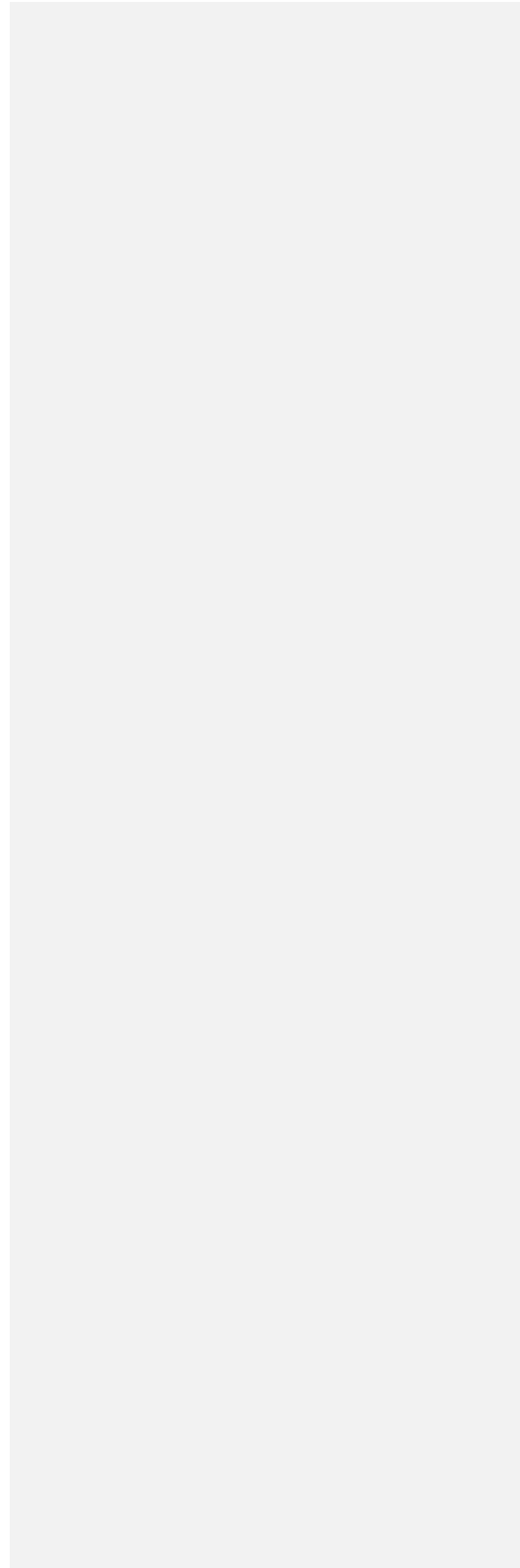
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**NEW Public Comments Pertaining to  
205 CMR 138.00: Uniform Standards of Accounting Procedures and  
Internal Controls**

Subsection	Comment	Name	Entity
138.05(1)(d)	<p>Reason for Change: DraftKings respectfully requests that this section be amended to reflect that operators do business in multiple jurisdictions and have internal human resources processes that must be followed.</p> <p>This provision would require suspension or termination of an employee within 24 hours of notice from the Commission that the employee’s license, registration, or application has been revoked, suspended, or denied. In many cases, denial of a license would result in termination of an employee. However, it is possible that denial of a license in the Commonwealth would not justify termination. That individual may be able to perform in role in a jurisdiction with different rules or adopt a new role that does not require the relevant license. DraftKings would prefer that, in addition to termination or suspension, the regulation allow for suspension of work to which licensure applies in the Commonwealth.</p> <p>Additionally, 24 hours is an extremely short timeframe to terminate or suspend an employee. Operators operate in multiple jurisdictions and must follow the laws of these jurisdictions, in addition to</p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	DraftKings

	<p>following their own human resources policies. A modification of relevant responsibilities would ensure that the individual in question would not perform unlicensed work in the Commonwealth while also following existing laws and policies.</p> <p><b>Proposed Final Rule Language:</b></p> <p>(d) Procedures for terminating or suspending the employment of, or modifying the relevant responsibilities of, individuals licensed or registered pursuant to 205 CMR 134.01: Key Gaming Employee Licensees, 134.02: Gaming Employee Licensees, 134.03: Gaming Service Employees, or Sports Wagering Occupational Licenses, 235.00, within 24 hours of notification from the commission that the license, registration, or application of such individual has been revoked, suspended, or denied; and</p>		
138.73	<p><b>Reason for Change: DraftKings respectfully requests the Commission remove the entirety of section 138.73.</b></p> <p>Many of the components of the draft regulations in this section appear to be imported from data privacy laws from other jurisdictions, including the European Union’s General Data Protection Regulation (GDPR). However, many of the proposed requirements omit necessary definitions, guidance, and other relevant provisions relating to exceptions,</p>	<p>David Prestwood  <a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	DraftKings

	<p>mechanics for compliance, limitations, and so on. As a result, most of the proposed obligations on licensees are unclear, lacking the sort of well-defined contours needed for licensees to be able to build the controls necessary to comply with them.</p> <p>As an example of the underdeveloped state of this proposed section, there appears to be no definition of “personally identifiable information” set forth in the regulations. Such a definition is the necessary foundation of any privacy law or regulation. In these circumstances, the Commission could consider adopting the definition for “personal information” already used in 201 CMR 17.00, but has not elected to do so in the draft regulations.</p> <p>Several of the provisions proposed in this section may also result in significant consumer confusion. For example, without articulating appropriate exceptions to the right of deletion, a patron is apt to think the right is absolute, when it simply cannot be given the competing, legally required retention obligations to which licensees are subject.</p> <p>Massachusetts does not yet have a comprehensive privacy law, though one or more bills aimed at creating a fulsome regime is currently pending in the</p>		
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	<p>General Court. Given that privacy laws raise increasingly complex issues for technology companies, the obligations these regulations would impose on licensees would be better addressed in privacy legislation passed by the General Court than via underdeveloped requirements inserted into sports wagering regulations, which would govern only a small portion of businesses operating in the Massachusetts and might ultimately conflict with a far more comprehensive privacy law enacted in the commonwealth.</p> <p>DraftKings thus suggests that it would be appropriate to strike this section and/or revisit the proposed regulations with appropriate stakeholders, including licensees, so that operators can provide meaningful input from a commercial perspective that includes having implemented controls to satisfy noteworthy privacy laws like the GDPR and California Consumer Privacy Act (CCPA).</p> <p>Though we believe it would be prudent to remove this section from the draft regulations altogether, for the aid and convenience of the commonwealth, we will suggest individual amendments in the event the section is retained.</p>		
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<p>138.73(1)</p>	<p>138.73(1)</p> <p>(1) What is the definition of “personally identifiable information?”</p> <p>a. Is it the same definition found in 201 CMR 17.02?</p> <p>b. If it is not the same definition found in 201 CMR 17.02, what is the definition?</p> <p>(2) Is the wording in the subsection “protection of personally identifiable information for any patron regardless of residency” intended to ensure that a gaming licensee follows certain minimum data security standards to safeguard the personally identifiable information (PII) that it obtains and maintains? We are unclear about the intent of the words “regardless of residency” as state data security laws are often more limited in scope.</p> <p>(3) What activity is subject to the regulation?</p> <p>a. Is it only sports wagering that occurs in a physical sports book facility and sports wagering that occurs on sports wagering mobile apps?</p> <p>b. Does it also cover gaming activity (e.g., slots and tables) that occurs on the gaming licensee’s casino floor?</p> <p>c. Does the regulation cover every non-gaming activity that occurs anywhere inside a gaming licensee’s property? For example, is a dining reservation covered by the regulation, or the purchase of a t-shirt in a shop, or the purchase of tickets to a concert?</p>	<p>Daniel Miller</p> <p><a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a></p>	<p>MGM Springfield</p>
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<p>138.73(3)</p>	<p>138.73(3)</p> <p>(1) 205 CMR 138.73(1) above refers to any patron “regardless of residency”. We assume that this was not intended to broaden the scope of 205 CMR 138.73(3) to give privacy rights to mean that a non-Massachusetts residents. Is this assumption correct?</p> <p>a. If not correct, then this broad scope that may be inconsistent with privacy rights that are granted by other jurisdictions and potentially trigger jurisdictional issues.</p> <p>b. If not correct, then such a broad scope is different from current state privacy legislation in the United States.</p> <p>c. There may be operational challenges for gaming licensees in Massachusetts to implement processes to grant rights to persons outside Massachusetts (and outside the US).</p> <p>(2) Do gaming licensees have discretion to determine how patrons can submit these requests?</p> <p>a. Can the request be submitted in-person?</p> <p>b. Can the request be submitted online (though some requests such as updating certain information may require an in-person visit)?</p> <p>(3) Do gaming licensees have discretion to determine reasonable procedures to verify a patron’s identity to assure that the patron making the request is the same patron who is the subject of the personal information?</p> <p>(4) If a patron’s identity cannot be</p>	<p>Daniel Miller  <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a></p>	<p>MGM  Springfield</p>
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	<p>verified, can the gaming licensee deny the request?</p> <p>(5) What is the definition of “processed”/“processing”?</p> <p>(6) Requiring “[a]ccess to a copy of their personally identifiable information” would put sensitive personal information, such as Social Security numbers and credit card numbers, at risk of exposure. What exceptions are there to providing such sensitive personal information? a. For example, can the access report provided to the patron state that a gaming licensee’s records contain the patron’s Social Security number without having to provide the actual Social Security number? Can more limited information be provided instead?</p> <p>(7) Are requests to update personally identifiable information subject to the presentation of appropriate documentation? For example, what documentation is required to update a patron’s first or last name?</p> <p>(8) What are the exceptions to fulfilling requests? For example, other state privacy laws permit a business to deny a deletion request if there are legal reasons why information must be maintained (e.g., record retention requirements, tax reasons, legal holds, etc.). Will Massachusetts adopt similar exceptions?</p> <p>(9) Does the Massachusetts Gaming Commission intend to clarify that these regulations will not restrict a gaming licensee’s ability to do the following?:</p>		
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	<ul style="list-style-type: none"><li>a. Retain personally identifiable information that must be maintained, used or processed in connection with a legal obligation;</li><li>b. Comply with federal, state, or local laws, rules, or regulations;</li><li>c. Comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by federal, state, local, or other governmental authorities;</li><li>d. Cooperate with law-enforcement agencies;</li><li>e. Investigate, establish, exercise, prepare for, or defend legal claims;</li><li>f. Provide a product or service specifically requested by a patron, or performing a contract to which the patron is a party;</li><li>g. Prevent, detect, protect against, or respond to security incidents, identity theft, fraud, harassment, malicious or deceptive activities, or any illegal activity; preserve the integrity or security of systems; or investigate, reporting, or prosecute those responsible for any such action;</li><li>h. Collect, use, retain, or disclose personally identifiable information that is deidentified, anonymized, or aggregated;</li><li>i. Conduct internal research to develop, improve, or repair products, services, or technology;</li><li>j. Identify and repair technical errors that impair existing or intended functionality; or</li><li>k. Perform internal operations that are reasonably aligned with the expectations of the patron or reasonably anticipated based on the patron's existing relationship with the gaming licensee.</li></ul>		
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138.73(3)(c)	<p>Reason for Change: DraftKings respectfully requests an amendment to clarify the rights of patrons to correct their data in this section. DraftKings would prefer to use model language from Virginia’s Consumer Data Protection Act, which clearly outlines a patron’s rights in this regard.</p> <p>Proposed Final Rule Language:</p> <p>(c) Correction of inaccuracies in the patron’s personal data, taking into account the nature of the personally identifiable information and the purposes of the processing of the patron’s personally identifiable information; and</p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	DraftKings
138.73(3)(d)	<p>Reason for Change: DraftKings respectfully requests an amendment to this section to make explicitly clear a patron’s right of deletion of data and the appropriate exceptions to that right.</p> <p>Online sports wagering is a highly regulated industry, and operators are subject to myriad legally required data retention obligations for a host of different record types and categories of personally identifiable information. The lack of a federal law regulating data</p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	DraftKings

privacy means that such obligations are multiplied by the number of states in which controllers operate, which

creates a regulatory patchwork that makes it difficult for controllers to build privacy compliance programs that accommodate numerous, differing requirements.

DraftKings suggests that this aspect of the instant regulations be modeled on the CCPA's relevant provisions (Cal. Civ. Code §1798.105).

**Proposed Final Rule Language:**

(d) Their personally identifiable information deleted or anonymized when it's no longer required to be maintained by the gaming licensee and/or to impose restrictions on processing of personally identifiable information. A licensee shall not be required to comply with a patron's request to delete the patron's personal information if it is reasonably necessary to maintain the consumer's personal information in order to:

1. Complete the transaction for which the personal information was collected, provide a good or service requested by the patron, or reasonably anticipated by the patron within the context of a licensee's ongoing business relationship with the patron, or otherwise perform a contract between the licensee and the patron;

2. Help to ensure security and integrity to the extent the use of the patron's personal

	<p>information is reasonably necessary and proportionate for those purposes;</p> <p>3. Debug to identify and repair errors that impair existing intended functionality;</p> <p>4. Exercise free speech, ensure the right of another patron to exercise that patron's right of free speech, or exercise another right provided for by law;</p> <p>5. Engage in public or peer-reviewed scientific, historical, or statistical research that conforms or adheres to all other applicable ethics and privacy laws, when the licensee's deletion of the information is likely to render impossible or seriously impair the ability to complete such research, if the patron has provided informed consent;</p> <p>6. To enable solely internal uses that are reasonably aligned with the expectations of the patron based on the patron's relationship with the licensee and compatible with the context in which the patron provided the information; and</p> <p>7. Comply with a legal obligation.</p>		
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<p>138.73(5)</p>	<p>138.73(5)</p> <p>(1) Providing sensitive personal information, such as Social Security numbers and credit card numbers, could put such information at risk of exposure. See comments above regarding Social Security numbers in connection with 205 CMR 138.73(3).</p> <p>(2) We have concerns with tThe regulation requiring a gaming licensee to “transmit those data to another gaming licensee.” This could create liability for the sender and the recipient, and could also raise data security issues for the consumer. Other relevant privacy laws only require that certain information be provided to the requesting consumer.</p>	<p>Daniel Miller  <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a></p>	<p>MGM Springfield</p>
<p>138.73(6)</p>	<p>138.73(6)</p> <p>(1) We do not understand the intent of this provision.</p> <p>(2) Subsections 138.73(6)(a) and (c) do not appear to be reasons for a patron to object, or “opt-out,” of having their personal information processed. This sounds more like a permissible reason for a gaming licensee to be allowed to process personal information.</p> <p>(3) What is the definition of “direct marketing”?</p> <p>(4) What is the definition of “profiling”?</p>	<p>Daniel Miller  <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a></p>	<p>MGM Springfield</p>

138.73(6)	<p>Reason for Change: DraftKings respectfully requests an amendment to strike the provision providing patrons with a right to object to uses of their personal information, which is unnecessary given that a patron already has a right to close their account and request to have their data deleted (which could presumably be also be satisfied through anonymization).</p> <p>Additionally, this language appears to have been imported from GDPR, but it does not offer any of the guidance about the mechanics of licensees are supposed to appropriately handle objections. It also does not provide any guidance for determining what might fall under “legitimate interests” or “official authority” and thus raises questions about why a patron should have the right to object to processing of data when that process is based on legitimate interests. This section also does not contain any other details that are critical to understanding how these provisions should be construed and applied. This is an example of a section that would benefit from consultation with licensees who operate in other regulated jurisdictions that have comprehensive privacy laws/regulations.</p>	Daniel Miller <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a>	MGM Springfield
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138.73(7)	138.73(7) (1) See comments above regarding exceptions to fulfilling requests and clarification that these regulations will not restrict a gaming licensee’s ability to perform certain actions in connection with 205 CMR 138.73(3).	Daniel Miller <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a>	MGM Springfield
138.73(7)(b)	Reason for Change: DraftKings respectfully requests that this section be clarified. A great deal of personally identifiable information needs to be retained due to obligations in the statute and other sections of the regulations. Exceptions to the right to erasure should be clearly spelled out here, as with the right to deletion above. Adding similar exceptions would be prudent for both consumers and licensees.	David Prestwood <a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a>	DraftKings
138.73(7)(d)	Reason for Change: DraftKings respectfully requests that this section be clarified. There is no indication as to what would be considered “unlawfully processed.”	David Prestwood <a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a>	DraftKings
138.73(8)	138.73(8) (1) What does this mean? We do not understand the intent of this section.	Daniel Miller <a href="mailto:dmiller@mgspringfield.com">dmiller@mgspringfield.com</a>	MGM Springfield

138.73(8)	<p>Reason for Change: DraftKings respectfully requests this section be removed, as the standard is too amorphous to be applied consistently and appropriately. The contours of what is and is not acceptable are not clear. This is another example of language that is similar to what is included in GDPR, but the GDPR prescribes a clear framework for what constitutes acceptable and unacceptable automated decision making that is absent here.</p> <p>For instance, the GDPR – arguably the strictest international data protection regime – allows for controllers to engage in automated decision making if the decision is: (1) necessary for entering into, or performance of, a contract between the data subject and the controller; (2) authorized by law (e.g., for fraud prevention purposes); or (3) based on the data subject’s explicit consent. Other components of the referenced GDPR framework include the carrying out of a Data Protection Impact Assessment, giving consumers specific information about the processing, mitigating risk, taking steps to prevent errors, bias, and discrimination, ensuring that consumers have the opportunity to obtain human intervention, and giving consumers the right to challenge and request a review of the decision. On the other hand, the instant provision provides little more than a blanket prohibition, without sufficient guidance as to what</p>	David Prestwood <a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a>	DraftKings
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	<p>“significantly affects” means.</p> <p>The net result may be unintended consequences – for example, licensees may be prohibited from using automated means of detecting indicia of responsible gaming issues with a particular patron and taking measures to prevent such issues from continuing or worsening. Other unintended consequences may include limitations on the programmatic issuance of promotional offers.</p> <p>DraftKings respectfully suggests that substantial additional development of this type of proscription is needed prior to promulgation to bring it in line with other privacy laws and regulations with similar prescriptions.</p>		
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*Legal Division*

## **AMENDED SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 138.00: Uniform Standards of Accounting Procedures and Internal Controls for Gaming** for which a public hearing was held on **February 28, 2023, at 9:15am EST**.

This regulation was amended as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23K, §5 and G.L. c. 23N, § 4. The proposed amendments are intended to incorporate obligations and responsibilities relative to Sports Wagering for gaming licensees which may be licensed to conduct Sports Wagering.

The regulation applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

The proposed amendments to 205 CMR 138.00 are intended to make clear a gaming licensee’s obligations with respect to sports wagering areas that are part of a gaming establishment. As these regulations apply to sports wagering operators, the Commission does not anticipate the need to establish less stringent requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

As this regulation is not expected to impact small businesses, less stringent schedules, deadlines for compliance, and reporting requirements for small businesses have not been established.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:



Massachusetts Gaming Commission

205 CMR 138.00 does impose compliance reporting requirements upon sports wagering operators who have received licensure by the Commission. However, this regulation does not impose reporting requirements upon small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

Performance-based standards are set forth in this regulation for sports wagering operators who have been licensed by the Commission.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This regulation is unlikely to deter or encourage the formation of businesses within the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

205 CMR 138.00 will not have an adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

/s/ Ying Wang  
Associate General Counsel  
Legal Division

Dated: February 23, 2023



Massachusetts Gaming Commission

**205 CMR 238.00: ADDITIONAL UNIFORM STANDARDS OF ACCOUNTING PROCEDURES AND INTERNAL CONTROLS FOR SPORTS WAGERING**

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238.01: Definitions

As used in 205 CMR 238.00, the following words and phrases shall have the following meanings, unless the context clearly indicates otherwise:

Cash means currency or coin.

Cash Equivalent means a certified check, cashier's check, treasurer's check, personal check, travelers' check, money order, or other instrument as specified by the Commission.

Check means as defined in M.G.L. c. 106, §§ 3 through 104.

Chief Sports Wagering Executive means the individual responsible for the daily conduct of a Sports Wagering Operator's business. Unless the Chief Sports Wagering Executive also serves as the Chief Executive Officer of the Sports Wagering Operator, the Chief Sports Wagering Executive shall report directly to the Chief Executive Officer of the Sports Wagering Operator.

Segregated Account means a financial account that segregates funds owned by patrons and that is restricted to funds owned by patrons in the United States, and not comingled with the Sports Wagering Operator's operational funds.

Sports Wagering Counter means any a window in a structure approved by the Commission within a Gaming Establishment or Sports Wagering Facility from which a Ticket Writer conducts Sports Wagering transactions.

Ticket Writer means a person assigned the responsibility for the operation of a Ticket Writer Station.

Ticket Writer Station means a point of sale used by a Ticket Writer for the execution or formalization of Sports Wagers placed on behalf of a patron.

238.02: Sports Wagering Operator's System of Internal Controls

- (1) At least 45 days prior to commencing operations, a Sports Wagering Operator shall submit to the Commission its proposed system of Internal Controls, consisting of procedures and administrative and accounting controls, in accordance with 205 CMR 238.02(4). An Operations Certificate shall not issue until the Operator's Internal Controls are approved in accordance with 205 CMR 238.02(2).
- (2) A system of Internal Controls shall be organized and formatted as required by the Commission.

- (3) The Commission shall refer the proposed system of Internal Controls submitted in accordance with 205 CMR 238.02(1) to the Executive Director, who shall review the submission for compliance with M.G.L. c. 23N and 205 CMR. Upon completion of review, the Executive Director shall, in writing, either approve the submission or advise the Sports Wagering Operator of any deficiency, and any corresponding recommendation or required change. The Executive Director may include any other recommendations or required changes intended to ensure that a robust system of Internal Controls is implemented by the Sports Wagering Operator. The Sports Wagering Operator may, by writing to the Executive Director, either accept a recommendation or required change or dispute the recommendation or required change. If the Sports Wagering Operator disputes the recommendation or required change, the Sports Wagering Operator shall also provide the reason(s) for its dispute. Any such dispute shall be resolved by the Commission.
- (4) The Commission or the Executive Director may revisit any provision of a Sports Wagering Operator's Internal Controls at any time and render recommendations and required changes as necessary. If the Commission or Executive Director renders any such recommendations and required changes, the Commission or Executive Director shall provide the Sports Wagering Operator a reasonable period to implement any such recommendations and required changes. Upon approval by the Executive Director, the Executive Director shall issue a written approval to the Sports Wagering Operator, including any associated conditions.
- (5) If a Sports Wagering Operator seeks to change any provision of its approved Internal Controls, the Sports Wagering Operator shall submit the proposed change, including an explanation thereof, and new certifications from its chief legal and financial officers consistent with 205 CMR 238.02(7)(i) and (j), to the Commission within 15 days of determining that such a change is necessary. The Commission shall refer the proposed change to the Executive Director who shall review the proposal for compliance with 205 CMR 238.00. Changes to the system of Internal Controls will generally be permitted if the proposed change does not lessen the applicable administrative, accounting, or physical control the Sports Wagering Operator has over its operations in the Commonwealth. Upon completion of review, the Executive Director shall either approve the proposed change or advise the Sports Wagering Operator in writing as to why the proposal does not comply with 205 CMR 238.00. The Sports Wagering Operator may appeal the Executive Director's determination to the Commission, which shall resolve the dispute. Approved changes shall be maintained as part of the approved Internal Controls.
- (6) A Sports Wagering Operator shall not implement modifications to Internal Controls until approved by the Executive Director or the Commission. Until such time, the Sports Wagering Operator shall continue to implement the most recently approved Internal Controls; provided, however, that if the Executive Director does not object to or otherwise respond to the submission in writing within 15 business days of receipt of the submission, the Sports Wagering Operator may implement

the proposed change subject to further direction by the Executive Director in accordance with 205 CMR 238.02(4).

- (7) The Internal Controls shall, at a minimum, include the following:
- (a) Administrative controls which include, as their primary objective, policies and procedures designed to assure that all activities and transactions of the Sports Wagering Operator are instituted and completed in accordance with applicable policy or procedure;
  - (b) Accounting controls which include, as their primary objective, procedures to assure that all activities and transactions of the Sports Wagering Operator are accurately reported and recorded in accordance with generally accepted accounting principles;
  - (c) Reporting controls which include policies and procedures for the timely furnishing of economic and social impact reports, and standard financial and statistical reports and information in accordance with 205 CMR 239.00;
  - (d) For Category 1 Sports Wagering Operators and Category 2 Sports Wagering Operators, the Internal Controls required for a gaming establishment as specified in 205 CMR 138.00: *Uniform Standards of Accounting Procedures and Internal Controls* shall apply to a Sports Wagering Area and Sports Wagering Facility. Where compliance with the provisions of both 205 CMR 138 and 205 CMR 238 is not possible, a Gaming Licensee or Sports Wagering Operator shall comply with 205 CMR 138 with respect to gaming operations and 205 CMR 238.00 with respect to Sports Wagering Operations and identify its intent to do so in its written system of Internal Controls;
  - (e) Access controls which include, as their primary objective, the safeguarding of the Operator's assets, including but not limited to, organizational safeguards, such as segregation of duties between incompatible functions, and physical safeguards, such as restricted access to assets and routine security devices such as cameras and locking doors. Such access controls shall be consistent with the requirements in 205 CMR 141.00 regarding surveillance of gaming establishments;
  - (f) An infrastructure and data security plan which employs technical security controls as described in 205 CMR 243.01;
  - (g) A plan to ensure compliance with 205 CMR 240.00 with respect to tax remittance and reporting;
  - (h) All applicable policies and procedures required pursuant to 205 CMR 238.04 through 238.72 and procedures and practices specified in 205 CMR 243.01;



- (i) A certification by the Sports Wagering Operator's chief legal officer that the submitted Internal Controls conform to M.G.L. c. 23N, 205 CMR 238.00, and any applicable regulations referenced therein;
  - (j) A certification by the Sports Wagering Operator's chief financial officer that the submitted Internal Controls provide adequate and effective controls, establish a consistent overall system of internal procedures and administrative and accounting controls, and conform to generally accepted accounting principles and 205 CMR; and
  - (k) A plan to ensure compliance with the Operator's House Rules, including House Rules issued in conformance with 205 CMR 243.00.
- (8) If the Sports Wagering Operator intends to utilize any new technology not identified in its initial Internal Controls proposal, it shall submit the changes to its system of Internal Controls to incorporate the use of any such new technology to the Commission, which shall refer the proposed change to the Executive Director who shall review the proposal in accordance with 205 CMR 238.02(4).
- (9) (a) If a Sports Wagering Operator seeks to incorporate a provision in its Internal Controls that is not permitted under 205 CMR 238.00, or to exclude a provision required by 205 CMR 238.00, it may petition the Executive Director for permission to do so by including, in its Internal Controls filing, its proposal or petition to change a provision of the Internal Controls in accordance with 238.02(5), along with a citation to the applicable provision of 205 CMR 238.00 and a written explanation as to why the exemption is appropriate. The Executive Director may allow the exemption upon a finding that the proposal is at least equivalent to the relevant provision contained in 205 CMR 238.00. If the Executive Director grants such exemption, the Executive Director shall issue a written approval of the exemption in accordance with 205 CMR 238.02(3), and shall file with the Commission a report describing the exemption, identifying the provision of 205 CMR 238.00 from which an exemption was granted and providing the general reason for granting the exemption.
- (b) In the event that a Sports Wagering Operator is temporarily unable to abide by a provision of its Internal Controls, the Bureau may, upon written request by the Sports Wagering Operator, grant a limited temporary exemption from a provision of the Sports Wagering Operator's Internal Controls, provided that: (i) such exemption shall not to exceed 48 hours; (ii) the provision relates to the operation of Sports Wagering; and (iii) the exemption is supported by good cause showing that the health, safety or welfare of the public or the integrity of Sports Wagering will not be adversely impacted by the exemption. Where the circumstances warrant, such an exemption may be renewed by the Bureau for one additional 48 hour period. All such requests and determinations shall be documented and submitted to the Executive Director for review as promptly as possible.

- (10) The Commission and the Bureau may take any steps necessary to investigate and enforce a Sports Wagering Operator's Internal Controls for compliance with 205 CMR 238.00. The Sports Wagering Operator shall, through either independent or internal auditors, periodically compare its approved system of Internal Controls, as written, to the system actually in place and operating for the purpose of identifying areas of non-compliance, if any, so as to take immediate corrective action.
- (11) The Commission or its designee may perform any inspection necessary in order to determine conformance with the approved Internal Controls.
- (12) The Sports Wagering Operator shall maintain in its records a complete set of its system of Internal Controls in effect at that time.
- (13) The Sports Wagering Operator shall submit all filings and records required pursuant to 205 CMR 238.00 electronically to the Commission, unless otherwise directed by the Commission.
- (14) To the extent a third-party is involved in or provides any of the Internal Controls required pursuant to 205 CMR 238.00, the Sports Wagering Operator's Internal Controls shall document the roles and responsibilities of the third-party and shall include procedures to evaluate the adequacy of and monitor compliance with the third-party's system of Internal Controls.

238.03: Records Regarding Company Ownership

The Sports Wagering Operator shall maintain all records regarding the Sports Wagering Operator's ownership, as described in 205 CMR at a location determined by the Sports Wagering Operator, provided that the Commission shall be notified of such location. The Commission shall be granted prompt and unfettered access to all such records upon request.

238.04: Sports Wagering Operator's Organization

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include tables of organization, which shall include the provisions required in 205 CMR 138.04(1).
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include provisions detailing the structure, function, and area of responsibility for the following mandatory departments and supervisory positions:
  - (a) For Category 1 Sports Wagering Operators or Category 2 Sports Wagering Operators, a surveillance department as described in 205 CMR 138.04(2)(a);
  - (b) An internal audit department as described in 205 CMR 138.04(2)(b);
  - (c) An IT department as described in 205 CMR 138.04(2)(c);

- (d) A Sports Wagering department supervised by an executive who shall be responsible for the management of the Sports Wagering department. The Chief Sports Wagering Executive shall be responsible for the operation and conduct of all Sports Wagering;
- (e) For Category 1 Sports Wagering Operators or Category 2 Sports Wagering Operators, a security department as described in 205 CMR 138.04(2)(e);
- (f) An accounting department as described in 205 CMR 138.04(2)(f);
- (g) A compliance committee as described in 205 CMR 138.04(2)(g); and
- (h) An independent audit committee as described in 205 CMR 138.04(2)(h).

Each of the mandatory departments and supervisors shall cooperate with, yet perform its functions independently of, all other mandatory departments and supervisors.

- (3) All departments required pursuant to 205 CMR 138.04(2) and the Sports Wagering Department shall be supervised at all times by at least one individual who has been licensed in accordance with 205 CMR 235.00, or is exempt from such licensure under 205 CMR 235.01.
- (4) The chief executives of the surveillance and internal audit departments required by 205 CMR 238.04(2) shall comply with the reporting requirements of 205 CMR 138.04(4).
- (5) In the event of a vacancy in the chief executive officer position, the Chief Sports Wagering Executive, or any executive position responsible for management of one of the mandatory departments set forth in 205 CMR 238.04(2)(a) through (f), the Sports Wagering Operator shall continue to meet the requirements of 205 CMR 138.00 and 205 CMR 238.00.
- (6) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include, and a Sports Wagering Operator shall maintain on file, a current table of organization delineating the lines of authority for all personnel engaged in the operation of Sports Wagering. The table of organization shall, for each department and division, include direct and indirect lines of authority within the department or division.
- (7) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan for ensuring that all Sports Wagering employees employed by the Sports Wagering Operator are properly trained in their respective professions. Proper training of a Sports Wagering employee in the respective field for which the Sports Wagering employee is or shall be employed by the Sports Wagering Operator may be established as set forth in 205 CMR 138.04(7).

238.05: System for Ensuring Employees Are Properly Licensed or Registered

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan for ensuring that all individuals employed by an Operator to perform duties directly related to the operation of Sports Wagering in the Commonwealth in a supervisory role are properly licensed in accordance with 205 CMR 235.00: *Sports Wagering Occupational Licensing*. The system of Internal Controls shall include, without limitation, the procedures outlined in 205 CMR 138.05(1).
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan for reporting to the Commission on a bi-monthly basis and in a format as directed by the Commission, the information required by 205 CMR 138.05(2) for each individual licensed in accordance with 205 CMR 235.00: *Sports Wagering Occupational Licensing*.

238.06: System for Business Dealings with Sports Wagering Vendors

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan for ensuring that all Persons conducting business with a Sports Wagering Operator as a Sports Wagering Vendor are properly licensed or registered in accordance with 205 CMR 234.00: *Sports Wagering Vendors*, if necessary. The system of Internal Controls shall include, without limitation, the procedures outlined in 205 CMR 138.06(1).
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan for providing a Disbursement Report to the Commission on a bi-monthly basis and in a format as directed by the Commission. The Disbursement Report shall reflect, for each Sports Wagering Vendor licensed or registered in accordance with 205 CMR 234.00: *Sports Wagering Vendors*, the information required by 205 CMR 138.06(2)
- (3) Each Sports Wagering Operator shall maintain a fully signed copy of every written agreement and records. With respect to every unwritten agreement to which it a Sports Wagering Operator is a party, the Sports Wagering Operator shall provide, at a minimum, the information required by 205 CMR 138.06(3).

238.07: Information Security Responsibilities

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure that an Information Security Management System (ISMS) is effectively implemented and information security function responsibilities are effectively allocated.

- (1) The Sports Wagering Operator shall implement, maintain, and comply with a comprehensive ISMS, the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personally identifiable

information of individuals that place a Sports Wager with the Sports Wagering Operator,

- (2) The ISMS shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the personally identifiable information owned, licensed, maintained, handled, or otherwise in the possession of the Sports Wagering Operator.
- (3) The Sports Wagering Operator shall establish an information security forum or other organizational structure to monitor and review the ISMS to ensure its continuing suitability, adequacy and effectiveness. The information security forum or other organization structure shall maintain formal minutes of meetings, and convene at least every six (6) months.
- (4) The Sports Wagering Operator shall maintain an information security department responsible for developing a security strategy in accordance with the overall operation of the Sports Wagering Operation in the Commonwealth. The information security department shall subsequently work with the other departments of the Sports Wagering Operator to implement any plans relative to the protection of personally identifiable information of individuals that place a Sports Wager with the Sports Wagering Operator. The information security department shall be involved in reviewing all tasks and processes that are necessary for the Sports Wagering Operator to maintain the security of personally identifiable information of individuals that place a Sports Wager with the Sports Wagering Operator, including, but not limited to, the protection of information and data, communications, physical, virtual, personnel, and overall business operational security.
- (5) The information security department shall report to executive level management or higher and shall be independent of the IT department with regard to the management of security risk.
- (6) The information security department shall have access to all necessary resources to enable the adequate assessment, management, and reduction of risk.
- (7) The head of the information security department shall be a full member of the information security forum and be responsible for recommending information security policies and changes to the Sports Wagering Operator.

238.08: Accounting Records

- (1) A Sports Wagering Operator shall maintain complete, accurate, and legible records of all transactions pertaining to the revenues and costs for the Sports Wagering Operation, including those required in accordance with M.G.L. c. 23N and 205 CMR.
- (2) A Sports Wagering Operator shall maintain general accounting records on a double entry system of accounting with transactions recorded on the accrual basis. A

Sports Wagering Operator shall also maintain detailed, supporting, subsidiary records sufficient to meet the requirements of M.G.L. c. 23N and 205 CMR.

238.09: Retention, Storage and Destruction Records

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a records retention schedule, and provisions related to the storage and destruction of records that, at a minimum, incorporates the provisions specified in 205 CMR 138.09(1). In addition, the Operator's records retention schedule shall include provisions by category relative to all Sports Wagering related records and records relative to Sports Wagering Vendors.
- (2)
  - (a) A Sports Wagering Operator may petition the Commission at any time for approval of a facility to be used to generate or store records required to be retained in accordance with 205 CMR 138.09(1). Such petition shall include:
    1. A detailed description of the proposed facility, including location, security and fire safety systems; and
    2. The procedures pursuant to which Commission agents will be able to gain access to the records retained at the proposed facility.
  - (b) A Sports Wagering Operator may store any records electronically or via other suitable medium approved by the Commission.
- (3) A Sports Wagering Operator shall, except as otherwise provided, notify the Commission and the Gaming Enforcement Division of the Massachusetts Attorney General's Office in writing at least 60 days prior to the scheduled destruction of any record required to be retained in accordance with 205 CMR 238.09(1). Such notice shall list each type of record scheduled for destruction, including a description sufficient to identify the records included, the retention period and the date of destruction.
- (4) The Commission or the Gaming Enforcement Division of the Massachusetts Attorney General's Office may prohibit the destruction of any record required to be retained in accordance with 205 CMR 238.09(1) by notifying the Sports Wagering Operator in writing within 45 days of receipt of the notice of destruction pursuant to 205 CMR 238.09(3) or within the specified retention period. Such original record may thereafter be destroyed only with the consent of the Commission, the Bureau, and the Massachusetts Attorney General's Office.
- (5) The Sports Wagering Operator may utilize the services of a disposal company for the destruction of any records required to be retained in accordance with 205 CMR 238.09(1). Any cash complimentary coupons to be destroyed by a disposal company shall be cancelled with a void stamp, hole punch or similar device, or must contain a clearly marked expiration date which has expired.

- (6) Nothing in 205 CMR 238.00 shall be construed as relieving a Sports Wagering Operator from meeting any obligation to prepare or maintain any book, record or document required by any other federal, state or local governmental body, authority or agency or as otherwise required in its capacity as a Gaming Licensee pursuant to M.G.L. c. 23K and 205 CMR.

238.10: Jobs Compendium Submission

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a jobs compendium detailing job descriptions, chains of command, and lines of authority for all personnel engaged in the operation of Sports Wagering, which meets the provisions specified in 205 CMR 138.10: *Jobs Compendium Submission*.

238.11: Personnel Assigned to the Operation and Conduct of Sports Wagering

Each Sports Wagering Operator shall be required to employ the following personnel in the following manner in the operation of its Sports Wagering regardless of the position titles assigned to such personnel by the Operator in its approved jobs compendium:

- (1) Each Sports Wagering Operator shall at all times maintain a level of staffing that ensures the proper operation and effective supervision of all Sports Wagering.
- (2) Each Category 1 Sports Wagering Operator or Category 2 Sports Wagering Operator shall be required to employ a Sports Wagering manager. The Sports Wagering manager shall be the executive assigned the responsibility and authority for the supervision and management of Sports Wagering employees in a Sports Wagering Area or Sports Wagering Facility, including, without limitation, the hiring and termination of all Sports Wagering employees within a Sports Wagering Area or Sports Wagering Facility.
- (3) The following personnel shall be used to operate Sports Wagering in a Sports Wagering Area or Sports Wagering Facility:
  - (a) Ticket Writers shall be the Persons assigned the responsibility for the operation of a Ticket Writer Station;
  - (b) Sports Wagering supervisors shall be the first level supervisors assigned the responsibility for directly supervising the operation of Sports Wagering in a Sports Wagering Area or Sports Wagering Facility;
  - (c) Sports Wagering shift managers shall be the second level supervisor with the responsibility for the overall supervision of Sports Wagering in a Sports Wagering Area or Sports Wagering Facility for each shift; and
  - (d) The Sports Wagering department manager shall be the executive assigned the responsibility and authority for the supervision and management of the overall operation of the Operator's Sports Wagering Operation. In the absence of the Sports Wagering department manager, the Sports Wagering

shift manager shall have the authority of the Sports Wagering department manager.

238.12: Reserve Requirement

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a plan to maintain and protect sufficient cash and other supplies to conduct Sports Wagering at all times through a reserve in the amount necessary to ensure the security of funds held in Sports Wagering Accounts and the ability to cover the outstanding Sports Wagering liability, including the amounts accepted by the Sports Wagering Operator on Sports Wagers whose outcomes have not been determined and amounts owed but unpaid on winning Sports Wagering tickets or vouchers. The reserve must be in the form of Cash, Cash Equivalents, payment processor reserves, payment processor receivables, an irrevocable letter of credit, a bond, or a combination thereof.
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure funds in Sports Wagering Accounts, including pending withdrawals, are either held:
  - (a) In trust for the patron in a Segregated Account managed in accordance with 205 CMR 248.00; or
  - (b) In a special purpose Segregated Account that is maintained and controlled by a properly constituted corporate entity that is not the Sports Wagering Operator and whose governing board includes one or more corporate directors who are independent of the Sports Wagering Operator and any affiliated Gaming Licensee and of any corporation related to or controlled by either. Said corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit the commingling of its funds with those of the Sports Wagering Operator except as necessary to reconcile the Sports Wagering Accounts. Said special purpose corporate entity must also be:
    1. Restricted from incurring debt other than to patrons pursuant to the rules that govern the patrons' Sports Wagering Accounts;
    2. Restricted from taking on obligations of the Sports Wagering Operator other than obligations to patrons pursuant to the rules that govern the patrons' Sports Wagering Accounts; and
    3. Prohibited from dissolving, merging or consolidating with another company (other than a special purpose corporate entity established by another Sports Wagering Operator that meets the requirements of this section) while there are unsatisfied obligations to patrons.



- (3) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall implement procedures that are reasonably designed to:
  - (a) Ensure that the funds in the Segregated Account do not belong to the Sports Wagering Operator and are not available to creditors other than the patron whose funds are being held; and
  - (b) Prevent commingling of funds in the Segregated Account with other funds including, without limitation, funds of the Sports Wagering Operator.
- (4) A Sports Wagering Operator must have access to all Sports Wagering Accounts and Sports Wager data to ensure the amount of its reserve is sufficient. Unless otherwise directed by the Commission, a Sports Wagering Operator must file a monthly attestation with the Commission, in the form and manner prescribed by the Commission, that funds have been safeguarded in accordance with 205 CMR 238.12.
- (5) The Commission may audit a Sports Wagering Operator's reserve at any time and may direct a Sports Wagering Operator to take any action necessary to ensure the purposes of 205 CMR 238.12 are achieved, including but not limited to, requiring the Sports Wagering Operator to modify the form of its reserve or increase the amount of its reserve.

238.13: Complimentary Services or Items and Promotional Gaming Credits

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include a detailed complimentary distribution program consistent with 205 CMR 138.13: *Complimentary Services or Items and Promotional Gaming Credits*, and a description of its proposed use and distribution of promotional gaming credits.

238.14: Risk Management Framework

- (1) A Sports Wagering Operator must implement risk management procedures. These procedures may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a licensed Sports Wagering Vendor.
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall contain a description of the risk management framework, including but not limited to:
  - (a) Automated and manual risk management procedures;
  - (b) Employee management, including access controls and segregation of duties;

- (c) Information regarding identifying and reporting fraud and suspicious conduct;
  - (d) Controls ensuring regulatory compliance;
  - (e) Description of Anti-Money Laundering (AML) compliance standards;
  - (f) Description of all software applications that comprise the Sports Wagering Equipment;
  - (g) Description of all types of Sports Wagers available to be offered by the Sports Wagering Operator;
  - (h) Description of the method to prevent past-post Wagers from being placed;
  - (i) Description of all integrated third-party platforms; and
  - (j) Any other information which may be required by the Commission.
- (3) A Sports Wagering Operator shall file with the Commission, in a manner and form approved by the Commission, a report of any error that occurs in offering an event or Wager or if an unapproved Sporting Event or Wager category is offered to the public.

238.15: Taxation Requirements

- (1) The Sports Wagering Operator shall comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to tax withholding, and providing information about payouts and withholdings to taxing authorities and to patrons. A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure compliance with all Internal Revenue Service (IRS) requirements. The Sports Wagering Operator shall make tax withholdings and provide tax and revenue reporting as required by the IRS and Department of Revenue.
- (2) The Sports Wagering Operator shall disclose potential tax liabilities to patrons at the time of award of any payout in excess of limits set by the IRS, whether such payouts are made at a Gaming Establishment, Sports Wagering Facility or via a Sports Wagering Platform. Such disclosures shall include a statement that the obligation to pay applicable taxes on payouts is the responsibility of the patron and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability. Upon written request, the Sports Wagering Operator shall provide patrons with summarized tax information on the patrons' Sports Wagering activities.

238.16: Bank Secrecy Act Compliance

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure compliance with all provisions of

The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, applicable to the operation of Sports Wagering.

- (2) A Sports Wagering Operator shall, with regard to its Sports Wagering Operation, maintain records related to its compliance with The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, including all currency transaction reports, suspicious activity reports, and any supporting documentation, for a minimum of five (5) years. The Sports Wagering Operator shall provide such records to the Commission and any appropriate law enforcement agencies upon request consistent with the authorization prescribed in The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, and applicable regulations.
- (3) A Sports Wagering Operator shall provide written notice to the Commission as soon as the Sports Wagering Operator becomes aware of a compliance review that is conducted by the Internal Revenue Service under The Bank Secrecy Act of 1970, 31 USC §§ 5311 to 5332, and involves or impacts the Sports Wagering Operator's Sports Wagering Operation. The Sports Wagering Operator shall provide a copy of the compliance review report or the equivalent to the Commission within ten (10) days of receipt of the report by the Sports Wagering Operator.

238.17: Anti-Money Laundering (AML) Monitoring

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall implement AML procedures and policies that adequately address the risks posed by Sports Wagering for the potential of money laundering and terrorist financing. At a minimum, the AML procedures and policies shall provide for:

- (1) Controls to assure ongoing compliance with the local AML regulations and standards observed by the Commission pursuant to M.G.L. c. 23K and 23N and 205 CMR;
- (2) Up to date training of employees in the identification of unusual or suspicious transactions;
- (3) Assigning an individual or individuals to be responsible for all areas of AML by the Sports Wagering Operator, including reporting unusual or suspicious transactions;
- (4) Use of any automated data processing systems to aid in assuring compliance; and
- (5) Periodic independent tests for compliance with a scope and frequency as required by the Commission. Logs of all tests shall be maintained and available for Commission inspection upon request.

238.18: Integrity Monitoring/Suspicious Behavior

- (1) A Sports Wagering Operator shall implement integrity monitoring procedures. These procedures may be provided in-house by a unit capable of performing this function with appropriate segregation of functions and reporting duties, or by a licensed Sports Wagering Vendor.
- (2) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include provisions for a Sports Wagering Operator to, within a reasonable timeframe approved by the Commission, report the following to the Commission:
  - (a) Any facts or circumstances related to the operation of a Sports Wagering Operator that constitute a violation of state or federal law and also promptly report to the appropriate state or federal authorities any suspicious betting over a threshold set by the Sports Wagering Operator, as approved by the Commission;
  - (b) Any information regarding irregularities in volume or changes in odds that could signal suspicious activities which were identified in accordance with M.G.L. c. 23N, § 12(a)(i);
  - (c) Any information relating to criminal or disciplinary proceedings commenced against the Sports Wagering Operator in connection with its operations;
  - (d) Any information relating to the following, which shall also be reported to the relevant Sports Governing Body:
    1. Abnormal betting activity or patterns that may indicate a concern with the integrity of a Sporting Event;
    2. Any potential breach of the internal rules and codes of conduct pertaining to Sports Wagering of a relevant Sports Governing Body;
    3. Any other conduct that corrupts a betting outcome of a Sporting Event for purposes of financial gain, including, but not limited to, match-fixing; ~~or~~
    4. Suspicious or illegal Wagering activities, including, but not limited to, use of funds derived from illegal activity, Wagers to conceal or launder funds derived from illegal activity, use of agents to place Wagers, and use of a false identification;
    - 4.5. Complaints of an athlete engaging in prohibited wagering conduct.
- (3) A Sports Wagering Operator shall maintain the confidentiality of information provided by a Sports Governing Body, and a Sports Governing Body shall maintain the confidentiality of information provided by a Sports Wagering

Operator for purposes of investigating or preventing the conduct described in 205 CMR 238.18(2)(e), unless:

(a) disclosure is required by M.G.L. c. 23N, the Commission, other law or court order; or unless

(b) the Sports Governing Body or Sports Wagering Operator consents to disclosure;

(c) disclosure is necessary for the sSports gGoverning bBody to conduct and resolve integrity-related investigations; or

~~(d)~~ the sSports gGoverning bBody deems in its reasonable judgment that disclosure is necessary to maintain the actual or perceived integrity of its sporting events.-

- (4) A Sports Wagering Operator receiving a report of suspicious betting activity may suspend Wagering on Sporting Events or Wager categories identified in the report, and may place a hold on suspicious Wagers while investigating such suspicious Wagers, but may only cancel or void Sports Wagers related to the report after receiving approval from the Commission.
- (5) Upon request by the Commission or its designee, a Sports Wagering Operator shall provide remote, read-only access and the necessary software and hardware for the Commission to evaluate or monitor, at a minimum, the Sports Wagering Platform and the following:
  - (a) All reports of abnormal betting activity;
  - (b) If the abnormal betting activity was subsequently determined to be suspicious or illegal Wagering;
  - (c) All reports deemed suspicious or illegal Wagering activity; and
  - (d) The actions taken by the Sports Wagering Operator according to its integrity monitoring procedures.
- (6) A Sports Wagering Operator shall use commercially reasonable efforts to cooperate with investigations conducted by Sports Governing Bodies or law enforcement agencies, including, but not limited to, using commercially reasonable efforts to provide or facilitate the provision of anonymized betting information and audio or video files relating to Persons placing Wagers pursuant to M.G.L. c. 23N, § 11(h) and (i). All disclosures pursuant to 205 CMR 238.18(5) are subject to the Sports Wagering Operator's obligation to comply with all federal, state and local laws and regulations, including, but not limited to, laws and regulations relating to privacy and personally identifiable information

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- (7) If required pursuant to M.G.L. c. 23N, § 11(i) or (j), a Sports Wagering Operator shall share with the Commission or the Sports Governing Body or its designee, in a frequency, form and manner to be approved by the Commission, the anonymized betting information required in M.G.L. c. 23N, § 11(i) with respect to Sports Wagers on Sporting Events of the Sports Governing Body. Nothing in this section shall require a Sports Wagering Operator to provide any information that is prohibited by federal, state or local law or regulation, including, but not limited to, laws and regulations relating to privacy and personally identifiable information.
- (8) A Sports Wagering Operator shall maintain records of all integrity monitoring services and activities, including all reports of abnormal or suspicious betting activity and any supporting documentation, for a minimum of five (5) years.
- (9) The Commission may require a Sports Wagering Operator to provide to the Commission, or to an independent testing laboratory approved by the Commission, any hardware or software necessary for the evaluation of its Sports Wagering offering or to conduct further monitoring of Sports Wagering data.

238.19: Responsible Gaming and Problem Gaming Plan

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall contain a Responsible Gaming and Problem Gaming Plan as set forth in 205 CMR 233.06(6).
- (2) At least once every three (3) years, each Responsible Gaming and Problem Gaming Plan shall be subject to an independent audit, as assessed by industry standards and performed by a third-party auditor approved by the Commission, which review shall be paid for by the Sports Wagering Operator.

238.20: Protection of Minors and Underage Youth

The system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include the internal policies and procedures as required in 205 CMR 250.00: *Protection of Minors and Underage Youth*.

238.21: Patron Protection Information

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall provide for the prominent display of patron protection information outlined in 205 CMR 243.01: *Standards for Sports Wagering Equipment*, including the telephone number and website for a problem gambling hotline overseen by the department of public health approved by the Commission pursuant to M.G.L. c. 23N, § 4(d)(3).
- (2) The Sports Wagering Operator's mobile application and digital platform shall prominently display the patron protection information upon each entry into the application or platform.

- (3) The Gaming Establishment or Sports Wagering Facility shall prominently display the patron protection information in locations approved by the Commission.

238.22: Complaints Pertaining to Sports Wagering

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures for receiving, investigating, responding to and reporting on complaints by patrons.

- (1) When a patron makes a complaint, the Sports Wagering Operator shall immediately issue a complaint report, setting out:
  - (a) The name of the complainant;
  - (b) The nature of the complaint;
  - (c) The name of the Persons, if any against whom the complaint was made;
  - (d) The date of the complaint;
  - (e) The action taken or proposed to be taken, if any, by the Sports Wagering Operator; and
  - (f) A numerical identifier to differentiate the Operator and date of complaint.
- (2) All complaints received by a Sports Wagering Operator from a patron, and the Sports Wagering Operator's responses to complaints, shall be retained for at least five (5) years and made immediately available to the Commission upon its request.
- (3) A Sports Wagering Operator shall investigate and attempt to resolve all complaints made by a patron.
- (4) A Sports Wagering Operator shall respond to such complaints in writing within ten (10) business days. If the relief requested in the complaint will not be granted, the response to the complaint shall state the reasons with specificity.
- (5) If the response to a complaint is that more information is needed, the form and nature of the necessary information shall be specifically stated. When additional information is received, further response shall be required within seven (7) business days.
- (6) In its response, the Sports Wagering Operator shall advise the patron of the patron's right to submit the complaint to the Commission in the form and manner prescribed by the Commission.
- (7) Unless otherwise directed by the Commission, the Sports Wagering Operator shall promptly notify the Commission of any complaints related to Sports Wagering Accounts, settlement of Sports Wagers, or illegal activity related to Sports

Wagering which cannot be resolved to the satisfaction of the patron, and the Sports Wagering Operator's response. Such notification shall include the numerical identifier associated with the complaint and the date of the complaint.

- (8) Upon receipt of a complaint from a patron or notification of an unresolved complaint from a Sports Wagering Operator, the Commission may conduct an investigation and direct a Sports Wagering Operator to take any corrective action the Commission considers appropriate.

238.23: Sports Wagering Counter

The system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include policies and procedures relative to the Sports Wagering Counter.

- (1) Each Sports Wagering Counter shall:
  - (a) Be designed and constructed to provide adequate security for the materials stored and the activities performed therein. Such design and construction shall be approved by the Commission;
  - (b) Include manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the surveillance and the security departments;
  - (c) Include one or more Ticket Writer Stations, each of which shall contain:
    - 1. A Ticket Writer's drawer and interface through which financial transactions related to Sports Wagering will be conducted;
    - 2. A permanently affixed number, which shall be visible to the closed circuit television system;
    - 3. Manually triggered silent alarm systems, which shall be connected directly to the monitoring rooms of the surveillance and the security departments; and
    - 4. Full enclosures, unless funds in excess of \$30,000 are either secured in a drop safe approved by the Commission or transferred to the vault or cage.
  - (d) Include closed circuit television cameras capable of accurate visual monitoring and recording of any activities, including the capturing of the patron's facial image when conducting transactions at the counter;
  - (e) Have an alarm for each emergency exit door that is not a mantrap; and



- (f) Include a secure location, such as a vault, for the purpose of storing funds issued by a cage to be used in the operation of Sports Wagering. The vault shall:
  - 1. Be a fully enclosed room, located in an area not accessible to the public;
  - 2. Have a metal door with a locking mechanism that shall be maintained and controlled by the Sports Wagering manager;
  - 3. Have an alarm device that signals the surveillance department whenever the door to the vault is opened; and
  - 4. Have closed circuit television cameras capable of accurate visual monitoring and recording of all activities in the vault.
- (2) A Sports Wagering Counter shall have an operating balance not to exceed an amount described in the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 138.02. Funds in excess of the operating balance shall be transferred to the cage in a secured container by an employee of the counter accompanied by a security officer. Prior to transporting the funds, the security department shall notify the surveillance department that the transfer will take place. The surveillance department shall monitor the transfer. The funds shall be transferred with appropriate documentation.

238.24: Gaming Day

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall incorporate a “gaming day” for accounting purposes.

238.25: Accounting Controls within the Sports Wagering Counter

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall detail the accounting controls for the Sports Wagering Counter, which shall include the following:

- (1) The assets for which each Ticket Writer is responsible shall be maintained on an imprest basis. A Ticket Writer shall not permit any other person to access the Ticket Writer’s imprest inventory.
- (2) A Ticket Writer shall begin a shift with an imprest amount of currency and coin to be known as the “wagering inventory.” No funds shall be added to or removed from the Wagering inventory during such shift except:

- (a) In collection of Sports Wagers;
  - (b) In order to make change for a patron placing a Sports Wager;
  - (c) In collection for the issuance of Sports Wagering vouchers;
  - (d) In payment of winning or properly cancelled or refunded Wagers;
  - (e) In payment of Sports Wagering vouchers;
  - (f) To process deposits or withdrawals to or from a patron's Sports Wagering Account; or
  - (g) In exchanges with the cashier's cage, a satellite cage, or vault supported by proper documentation which documentation shall be sufficient for accounting reconciliation purposes.
- (3) A "Wagering Inventory Slip" shall be completed and signed by the Wagering shift manager, and the following information, at a minimum, shall be recorded thereon at the commencement of a shift:
- (a) The date, time, and shift of preparation;
  - (b) The denomination of currency and coin in the Wagering inventory issued to the Ticket Writer;
  - (c) The total amount of each denomination of currency and coin in the Wagering inventory issued to the Ticket Writer;
  - (d) The Ticket Writer station to which the Ticket Writer is assigned; and
  - (e) The signature of the Wagering shift manager.
- (4) A Ticket Writer assigned to a Ticket Writer station shall count and verify the Wagering inventory at the vault or other approved location and shall agree the count to the Wagering Inventory Slip. The Ticket Writer shall sign the count sheet attesting to the accuracy of the information recorded thereon. The Wagering inventory shall be placed in a Ticket Writer's drawer and transported directly to the appropriate Ticket Writer station by the Ticket Writer.
- (5) Whenever funds are transferred from the vault to a Ticket Writer, the Wagering shift manager responsible for the vault shall prepare a two-part Writer Transfer-Out form. Upon completion of the form, the original shall be retained by the vault manager and the duplicate shall be retained by the Ticket Writer. The form shall include, at a minimum, the:
- (a) Date and time of the transfer;
  - (b) Designation of the vault location;

- (c) Ticket Writer Station to where the funds are being transferred to;
  - (d) Amount of each denomination being transferred;
  - (e) Total amount of the transfer;
  - (f) Signature of the preparer of the transfer;
  - (g) Signature of the manager verifying and issuing the funds; and
  - (h) Signature of the Ticket Writer verifying and receiving the funds.
- (6) Whenever funds are transferred from the Ticket Writer to a vault, a two-part Writer Transfer-In form shall be prepared. Upon completion of the form, the original shall be retained by the Ticket Writer and the duplicate shall be immediately returned with the funds to the vault. The form shall include, at a minimum, the:
- (a) Date and time of the transfer;
  - (b) Designation of the vault location where the funds are being transferred to;
  - (c) Ticket Writer station to where the funds are being transferred from;
  - (d) Amount of each denomination being transferred;
  - (e) Total amount of the transfer;
  - (f) Signature of the Ticket Writer verifying and sending the funds to the vault; and
  - (g) Signature of the manager verifying and receiving the funds.
- (7) At the conclusion of a Ticket Writer's shift, the Ticket Writer's drawer and its contents shall be transported directly to the vault or to a location approved by the Commission in the Sports Wagering Counter, where the Ticket Writer shall count the contents of the drawer and record the following information, at a minimum, on the Wagering Inventory Slip:
- (a) The date, time, and shift of preparation;
  - (b) The denomination of currency, coin, gaming chips, where applicable, and coupons in the drawer;
  - (c) The total amount of each denomination of currency, coin, gaming chips, and coupons in the drawer;
  - (d) The total of the Writer Transfer-Out forms;
  - (e) The total of the Writer Transfer-In forms;

- (f) The total amount in the drawer; and
  - (g) The signature of the Ticket Writer.
- (8) The Wagering shift manager shall compare the Ticket Writer closing balance to the Wagering Inventory Slip total, record any over or short amount, and sign the Wagering Inventory Slip.
- (9) If the Wagering Inventory Slip lists an overage or shortage, the Ticket Writer and the Wagering shift manager shall attempt to determine the cause of the discrepancy in the count. If the discrepancy cannot be resolved, such discrepancy shall be reported to the surveillance department and the Wagering manager or department supervisor in charge at such time. Any discrepancy in excess of \$500.00 shall be reported to the Commission. Such report shall include the following:
- (a) Date on which the discrepancy occurred;
  - (b) Shift during which the discrepancy occurred;
  - (c) Name of the Ticket Writer;
  - (d) Name of the Wagering shift manager;
  - (e) Ticket Writer Station number; and
  - (f) Amount of the discrepancy.
- (10) Whenever funds are transferred from the vault to the cashier's cage, the Wagering shift manager responsible for the vault shall prepare a two-part Vault Transfer-Out form. Upon completion of the form, the original shall be retained by the vault manager and the duplicate shall be transferred with the funds to the cashier's cage. The form shall include, at a minimum, the:
- (a) Date and time of the transfer;
  - (b) Designation of the vault location;
  - (c) Designation of the cage location;
  - (d) Amount of each denomination being transferred;
  - (e) Total amount of the transfer;
  - (f) Signature of the preparer of the transfer;
  - (g) Signature of the vault manager verifying and issuing the funds; and
  - (h) Signature of the cage cashier verifying and receiving the funds.

- (11) Whenever funds are transferred from the cashier's cage to a vault, a two-part Vault Transfer-In form shall be prepared. Upon completion of the form, the original shall be retained by the cage cashier and the duplicate shall be transferred with the funds to the vault. The form shall include, at a minimum, the:
  - (a) Date and time of the transfer;
  - (b) Designation of the vault location where the funds are being transferred to;
  - (c) Cashier location where the funds are being transferred from;
  - (d) Amount of each denomination being transferred;
  - (e) Total amount of the transfer;
  - (f) Signature of the cage cashier verifying and sending the funds to the vault;  
and
  - (g) Signature of the vault manager verifying and receiving the funds.

238.26: Procedures for Acceptance of Tips or Gratuities from Patrons

- (1) An employee of a Sports Wagering Operator, other than an Occupational Licensee, may accept a Sports Wagering ticket as a tip Wager so long as the employee did not solicit the Sports Wagering ticket, did not participate in the selection of the Wager and the Sports Wagering ticket is placed into a tip pool.
- (2) A tip or gratuity may be provided electronically to a dealer or employee of a Sports Wagering Operator upon initiation and authorization by a patron. A Sports Wagering Operator shall include in its Internal Controls the method utilized for the distribution of electronic tips or gratuities and ensure that a report listing all electronic tips shall be available from the system where the transaction occurred.
- (3) An Occupational Licensee may not accept a tip or gratuity from a patron of the Sports Wagering Operator.

238.27: Prohibition of Credit Extension

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include controls relating to the prohibition of a Sports Wager, issuance of cash, or deposit of funds into a Sports Wagering Account that is derived from the extension of credit by affiliates or agents of the Sports Wagering Operator pursuant to M.G.L. c. 23N, § 4(d)(2)(viii). For purposes of 205 CMR 238.27, credit shall not be deemed to have been extended where, although funds have been deposited into a Sports Wagering Account, the Sports Wagering Operator is awaiting actual receipt of such funds in the ordinary course of business.

- (1) Credit providers such as small amount credit contracts (payday lending) shall not be advertised or marketed to patrons.

- (2) A patron shall not be referred to a credit provider to finance their Sports Wagering activity.
- (3) Personally identifiable information related to a patron shall not be provided to any credit provider.

238.28: Events, Odds and Result Management

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures regarding the selection of the events and for setting and updating the odds, wagering margins or blocking events, as well as for receiving the results from reliable sources. Procedures shall exist for validating accuracy and preventing fraudulent activities. Such procedures shall be based on the respect of integrity, responsible gaming, and ensuring transparency.

238.29: Monitoring the Sports Wagering Activities

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures for monitoring all changes to odds or blocking throughout a Sporting Event, monitoring of the Wager category, events and patron transactions for the detection of irregularities, monitoring of winners over a certain amount of gains, and deposits over a certain size. Such procedures shall also specify thresholds of payment and methods of collection.

238.30: Acceptance of Sports Wagers

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures relative to the Sporting Events and their Wager categories offered for Sports Wagering pursuant to 205 CMR 247.00: *Uniform Standards of Sports Wagering*. Such procedures shall include the following:

- (1) The adoption, maintenance and updating of House Rules;
- (2) Processes for submitting or receiving approval for Sporting Events and Wager categories;
- (3) Descriptions of the processes for accepting Wagers and issuing payouts, plus any additional controls for accepting Wagers and issuing payouts in excess of \$10,000;
- (4) Descriptions of the processes for accepting multiple Wagers from one patron in a 24-hour cycle, including the process to identify structuring of Wagers to circumvent recording and reporting requirements;
- (5) Identification of all data sources used in a Sports Wager determination;
- (6) Description of the processes for line setting and line moving;

- (7) Procedures to review the completeness, accuracy, reliability, timeliness, and availability of any data feeds used to offer or settle Sports Wagers;
- (8) Processes for submitting or receiving approval for Sports Wagering tournaments, contests, or pools;
- (9) Procedures for issuance and acceptance of promotional gaming credits for Sports Wagering; and
- (10) Procedures to identify a Wager or an attempt to Wager above any maximum Wager threshold set by the Sports Wagering Operator that qualifies as unusual or suspicious Wagering.

238.31: In-Game or In-Play Wagering

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures to assure and monitor the integrity of the in-game or in-play Wagering offering, the results handling and patron protection. Indicative areas for consideration in the procedure for results handling shall include, but not be limited to, time delays, sources of results, and reversal of results. The procedures shall also account for courtsiding prevention mechanisms including a delay in live pictures.

238.32: Restricted Patrons

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall [meet the requirements of 205 CMR 243.01\(1\)\(t\) and](#) include the following in accordance with M.G.L. c. 23N, § 11(a):

- (1) No Sports Wagering Operator, directors, officers, owners, ~~and~~ employees, [subcontractors, or Qualifiers](#) of the Sports Wagering Operator, [as well as those within or any relative living in](#) the same household as any such Person, may place Sports Wagers with the Sports Wagering Operator, [or with any other Sports Wagering Operator tethered to the Operator, on any event, except in private pools where the player's association with the Sports Wagering Operator is clearly disclosed](#). Nor may such individual place Sports Wagers through another person as a proxy or agent. However, Sports Wagering Operator employees may use clearly marked test accounts for testing purposes such as evaluating a Sports Wagering Platform. Sports Wagering Operators shall make these restrictions known to all affected individuals and corporate entities.
- (2) No individual with proprietary or non-public information held by the Sports Wagering Operator may place Sports Wagers with the Sports Wagering Operator, ~~or with any other Sports Wagering Operator tethered to the Operator~~. Nor may such individual place Sports Wagers through another person as a proxy or agent. Sports Wagering Operators shall make these restrictions known to all affected individuals and corporate entities.

- (3) No Sports Wagering Operator shall allow a professional or athlete, coach, referee, team owner, employee of a Sports Governing Body or its member teams and patron and referee union personnel, place Sports Wagers on events in the sport in which the individual participates, or in which the athlete the individual represents participates. Nor may such athlete, sports agent, team official, team representative, referee or league official place Wagers through another person as a proxy or agent. A Sports Wagering Operator may not be held liable for a violation of 205 CMR 238.32(3) if:
- (a) The Sports Wagering Operator makes commercially reasonable efforts to obtain lists of such Persons for the purpose of implementing 205 CMR 238.32, such as by monitoring for and restricting accounts of such Persons;
  - (b) The Sports Wagering Operator makes these restrictions known to all affected individuals and corporate entities;
  - (c) The Sports Governing Body in which the athlete, sports agent, team official, team representative, referee or league official participates, maintains and enforces a policy that excludes such individuals from placing Wagers in that sport;
  - (d) The Commission had previously used the list of barred employees from the Sports Wagering Operator in accordance with M.G.L. c. 23N, § 11(a)(ii), and worked directly with a member team to determine the risk posed by certain employees for obtaining nonpublic confidential information on a Sporting Event and removed an employee without knowledge of team strategy or game operations from such a list after the Commission determined any such risk is de minimis; and
  - (e) The Sports Wagering Operator, upon learning of a violation of 205 CMR 238.48(3), informs the Commission, immediately bars the individual committing the violation from Sports Wagering by suspending such individual's Sports Wagering Account and banning such individual from further Sports Wagering, terminates any existing promotional agreements with such individual and refuses to make any new promotional agreements that compensate such individual.
- (4) The Sports Wagering Operator shall prevent persons from placing Sports Wagers as agents or proxies for others.

238.33: Prohibited Persons

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include commercially reasonable methods to prevent a prohibited person from placing a Sports Wager.

- (1) For the purposes of 205 CMR 238.33, a prohibited person refers to:



(a) Any individual prohibited from Sports Wagering pursuant to 205 CMR 152.00;

~~(a)(b)~~ Any individual prohibited from Sports Wagering pursuant to 205 CMR 250.00;

~~(b)(c)~~ Any individual who is self-excluded from Sports Wagering pursuant to 205 CMR 233.00;

~~(e)(d)~~ Any individual who is prohibited from or subject to limitations regarding Sports Wagering pursuant to 205 CMR 254.00 and 255.00;

~~(d)(e)~~ Any individual Wagering while not in the authorized geographic boundaries within the Commonwealth;

~~(e)(f)~~ Any individual placing Sports Wagers as agents or proxies for others;

~~(f)(g)~~ Any restricted patron Wagering in violation of their restrictions established in 205 CMR 238.32;

~~(g)(h)~~ Any individual Wagering in violation of state, local or federal law; or

~~(h)(i)~~ Other prohibited Persons as determined by the Commission.

- (2) If a Sports Wagering Operator detects, or is notified of, an individual suspected of being a prohibited Person who has engaged or is engaging in prohibited Sports Wagering, the Sports Wagering Operator, shall use reasonable measures to verify whether the individual is prohibited or not.
- (3) If the Sports Wagering Operator establishes, by reasonable measures, that the individual is prohibited, the Sports Wagering Operator shall cancel the individual's Sports Wager and confiscate any resulting funds.
- (4) If the Sports Wagering Operator is unable to establish, by reasonable measures, that the individual is prohibited, then the individual is presumed to not be a prohibited Person for the purposes of 205 CMR 238.33.

238.34: Layoff Wagers

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures for a Sports Wagering Operator to accept layoff Wagers placed by other Sports Wagering Operators and place layoff Wagers with other Sports Wagering Operators for the purpose of offsetting patron Sports Wagers.

- (1) The Sports Wagering Operator placing a layoff Wager shall inform the Sports Wagering Operator accepting the Wager that the Wager is being placed by a Sports Wagering Operator and shall disclose the Operator's identity pursuant to M.G.L. c. 23N, § 13(c).

- (2) The Sports Wagering Operator may decline to accept a layoff Wager in its sole discretion.
- (3) Layoff wagers shall be reported to the Commission.

238.35: Cancelled or Voided Wagers

For any transaction where a Sports Wagering Operator may cancel or void a Wager, with or without prior authorization of the Commission, the Sports Wagering Operator shall submit a system of Internal Controls in accordance with 205 CMR 238.02 for voiding Wagers and subsequent allocation of patron funds. Such system shall include, at a minimum, the following:

- (1) Cancellation of an otherwise validly placed Wager by a Sports Wagering Operator shall be nondiscretionary. A Sports Wagering Operator shall ~~only~~ cancel or void a Wager without prior authorization of the Commission under the following circumstances:
  - (a) Any Wager where after a patron has placed a Sports Wager, the Sporting Event is cancelled, postponed or rescheduled to a different date prior to completion of the Sporting Event;
    - 1. In the case of a Wager on a portion of a Sporting Event, that Wager shall be valid when the event is canceled, postponed, or rescheduled if the outcome of the affected portion was determined prior to the cancellation, postponement or rescheduling; or
    - 2. A Sports Wagering Operator may establish a timeframe in which an event may be rescheduled or postponed without canceling the wager. This timeframe shall be tied to specific Sporting Events, subject to the approval of the Commission, and documented in the system of Internal Controls.
  - (b) A change in the venue where a Sporting Event was scheduled to be held occurs after a patron has placed a Sports Wager;
  - (c) Any tier 1 Sports Wager in a non-team event when an individual athlete or competitor fails to participate in a Sporting Event and the outcome of the Wager is solely based upon the individual athlete or competitor's performance;
  - (d) Any tier 2 Sports Wager when an individual athlete or competitor fails to participate in a Sporting Event and the outcome of the wager is solely based upon that individual athlete or competitor's performance;
  - (e) Any Sports Wager received for an act, or set of acts, to be performed during a Sporting Event when such act or acts does not occur and the ability to Wager on the non-occurrence of the event was not offered. For example, a

Sports Wager on punt return yardage in an American football game where no punts occur and zero was not an available Wager;

- (f) Any Wager received on whether a team will qualify to participate in post-season competitions when the number of teams allowed to participate in the post-season changes after a patron has placed a Wager;
- (g) Changes to rules by a Sports Governing Body regarding the format or number of athletes or competitors scheduled to participate in a defined phase of a sporting event or that particular phase is not played at all;
- (h) A material change in circumstances for a given Sporting Event or Wager category occurs, provided:
  - 1. The Commission approves the material change;
  - 2. The Sports Wagering Operator documents the material change in its system of Internal Controls; and
  - 3. The Sports Wagering Operator displays the material change to a patron at the time of placement of the Sports Wager.
- (i) Where the Sports Wagering Operator has reasonable basis to believe there was an obvious error in the placement or acceptance of the Wager, including, but not limited to:
  - 1. The Wager was placed with incorrect odds;
  - 2. Human error in the placement of the Wager;
  - 3. The Sports Wagering ticket does not correctly reflect the Wager; or
  - 4. Sports Wagering Equipment failure rendering a Sports Wagering ticket unreadable.
- (j) When a patron requests a Sports Wager be cancelled or voided prior to the commencement of the Sporting Event due to:
  - 1. An error in communicating the type, amount or parameters of the Wager; or
  - 2. An error of a Ticket Writer entering such transaction in the Sports Wagering Equipment, in such case the ticket writer must call a supervisor to cancel or void the Wager; or
- (k) When authorized or ordered by the Commission pursuant to 205 CMR 238.51.

- (2) For all circumstances that are not set forth in 205 CMR 238.35(1), a Sports Wagering Operator may request the Commission authorize the cancellation or voiding of all Wagers of a specific type, kind, or subject. A Sports Wagering Operator shall submit its request to cancel or void the Wager in writing, and such request shall contain the following:
  - (a) A description of the type, kind, or subject of Wager the Sports Wagering Operator is requesting to cancel or void;
  - (b) A description of any facts relevant to the request; and
  - (c) An explanation why cancelling or voiding the Wager is in the best interests of the Commonwealth or ensures the integrity of the Sports Wagering industry.
- (3) The Sports Wagering Operator shall provide any additional information requested by the Commission to review and approve the request.
- (4) The Commission shall issue a written order granting or denying the request to cancel or void the Wager. In determining whether to grant or deny the request, the Commission shall consider any relevant factors, including:
  - (a) Whether the alleged facts implicate the integrity of the Sporting Event subject to the Wager or the Sports Wagering industry;
  - (b) Whether the alleged facts implicate possible illegal activity relating to the Sporting Event or the Sports Wagering industry;
  - (c) Whether allowing the Wager would be unfair to patrons; or
  - (d) Whether allowing the Wager is contrary to public policy.
- (5) No Wager subject to the request to cancel or void shall be redeemed, cancelled, or voided, until the Commission or its designee issues an order granting or denying the request to cancel.
- (6) If the Commission or its designee grants the request to cancel or void, the Sports Wagering Operator shall make commercially reasonable efforts to notify patrons of the cancellation or voiding of the Wager.
- (7) The Commission or its designee has discretion to order all Sports Wagering Operators to cancel or void all Wagers on a specific Sporting Event or Wagers of a specific type or kind on a specific Sporting Event. In exercising its discretion, the Commission shall apply the same factors described in 205 CMR 238.35(1).
- (8) A patron may request the Commission or its designee review any Wager declared cancelled or voided by a Sports Wagering Operator. If the Commission or its designee concludes there is no reasonable basis to believe there was obvious error

in the placement or acceptance of the Wager, the Commission or its designee may order the Sports Wagering Operator to honor the Wager.

- (9) If a Wager is declared canceled or voided, the Wager shall be refunded to the patron and that amount shall be deducted from the Adjusted Gross Sports Wagering Receipts. For cancelled or voided Wagers not tied to a Sports Wagering Account, the following shall apply:
  - (a) Any cancelled or voided Wager shall be refunded upon request by a patron prior to the expiration of the original redemption period and shall be deducted from Adjusted Gross Sports Wagering Receipts; and
  - (b) At the expiration of any outstanding cancelled or voided Wager which has not been refunded, the original amount of the outstanding Wager shall be deducted from Adjusted Gross Sports Wagering Receipts and remitted to the Sports Wagering Fund.
- (10) All voided or cancelled Wagers and all refunds of any voided or cancelled Wager pursuant to 205 CMR 238.35 shall be logged at the time they occur and such log must be made available to the Commission upon request.

238.36: Accounting Controls for Sports Wagering Kiosks

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include provisions governing a Sports Wagering Kiosk for the acceptance of Sports Wagers and redemption of winning Sports Wagering tickets and vouchers that comports with 205 CMR 243.00: *Sports Wagering Equipment*.
- (2) The Sports Wagering Operator shall ensure Sports Wagering Kiosks are configured to prohibit the following:
  - (a) Issue or redeem a Sports Wagering Voucher with a value in excess of \$10,000;
  - ~~(b) Accept an anonymous Sports Wager with a potential payout in excess of \$10,000; and~~
  - ~~(e)~~(b) Issue a payout on a Sports Wager in excess of \$10,000 or in excess of limits set by the IRS.

238.37: Sports Wagering Equipment

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures relative to Sports Wagering Equipment that include, at a minimum, provisions to ensure that all Sports Wagering Equipment comport with 205 CMR 243.00: *Sports Wagering Equipment*. Such procedures shall include the following:

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- (1) The location of the servers used for Sports Wagering, including any third-party remote location servers, and what controls will be in place to ensure security of the servers; and
- (2) The procedures and security standards as to receipt, handling, and storage of Sports Wagering Equipment, including within a Sports Wagering Area, Sports Wagering Facility, or Gaming Establishment.

238.38: Change Management

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include change management processes which detail evaluation procedures for identifying the criticality of updates to Sports Wagering Equipment and determining the updates that must be submitted to the approved independent testing laboratory for review and certification. The processes shall be subject to the provisions of 244.03: *Change Management and Integration Requirements*.

238.39: Sports Wagering Accounts

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include procedures relative to Sports Wagering Accounts that include, at a minimum, provisions to ensure that all Sports Wagering Accounts comport with 205 CMR 248.00: *Sports Wagering Account Management*.

238.40: Test Accounts

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include the procedures for establishing test accounts to be used by the Operator and the Commission to test the various components and operation of Sports Wagering Equipment. Such procedures shall include, at a minimum:

- (1) The procedures for issuing funds used for testing, including the identification of who may issue the funds and the maximum amount of funds that may be issued;
- (2) The procedures for assigning each test account for use by only one individual. However, a Sports Wagering Operator may establish a specific scenario or instance of a test account that may be shared by multiple users if each user's activities are separately logged;
- (3) The maintenance of a record for all test accounts, to include when they are active, to whom they are issued, and the employer of the individual to whom they are issued;
- (4) The procedures for auditing testing activity by the Sports Wagering Operator to ensure the accountability of funds used for testing and proper adjustments to gross Sports Wagering receipts; and
- (5) The procedures for authorizing and auditing out-of-state test activity.

238.41: Sports Wagering Accounting Requirements

The system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include Sports Wagering accounting procedures designed to ensure that the Sports Wagering Operator's wagering activities are accurately and timely recorded and reported. Specifically, the policies and procedures shall comport with 205 CMR 243.01: *Standards for Sports Wagering Equipment* and must address:

- (1) The procedures and security for the daily calculation and recording of gross Sports Wagering receipts, Adjusted Gross Sports Wagering Receipts and winnings.
- (2) The policies and procedures in connection with the internal audit department of its Sports Wagering Operations.
- (3) The procedure for the recording of and reconciliation of Sports Wagering transactions.

238.42: Commission Access to Sports Wagering Data

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall detail the controls to assure that all data the Commission requires to be maintained under M.G.L. c. 23N or 205 CMR is appropriately segregated and controlled to prevent unauthorized access. Sports Wagering Operators must provide the Commission with access to all such data, upon request, within a time provided for by the Commission. A Sports Wagering Operator must retain such data for a minimum of five (5) years.

238.43: Reports of Sports Wagering Operations

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall detail the Sports Wagering Operator's ability to maintain daily records and must be able to prepare reports supporting gross Sports Wagering receipts and Adjusted Gross Sports Wagering Receipts, wagering liability, payouts, and any other reports considered necessary by the Commission. The Sports Wagering Operator shall timely file with the Commission any additional reports required by M.G.L. c. 23N or by any rule or regulation.

238.44: Data and Network Security Requirements

- (1) A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall ensure compliance with all applicable state and federal requirements for data and network security.
- (2) Pursuant to M.G.L. c. 23N, § 11(a)(v), a Sports Wagering Operator shall employ commercially reasonable methods to maintain the security of Wagering data, patron data and other confidential information from unauthorized access and dissemination; provided, however, that nothing in M.G.L. c. 23N or 205 CMR shall preclude the use of internet or cloud-based hosting of such data and information or disclosure as required by court order, other law or M.G.L. c. 23N;

and provided further, that such data and information shall be hosted in the United States.

- (3) Internal and external network vulnerability scans shall be run at least quarterly and after any significant change to the Sports Wagering Platform or network infrastructure. Testing procedures must verify that four quarterly internal and scans took place in the past twelve (12) months and that re-scans occurred until all “Medium Risk” (CVSS 4.0 or Higher) vulnerabilities were resolved or accepted via a formal risk acceptance program. Internal scans should be performed from an authenticated scan perspective. External scans can be performed from an unauthenticated perspective.
  - (a) The quarterly scans may be performed by either a qualified employee of the Sports Wagering Operator or a qualified independent technical expert selected by the Sports Wagering Operator and subject to approval of the Commission in accordance with 205 CMR 243.01: *Standards for Sports Wagering Equipment*.
  - (b) Verification of scans must be submitted to the Commission on a quarterly basis and must include a remediation plan and any risk mitigation plans for those vulnerabilities not able to be resolved.

238.45: Personally Identifiable Information Security

- (1) Any information obtained in respect to Sports Wagering or the Sports Wagering Account, including personally identifiable information and authentication credentials, shall be done in compliance with the privacy policies and 205 CMR 138.73: *Personally Identifiable Information Security* and any applicable laws. Both personally identifiable information and the Sports Wagering Account funds shall be considered as critical assets for the purposes of risk assessment.
- (2) No employee or agent of the Sports Wagering Operator shall divulge any personally identifiable information related to a Sports Wagering Account, the placing of any Wager or any other sensitive information related to the operation of Sports Wagering without the consent of the patron, except as required by this section, the Commission or other authorized governmental agencies, including:
  - (a) The amount of money credited to, debited from, withdrawn from, or present in any particular Sports Wagering Account;
  - (b) The amount of money Wagered by a particular patron on any event or series of events;
  - (c) The unique patron ID or username and authentication credentials that identify the patron;
  - (d) The identities of particular Sporting Events on which the patron is Wagering or has Wagered; and



- (e) Unless otherwise authorized by the patron, the name, address, and other personally identifiable information in the possession of the Sports Wagering Operator that would identify the patron to anyone other than the Commission or the Sports Wagering Operator.

238.46: Reprints of Sports Wagering Tickets and Vouchers

A system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall detail procedures to reprint tickets or vouchers that fail to print at either a Ticket Writer Station or Sports Wagering Kiosk. Such procedures shall include a requirement of supervisory authorization for the reprint.

238.47: Validation and Payout of Sports Wagering Tickets and Vouchers

A system of Internal Controls submitted by a Sports Wagering Licensee in accordance with 205 CMR 238.02 shall include the necessary controls in place for validation and payment of prizes and to prevent fraud related to unclaimed winning Sports Wagering tickets and vouchers.

- (1) Validation Process. The Sports Wagering Operator shall define and implement procedures to ensure the validity of winning Sports Wagering tickets and vouchers, and process payouts thereof.
  - (a) No Sports Wagering ticket or voucher recorded or reported as previously paid, canceled, or non-existent shall be deemed a valid ticket or voucher by the Sports Wagering Operator. The Sports Wagering Operator may withhold payment and refuse to cash any Sports Wagering ticket or voucher deemed not valid.
  - (b) The Sports Wagering Operator shall not satisfy claims on lost, mutilated, or altered Sports Wagering tickets without authorization of the Commission.
- (2) Security of Unclaimed Ticket and Voucher Data. The Sports Wagering Operator shall implement technical and procedural controls to ensure the confidentiality, integrity, and availability of unclaimed winning Sports Wagering ticket and voucher data. This shall include as a minimum, files containing information on specific winning Sports Wagering tickets and vouchers yet to be claimed and any validation files. Specific consideration shall be given to access control to restrict access to the data, monitoring of user interaction with the data, and a process for dealing with unauthorized access or export of the data.
- (3) Payout Procedure. A Sports Wagering Operator's Internal Controls shall include a winning Sports Wagering ticket and voucher payout procedure that:
  - (a) Defines a maximum payout period;
  - (b) Includes a process to audit final transfers upon Wager settlement;

- (c) Details the rules and due diligence required prior to making a decision on payout for a lost, stolen or damaged ticket or voucher;
  - (d) Details the procedure with regard to inquiries into the validity of claims;
  - (e) Includes a procedure with regard to late or last minute payouts; and
  - (f) Addresses whether or not a winning ticket may be redeemed by mail and, if so, the procedures for such redemption.
- (4) Fraud Detection. There shall be adequate audit records kept and reviewed as part of the winning Sports Wagering ticket and voucher payout procedure to identify unusual patterns of late payouts and any claims made by personnel that might require investigation.

238.48: Expiration of Sports Wagering Tickets and Vouchers; Payment to the Sports Wagering Control Fund

- (1) The system of Internal Controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02 shall include provisions governing the expiration of winning Sports Wagering tickets and vouchers that provide, at a minimum, that:
  - (a) Any money that is owed to a patron by a Sports Wagering Operator as a result of a winning Sports Wagering ticket or voucher must be claimed within one year of the date of the Sporting Event for which the Wager was won or the obligation of the Sports Wagering Operator to pay the patron will expire. Upon expiration of the obligation, the involved funds must be transferred to the Sports Wagering Control Fund in accordance with M.G.L. c. 23N, § 13(h). In calculating the one year period referenced in 205 CMR 238.48(1)(a) and in M.G.L. c. 23N, § 13(h), any period of time for which the Gaming Establishment or Sports Wagering facility was not in operation shall be excluded; and
  - (b) A Sports Wagering Operator shall maintain a record of all unclaimed winning Sports Wagering tickets and vouchers that have expired.
- (2) Before the end of each calendar month, the Sports Wagering Operator shall report the total value of winning Sports Wagering tickets and vouchers owed to its patrons that expired during the preceding calendar month in a format prescribed by the Commission.
- (3) Each Sports Wagering Operator shall submit a check with its monthly report payable to the Sports Wagering Control Fund in accordance with M.G.L. c. 23N, § 13(h) in the amount of the winning Sports Wagering tickets and vouchers owed to its patrons that expired during the preceding month as stated in the report.

- (4) Upon the payment of the expired debt, the Sports Wagering Operator shall post the payment and remove the amount from its records as an outstanding debt.
- (5) Failure to make the payment to the Sports Wagering Control Fund by the due date shall result in the imposition of penalties and interest as prescribed by 205 CMR.
- (6) Nothing in 205 CMR 238.68 shall preclude the Sports Wagering Operator from, in its discretion, issuing cash or other form of complimentary to a patron to compensate the patron for a winning Sports Wagering ticket or voucher that has expired.

238.49: Entertainment, Filming or Photography within the Sports Wagering Area or Sports Wagering Facility

Any entertainment, filming or photography within the Sports Wagering Area of the Gaming Establishment or Sports Wagering Facility shall not disrupt or interfere with the:

- (1) Efficient operations of Sports Wagering;
- (2) The security of the Gaming Establishment or any portion thereof;
- (3) Surveillance operations; or
- (4) The security or integrity of Sports Wagering Operations or any authorized Sports Wagering.

238.50: Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation

The Sports Wagering Operator, as well as their submitted system of Internal Controls, shall comply with 205 CMR 138.72: *Policies and Procedures for Ensuring a Workplace Free from Unlawful Discrimination, Harassment and Retaliation*.

REGULATORY AUTHORITY  
M.G.L. 23N, §§ 4, 6, and 10

**NEW Public Comments Pertaining to  
205 CMR 238.00: Uniform Standards of Accounting Procedures and  
Internal Controls**

Subsection	Comment	Commenter	Entity
238.22(7)	<p>Reason for Change: DraftKings respectfully requests that the commission strike a requirement that operators notify the commission of complaints that have not been “resolved to the satisfaction of the patron,” as operators have no way to identify when such a complaint has not been resolved to the satisfaction of the patron.</p> <p>The Commission can best receive this information through the process already outlined in 205 CMR 238.22(6), which requires that operators advise the patron of their right to submit a complaint directly to the Commission. Under that section, the Commission already may prescribe how operators advise patrons of their ability to do so.</p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	<p>Draft Kings</p>

**Public Comments Pertaining to  
205 CMR 238: Uniform Standards of Accounting Procedures and  
Internal Controls**

Subsection	Comment	Commenter	Entity
238.02(4)	Proposing to add: “and opportunity to comment and provide” after “If the Commission or Executive Director renders any such recommendations and required changes, the Commission or Executive Director shall provide the Sports Wagering Operator”	Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM
238.09(3)	<p>Data privacy and confidentiality are critically important, and this proposed change would help to ensure such privacy and confidentiality is maintained.</p> <p>Proposing to change:</p> <p>(3) A Sports Wagering Operator shall, except as otherwise provided, notify the Commission and the Gaming Enforcement Division of the Massachusetts Attorney General's Office in writing at least 60 days prior to the scheduled destruction of any record required to be retained in accordance with 205 CMR 238.09(1). Such notice shall list each type of record scheduled for destruction, including a description sufficient to identify the records included, the retention period and the date of destruction.</p> <p>To:</p> <p>(3) A Sports Wagering Operator shall, except as otherwise provided, notify the Commission and the Gaming Enforcement Division of the Massachusetts Attorney General's Office in writing at least 60 days prior to the scheduled destruction of any record required to be retained in</p>	Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM

	<p>accordance with 205 CMR 238.09(1). Such notice shall list each type of record scheduled for destruction, including a description sufficient to identify the records included, the retention period and the date of destruction, but shall not reveal confidential, sensitive, or proprietary information to the extent possible."</p>		
238.12(2)(a)	<p>BetMGM Comment: Other jurisdictions have adopted this rule, but do not specify that a segregated account must simply be made For benefit of patrons of [Jurisdiction]. By leaving it open to interpretation, operators will create a separate trust vehicle to hold the Segregated Account.</p> <p>Proposal: Clarify whether the commission intends for operators to create a trust vehicle on top of the segregated account.</p> <p>BetMGM Comment: Commercial relationships with Payment processors, surety bond providers and other financial institutions executed with our operating entity (BetMGM LLC). Not a trust vehicle.</p> <p>Question: Would the trust vehicle requirement inhibit operators from applying Payment Processor reserves/receivables to the reserve requirement? Would operators be required to cash fund this portion of the reserve?</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.12(2)(b)(3)	<p>This edit would give the Commission the right to choose whether to allow this (in the unlikely eventuality that an operator wants to make a corporate restructuring or other significant event but has unsatisfied obligations).</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

	<p>Proposing to change:  3. Prohibited from dissolving, merging or consolidating with another company (other than a special purpose corporate entity established by another Sports Wagering Operator that meets the requirements of this section) while there are unsatisfied obligations to patrons.</p> <p>To:  3. Prohibited from dissolving, merging or consolidating with another company (other than a special purpose corporate entity established by another Sports Wagering Operator that meets the requirements of this section) while there are unsatisfied obligations to patrons, unless the Commission provides consent in advance.</p>		
<p>238.12(5)</p>	<p>A brief advanced notice period and a reasonability standard would be appropriate here.</p> <p>Proposing to change:  (5) The Commission may audit a Sports Wagering Operator’s reserve at any time and may direct a Sports Wagering Operator to take any action necessary to ensure the purposes of 205 CMR 238.12 are achieved, including but not limited to, requiring the Sports Wagering Operator to modify the form of its reserve or increase the amount of its reserve.</p> <p>To:  (5) The Commission may audit a Sports Wagering Operator’s reserve with at least eight (8) hours’ advanced notice and may direct a Sports Wagering Operator to take any action reasonably necessary to ensure</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>BetMGM</p>

	<p>the purposes of 205 CMR 238.12 are achieved, including but not limited to, requiring the Sports Wagering Operator to modify the form of its reserve or increase the amount of its reserve.</p>		
238.14(3)	<p>In the context of Risk Management, 205 CMR 238.14(3) states that “A Sports Wagering Operator shall file with the Commission, in a manner and form approved by the Commission, a report of any error that occurs in offering an event or Wager”.</p> <p>Is it correct to understand that “error” refers to error leading to voiding/cancelling of wagers?</p> <p>Also, what is the “manner and form approved by the Commission” for the reporting of such errors”?</p>	<p>Barbara Lacourt</p> <p><a href="mailto:kambi.licensing@kambi.com">kambi.licensing@kambi.com</a></p>	Kambi
238.18(1)	<p>We suggest in this section striking "sports wagering vendor" and replacing with "integrity monitor."</p> <p>The definition of “vendor” in 205 CMR 202 involves an array of businesses, most of which have commercially-focused applications that may come secondary to any integrity monitoring function. Integrity monitoring’s protection of the regulated market is best served by ensuring that those who are allowed to analyze wagering activity are fully dedicated to integrity, and do not have potential commercial conflicts that could in any way impact their monitoring.</p>	<p>Matt Fowler</p> <p><a href="mailto:mf@ibia.bet">mf@ibia.bet</a></p>	IBIA
238.18(2)(d)(2)	<p>This should be limited to actual breaches of rules/codes of conduct.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM



	<p>Proposing to change: 2. Any potential breach of the internal rules and codes of conduct pertaining to Sports Wagering of a relevant Sports Governing Body;</p> <p>To: 2. Any breach of the internal rules and codes of conduct pertaining to Sports Wagering of a relevant Sports Governing Body;</p>		
<p>238.18(3)</p>	<p>We suggest striking "A Sports Wagering Operator shall maintain the confidentiality of information provided by a Sports Governing Body for purposes of investigating..." and replace with "Either a Sports Wagering Operator or a Sports Governing Body shall maintain the confidentiality of information provided to one party by the other party for purposes of investigating..."</p> <p>Integrity monitoring requires open and transparent communication between all stakeholders, including operators and leagues.</p> <p>In a genuine two-way flow of communication, particularly concerning investigations conducted by any entity, we believe all parties should be bound to the same requirements of protecting sensitive customer information or sensitive wagering information.</p> <p>In several instances, it's reasonable to assume that information will be also shared by operators with governing bodies, not solely from governing bodies to operators - - yet the stated requirement for keeping received information confidential is on the operators only.</p>	<p>Matt Fowler <a href="mailto:mf@ibia.bet">mf@ibia.bet</a></p>	<p>IBIA</p>

	<p>Thus, we suggest mutuality -- that all parties be required to keep all other parties' information confidential as long as that information is for purposes of investigation.</p>		
238.18(5)	<p>We suggest striking the words "evaluate or," so that the end of (5) reads, "...software and hardware for the Commission to monitor, at a minimum, the Sports Wagering Platform and the following."</p> <p>We applaud the MGC's desire to have visibility into the integrity monitoring process. We intend to fully work with the MGC however it deems fit. However, the verb "evaluate" connotes that the MGC could potentially perform a similar function to the integrity monitor itself – evaluating whether or not certain wagering activity rises to the level of suspicious activity and requires further action – or even evaluating the integrity monitor that the operator in 238.18 (5) contracts with.</p> <p>We believe this would be more functionally appropriate for a centralized or state monopoly market with a single operator, where the regulator sees and analyzes all wagering data in real time and the integrity monitor is a part of the regulatory body itself, and not for a competitive market with many online operators and rigorous, independent consumer protections, like Massachusetts.</p>	<p>Matt Fowler <a href="mailto:mf@ibia.bet">mf@ibia.bet</a></p>	IBIA
238.18(5)(a)	<p>We suggest striking subsection (a) and replacing with "all reports of abnormal betting activity that are solicited by the regulator that involve wagering activity</p>	<p>Matt Fowler <a href="mailto:mf@ibia.bet">mf@ibia.bet</a></p>	IBIA

	<p>from patrons physically located in Massachusetts, or that involve wagering activity from any location on events that take place in Massachusetts."</p> <p>If an operator is required to provide remote, read-only access to all abnormal reports, they'll likely do so through an integrity monitor that they contract with. In IBIA's case, our platform monitors more than 100 betting brands' activity across six continents, and generates a vast amount of abnormal betting activity reports.</p> <p>Our intention with this suggestion is to make sure the MGC is able to view any and all reports of abnormal betting activity that could potentially impact Massachusetts consumers or Massachusetts sporting events, while not subjecting the MGC to a constant deluge of irrelevant reports from around the world that can risk sounding false alarms without proper context.</p>		
238.22(4)	proposing to add "upon completing the investigation" after "(10) business days"	Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM
238.22(5)	proposing to remove (5)	Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM
238.22(6)	proposing to remove "promptly" and change the language after to "notify the Commission within 48 hours for confirming the complaint"	Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM

238.22(7)	<p>BetMGM comment: We recommend that the action of notifying the Commission of an unresolved complaint fall onto the patron. We recommend that the operator provide the patron with the Commission’s contact information for disputes should the matter not be resolved to the patron’s satisfaction. Should this recommendation be rejected, we recommend to include a monetary threshold of \$500 or more for reporting to the Commission.</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.32(3)	<p>There should be an exception if the operator genuinely is unaware of this improper activity.</p> <p>Proposing to add: (f) The Sports Wagering Operator does not have actual or constructive knowledge of the individual’s improper placing of wagers.</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.33(1)(h)	<p>Comment: This should be subject to a reasonability standard.</p> <p>Proposing to change: “(h) Other prohibited Persons as determined by the Commission.” to “(h) Other prohibited Persons as reasonably determined by the Commission.”</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.35	<p>For any transaction where a Sports Wagering Operator may cancel or void a Wager, with or without prior authorization of the Commission, the Sports Wagering Operator shall submit a system of Internal Controls in accordance with 205 CMR 238.02 for voiding Wagers and subsequent allocation of patron funds. Such system shall include, at a minimum, the following:</p> <p>(1) Cancellation of an otherwise validly placed Wager by a Sports Wagering Operator shall be nondiscretionary. A</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

	<p>Sports Wagering Operator may only cancel or void a Wager without prior authorization of the Commission under the following circumstances:</p> <p>Comment: Are these situations where operators are required to cancel or void a Wager? Or, is it discretionary for Operators to cancel or void such a Wager?</p>		
238.35(1)	<p>238.35(1) states that "A Sports Wagering Operator shall only cancel or void a Wager without prior authorization of the Commission" under the circumstances it mentions.</p> <p>In line with the language in the caput of 238.35, are we correct in understanding that we MAY void wagers in the circumstances alluded to in 238.35(1)(a) to (k) without approval, depending on the application of our House Rules?</p> <p>For example, 238.35(1)(c) states "Any tier 1 Sports Wager in a non-team event when an individual athlete or competitor fails to participate in a Sporting Event and the outcome of the Wager is solely based upon the individual athlete or competitor's performance;". Is it acceptable that there are situations in which we do not void such wagers, if covered in our House Rules?</p>	<p>Barbara Lacourt</p> <p>kambi.licensing@kambi.com</p>	Kambi
238.35(1)(b)	<p>When it comes to change of venue (CMR 238.35 (1)(b)), Kambi would like to confirm its understanding that there should be discretion in the assessment of whether this is a circumstance that should lead to wagers being cancelled or voided.</p> <p>After all, there are situations in which it is not deemed in patrons' interests for wagers</p>	<p>Barbara Lacourt</p> <p>kambi.licensing@kambi.com</p>	Kambi

	<p>to be voided – for example, when a game is moved from one neutral venue to another – and those situations would be further detailed in the applicable House Rules.</p> <p>This understanding is in line with all other regulations under which Kambi currently operates (Kambi is live in 20 US states at the moment).</p>		
238.35(1)(j)	<p>When it comes to wagers to be cancelled or voided in light of requests made by patrons ((CMR 238.35 (1)(j))), Kambi would like to confirm its understanding that there should be discretion in the consideration of these requests, given that a customer may place a wager and, shortly after placement, the odds/line can change against the patron’s position – and if the wager necessarily needs to be cancelled upon a patron’s request claiming “error in communicating the type, amount or parameters of the Wager”, this would likely be an incentive for abuse.</p> <p>It is worth mentioning that Kambi is live in 20 US states with multiple operators and under no framework wagers must be cancelled or voided as per patrons’ request in such circumstances.</p>	<p>Barbara Lacourt</p> <p>kambi.licensing@kambi.com</p>	Kambi
238.36(2)(b)	<p>Plainridge Park Casino submits the following response to the request for public comment on draft regulation 205 CMR 238.36. Section 2(b) of 205 CMR 238.36 prohibits Sports Wagering Kiosks from accepting wagers “with a potential payout in excess of \$10,000.” Payouts for winning, multi-leg parlay tickets regularly exceed this threshold with wagers far below any federal reporting or IRS</p>	<p>North Grounsell</p> <p><a href="mailto:North.Grounsell@pennentrainment.com">North.Grounsell@pennentrainment.com</a></p>	PPC

	<p>requirements. The proposed regulation would place different requirements and additional burdens on players making similar wager amounts.</p> <p>We suggest that 205 CMR 238.36.2(b) be amended to read as follows:  “Accept an anonymous Sports Wager with a potential payout in excess of \$10,000, unless the redemption of such wager requires validation by a member of the licensee staff; and”</p>		
238.44(3)	<p>proposing to change: ““Medium Risk” (CVSS 4.0 or Higher)” to ““High Risk” (CVSS 7 or Higher)”</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.44(3)(b)	<p>Proposing to change: “Verification of scans must be submitted to the Commission on a quarterly basis and must include a remediation plan and any risk mitigation plans for those vulnerabilities not able to be resolved.” To “Verification of scans must be submitted to the Commission on a quarterly basis and must include a remediation plan and risk mitigation plans for high vulnerabilities not able to be resolved.”</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
238.45(2)	<p>Proposing to change: “...the placing of any Wager or any other sensitive information related to the operation of Sports Wagering without the consent of the patron...” to the placing of any Wager or any other sensitive, confidential, or proprietary information related to the operation of Sports Wagering without the consent of the patron...”</p> <p>BetMGM Comment: This should be a bit broader, to cover all types of information that could harm the operator’s business if</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

	divulged (which includes confidential and proprietary information).		
238.48(1)(a)	proposing to add “on an annual basis” after “must be transferred”  Question: Can the transfers occur on an annual basis and not a rolling daily basis?	Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM
238.48(3)	238.48(3): proposing to remove “during the preceding month”	Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a>	BetMGM





*Legal Division*

## **AMENDED SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 238.00: Uniform Standards of Accounting Procedures and Internal Controls** for which a public hearing was held on **February 28, 2023, at 9:15am EST**.

This regulation was promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §4. This regulation is intended to establish the internal standards to which sports wagering operators must adhere to in the provision of sports wagering in the Commonwealth.

The regulation applies to potential sports wagering operators and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

Since 205 CMR 238.00 applies to sports wagering operators, the Commission does not anticipate the need to establish less stringent requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

As this regulation is not expected to impact small businesses, less stringent schedules, deadlines for compliance, and reporting requirements for small businesses have not been established.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

While 205 CMR 238.00 does impose compliance reporting requirements upon sports wagering operators who have received licensure by the Commission, this regulation does not impose reporting requirements upon small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:



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Performance-based standards are set forth in this regulation for sports wagering operators who have been licensed by the Commission.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This regulation is unlikely to deter or encourage the formation of businesses within the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

205 CMR 238.00 will not have an adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

/s/ Ying Wang  
Associate General Counsel  
Legal Division

Dated: February 27, 2023



Massachusetts Gaming Commission

## 205 CMR 247: UNIFORM STANDARDS OF SPORTS WAGERING

### Section

- 247.01: Authorized and Prohibited Sporting Events and Wager Categories
- 247.02: House Wagering Rules and Patron Access
- 247.03: Petition for a Sporting Event or Wager Category
- 247.04: Prohibiting Wagers for Good Cause
- 247.05: Data Sources and Official League Data
- 247.06: Sports Wagering Tournaments/Contests/Pools
- 247.07: Acceptance of Sports Wagers
- 247.08: Minimum and Maximum Wagers; Additional Wagering Requirements
- 247.09: Promotional Offers
- 247.10: Exchange Wagering and Other Peer-to-Peer Wagering

### 247.01: Authorized and Prohibited Sporting Events and Wager Categories

- (1) A Sports Wagering Operator may offer Sports Wagering only for those Sporting Events and Wager Categories authorized by the Commission and posted on the Commission's website.
- (2) An Operator shall not offer Sports Wagering on:
  - (a) Any Collegiate Sport or Athletic Event:
    - 1. With an outcome dependent on the performance of an individual athlete, including, but not limited, to in-game or in-play wagers;
    - 2. Involving any collegiate teams from the Commonwealth, unless the teams are involved in a Collegiate Tournament.
  - (b) Any eSports event that:
    - 1. Is not sanctioned by an approved Sports Governing Body or equivalent as authorized by the Commission; and
    - 2. Has not been endorsed by the Commission pursuant to the procedures set forth in 205 CMR 247.03;
  - (c) Any virtual sports event unless:
    - 1. A Random Number Generator (RNG), certified by an independent testing laboratory, is used to determine the outcome(s);

2. A visualization of the virtual sports event is offered to all patrons which displays an accurate representation of the result(s) of the virtual sports event; and
  3. The virtual sports event is approved pursuant to the procedures set forth in 205 CMR 247.03;
- (d) Any horse or greyhound races;
  - (e) Any injuries, penalties, player discipline, or replay review;
  - (f) Any high school or youth sports or athletic events;
  - (g) Any fantasy contest unless offered pursuant to M.G.L. c. 12, § 11M½ and 940 CMR 34.00: *Daily Fantasy Sports Contest Operators in Massachusetts*;
  - (h) Any Sporting Event or Wager Category in which the outcome has already been determined and is publicly known; or
  - (i) Any other Sporting Event or Wager Category until the Sporting Event or Wager Category has been approved by the Commission in accordance with 205 CMR 247.03.

#### 247.02: House Wagering Rules and Patron Access

- (1) In accordance with M.G.L. c. 23N, § 10(a), the Sports Wagering Operator shall adopt comprehensive House Rules for Sports Wagering. The Sports Wagering Operator shall not conduct Sports Wagering until the Commission has approved the House Rules and the Sports Wagering Operator shall not conduct Sports Wagering in a manner inconsistent with approved House Rules.
- (2) In accordance with M.G.L. c. 23N, § 10(b), the Sports Wagering Operator shall make copies of its House Rules readily available to patrons and shall post the same as required by the Commission, including on a prominent place on the Sports Wagering Operator's public website, mobile application or other digital platform, and where applicable, prominently within the Sports Wagering Facility or Sports Wagering Area. Said copies of the Sports Wagering Operator's House Rules shall state the date on which they became effective. The Sports Wagering Operator shall provide previous versions of its House Rules to any patron upon written request.
- (3) The House Rules must address the following items regarding Sports Wagers, at a minimum:
  - (a) Types of Sports Wagers accepted;
  - (b) Minimum and maximum Sports Wagers;

- (c) Description of the process for handling incorrectly posted events, odds, Sports Wagers, or results;
  - (d) Methods for the calculation and payment of winning Sports Wagers;
  - (e) Effect of schedule changes;
  - (f) Methods of notifying patrons of odds or proposition changes;
  - (g) Whether the Operator accepts Sports Wagers at other than posted terms;
  - (h) Procedures related to pending winning Sports Wagers;
  - (i) Methods of contacting the Sports Wagering Operator for questions and complaints including information explaining how complaints can be filed, how complaints are resolved, and how the patron may submit a complaint to the Commission;
  - (j) Description of prohibited persons pursuant to 205 CMR 238.4933, restricted patrons pursuant to 205 CMR 238.4832, and Sporting Events and Wager Categories on which Sports Wagers may not be accepted under M.G.L. c. 23N and 205 CMR 247.02;
  - (k) Methods of funding a Sports Wager;
  - (l) Maximum payouts; however, such limits must only be established through limiting the amount of a Sports Wager and cannot be applied to reduce the amount paid to a patron as a result of a winning Sports Wager;
  - (m) Parlay-Wager-related rules;
  - (n) The Operator's policy for canceling or voiding Sports Wagers, including for obvious errors;
  - (o) The Operator's policy for when an event or any component of an event on which Sports Wagers are accepted is canceled or suspended, including the handling of Sports Wagers with multiple selections, such as parlays, where one or more of these selections is canceled; and
  - (p) Any additional content for House Rules outlined in 205 CMR 243.01: *Standards for Sports Wagering Equipment.*
- (4) The Sports Wagering Operator shall not change or modify the House Rules without the prior written approval of the Commission. Failure by an Operator to act in accordance with its House Rules may result in disciplinary action.

247.03: Petition for a Sporting Event or Wager Category

- (1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category.
- (2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category.
- (3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:
  - (a) The name(s) and address(es) of petitioner(s);
  - (b) The name of the Sporting Event or Wager Category;
  - (c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;
  - (d) The name of any Sports Wagering Operator sponsoring the petition;
  - (e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:
    1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;
    2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;
    3. Any rules or voting procedures related to the Sporting Event or Wager Category;
    4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);
    5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;
  - (f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about:
    1. The proposed location(s) of the eSports event(s);
    2. The video game used for the eSports event, including, without limitation, the publisher of the video game;

3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;
  4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;
- (g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;
  - (h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;
  - (i) Any other information or material requested by the Bureau or Commission.
- (4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:
    - (a) The outcome can be verified;
    - (b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;
    - (c) The outcome is not likely to be affected by any Sports Wager placed; and
    - (d) The Sporting Event is conducted in conformity with all applicable laws.
  - (5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.
  - (6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.
  - (7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.
  - (8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

- (9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.
- (10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.
- (11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.
- (12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

247.04: Prohibiting Wagers for Good Cause

- (1) Pursuant to M.G.L. c. 23N, § 11(b), a Sports Governing Body, equivalent organization, as authorized by the Commission, or related Players Association may request in writing that the Commission restrict, limit or exclude a certain type, form or category of Sports Wagering with respect to Sporting Events of the Sports Governing Body, if the Sports Governing Body or Players Association believes that such type, form or category of Sports Wagering with respect to Sporting Events of the Sports Governing Body:
  - (a) Is contrary to public policy;
  - (b) Is unfair to patrons;
  - (c) May undermine the perceived integrity of the Sports Governing Body, Sporting Events of the Sports Governing Body, or the athletes participating therein; or
  - (d) Affects the integrity of the Sports Governing Body, Sporting Events of the Sports Governing Body, or the athletes participating therein.
- (2) The request must be submitted in the form and manner prescribed by the Commission and must include, at a minimum, all of the following:
  - (a) The identity of the requestor, and contact information for at least one individual who shall be the primary point of contact for questions related to the request;



- (b) A description of the Sporting Event or Wager Category that is the subject of the request;
  - (c) Information explaining why the requestor believes the requirements of 205 CMR 247.04(1) are met; and
  - (d) Any other information required by the Commission.
- (3) The Commission shall grant the request upon good cause shown, or deny the request otherwise; provided, however, that if the Commission determines that the requestor is more likely than not to make a showing of good cause, the Commission may provisionally grant the request until the Commission makes a final determination as to whether the requestor has shown good cause.
  - (4) If the request concerns a particular Sporting Event, it must be sent to the Commission at least ten days before the event, unless the request involves allegations of match-fixing, the manipulation of an event, misuse of inside information, or other prohibited activity, in which case it must be sent to the Commission as soon as is reasonably practical.
  - (5) The Commission shall grant or deny any request concerning a particular Sporting Event, received at least ten days before the event, before the event. Otherwise, the Commission shall grant or deny any request within fourteen days;
  - (6) Upon receiving a complete request under 205 CMR 247.04(1), the Commission shall request comment from Sports Wagering Operators on all such requests in writing. The request shall include the date by which any written responses must be submitted to the Commission. All Sports Wagering Operators must be given an opportunity which is reasonable under all the circumstances to respond to the request.
  - (7) A Sports Wagering Operator may continue to offer Sports Wagering on any Sporting Event that is the subject of a request until the Commission provisionally grants or grants the request.

#### 247.05: Data Sources and Official League Data

- (1) Except as otherwise provided in 205 CMR 247.05, a Sports Wagering Operator may use any licensed data source to determine the results of all tier 1 Sports Wagers and tier 2 Sports Wagers, subject to all of the following conditions:
  - (a) The data source and corresponding data must be complete, accurate, reliable, timely, and available.
  - (b) The data source must be appropriate to settle the types of events and types of wagers for which it is used.

- (c) The data is not obtained directly or indirectly from live event attendees who collect the data in violation of the terms of admittance to an event, or through automated computer programs that compile data from the Internet in violation of the terms of service of any website or other Internet platform.
  - (d) The proprietor or manager of any data source that provides data directly to a Sports Wagering Operator must be licensed by the Commission as a Sports Wagering Vendor.
  - (e) The data source and corresponding data must meet any other conditions set by the Commission.
- (2) A Sports Wagering Operator shall report to the Commission the data source that it uses to resolve Sports Wagers. The Commission may disapprove of a data source for any reason.
- (3) In accordance with M.G.L. c. 23N, § 4(c)(i), a Sports Wagering Operator shall not purchase or use any personal biometric data.
- (4) A Sports Governing Body headquartered in the United States may notify the Commission that it desires Sports Wagering Operators to use official league data to settle tier 2 Sports Wagers on the Sports Governing Body's Sporting Events. The notification shall be made in the form and manner required by the Commission and must include, at a minimum, all of the following:
- (a) Identification information for the Sports Governing Body;
  - (b) Identification and contact information for at least one specific individual who will be the primary point of contact for issues related to the provision of official league data and compliance with the act and these rules;
  - (c) Identification and contact information for any designees that are or will be expressly authorized by the Sports Governing Body to provide official league data in Massachusetts;
  - (d) Copies of any contracts relevant to the provision of official league data in Massachusetts, including all of the following:
    - 1. Copies of any contracts between the Sports Governing Body and any designees that are or will be expressly authorized by the Sports Governing Body to provide official league data in Massachusetts; and
    - 2. Copies of any contracts between the Sports Governing Body or its designees and Sports Wagering Operators in Massachusetts;

3. A description of the official league data the Sports Governing Body desires to provide; and
  - (e) Any other information required by the Commission.
- (5) A Sports Governing Body may not submit a notification under 205 CMR 247.05(4) unless the Commission has authorized Sports Wagering Operators to accept tier 2 wagers on athletic events of the Sports Governing Body.
- (6) Within 5 days of receipt of the notification, the Commission shall notify each Sports Wagering Operator of the requirement to use official league data to settle tier 2 Sports Wagers. If a Sports Governing Body does not notify the Commission of its desire to supply official league data, a Sports Wagering Operator may use any data source for determining the results of any and all tier 2 Sports Wagers on Sporting Events of the Sports Governing Body.
- (7) Within 60 days of the Commission issuing a notification pursuant to 205 CMR 247.05(4), or such longer period as may be agreed between the Sports Governing Body and the applicable Sports Wagering Operator, a Sports Wagering Operator shall use only official league data to determine the results of tier 2 Sports Wagers on Sporting Events of that Sports Governing Body, unless:
  - (a) The Sports Governing Body or its designee cannot provide a feed of official league data to determine the results of a particular type of tier 2 Sports Wager, in which case a Sports Wagering Operator may use any data source for determining the results of the applicable tier 2 Sports Wager until such time a data feed becomes available from the Sports Governing Body on commercially reasonable terms and conditions; or
  - (b) A Sports Wagering Operator can demonstrate to the Commission that the Sports Governing Body or its designee will not provide a feed of official league data to the Sports Wagering Operator on commercially reasonable terms and conditions.
- (8) In evaluating whether official league data is offered on commercially reasonable terms and conditions for purposes of 205 CMR 247.05(7)(a), the Commission may consider:
  - (a) The availability of official league data to a Sports Wagering Operator from more than one authorized source and whether it is offered under materially different terms;
  - (b) Market information, including, but not limited to, price and other terms and conditions of Sports Wagering Operators' purchases of comparable data in the Commonwealth and other jurisdictions;
  - (c) The characteristics of the official league data and any alternate data sources, including:

1. The nature, quantity, quality, integrity, completeness, accuracy, reliability, availability, and timeliness of the data;
  2. The quality, complexity, integrity, and reliability of the process used to collect the data; and
  3. Any other characteristics the Commission deems relevant;
- (d) The availability and cost of comparable data from other authorized data sources;
- (e) Whether any terms of the contract or offer sheet are uncompetitive in nature, are economically unfeasible, or otherwise unduly burden the Sports Wagering Operator; and
- (f) Any other factors the Commission deems relevant.
- (9) Notwithstanding 205 CMR 247.05(7) or any provision of 205 CMR 247.05 to the contrary, during the pendency of the determination of the Commission as to whether a Sports Governing Body or its designee may provide official league data on commercially reasonable terms, a Sports Wagering Operator may use any data source to determine the results of tier 2 Sports Wagers. The determination shall be made within 120 days of the Sports Wagering Operator notifying the Commission that it requests to demonstrate that the Sports Governing Body or its designee will not provide a feed of official league data to the Sports Wagering Operator on commercially reasonable terms.
- (10) The Commission shall maintain, and may publish, a list of all Sports Governing Bodies that provide official league data under 205 CMR 247.05.
- (11) At any time, a Sports Governing Body may give written notification to the Commission and all Sports Wagering Operators to which the Sports Governing Body or its designee provides official league data that the Sports Governing Body intends to stop providing official league data. The written notification shall specify in the date on which the Sports Governing Body shall stop providing official league data. Said date shall be no fewer than seven days later than the date of the written notification. On receipt of the written notification, a Sports Wagering Operator may use any data source that meets the requirements of 205 CMR 247.05(1) to determine the results of tier 2 Sports Wagers on athletic events of the Sports Governing Body.
- (12) If a Sports Governing Body does not notify the Commission of its desire to supply official league data under 205 CMR 247.05, a Sports Wagering Operator may use any data source that meets the requirements of 205 CMR 247.05(1) for determining the results of any and all tier 2 Sports Wagers on Sporting Events of the Sports Governing Body.

- (13) A Sports Governing Body may enter into commercial agreements with a Sports Wagering Operator or other entity in which such Sports Governing Body may share in the amount wagered or revenues derived from Sports Wagering on Sporting Events of the Sports Governing Body. A Sports Governing Body shall not be required to obtain a license or any other approval from the Commission to lawfully accept such amounts or revenues.

247.06: Sports Wagering Tournaments/Contests/Pool

- (1) No Sports Wagering tournament, contest, or pool shall be conducted unless the Sports Wagering Operator, before the first time a given type of tournament, contest, or pool is offered, files a written request with the Commission to offer that type of tournament, contest, or pool, and the Commission grants the request.
- (2) The request must provide a detailed description of the type of tournament, contest, or pool and must include the rules of the tournament, contest, or pool, the requirements for entry, the entry fees, the rake, and potential payouts. The request must also indicate whether or not the proposed type involves a shared liquidity pool available to patrons in Massachusetts and other jurisdictions with the prize pool comprising entry fees collected from patrons in multiple jurisdictions.
- (3) Once a Sports Wagering Operator receives approval to offer a type of tournament, contest, or pool, the Sports Wagering Operator shall not be required to seek additional approvals from the Commission for each subsequent type that has only variations to the size, number of entries permitted, entry fee, or prize structure, or other minor variations as allowed by the Commission.
- (4) Each Sports Wagering Operator must maintain a record of each tournament, contest, or pool it offers, which must address, at a minimum, all of the following:
- (a) Name or identification of the tournament, contest, or pool;
  - (b) The date and time the tournament, contest, or pool occurred or will occur (if known);
  - (c) Relevant Sporting Events and Wager Categories;
  - (d) Rules concerning play or participation in the tournament, contest, or pool;
  - (e) For each registered patron:
    - 1. The patron's unique identifier;
    - 2. The amount of entry fees collected from the patron, including any Promotional Gaming Credits, and the date collected;
    - 3. The patron's scorings/rankings; and

4. Any payouts to the patron, including any Promotional Gaming Credits, and the date paid;
  - (f) Total rake, Commission, or fees collected;
  - (g) Funding source amount or amounts comprising the prize pool, including buy-ins, re-buys, or add-ons;
  - (h) Prize structure of payouts;
  - (i) The methodology for determining winner or winners; and
  - (j) The current status of the tournament, contest, or pool.
- (5) The Sports Wagering Operator's rake collected from patrons located within the Commonwealth who enter a tournament, contest, or pool (less any rake adjustment, if applicable), is Sports Wagering revenue subject to all taxes and tax requirements outlined in 205 CMR 240: *Sports Wagering Revenue Tax Remittance and Reporting*, and:
  - (a) At no time shall the calculation resulting from a rake or rake adjustment be negative; and
  - (b) For a tournament, contest, or pool which utilizes shared liquidity available to patrons in Massachusetts and other jurisdictions, the rake rate must be the same for all jurisdictions participating.
- (6) All Breaks from each prize pool must be transferred to the Sports Wagering Control Fund in accordance with M.G.L. c. 23N, § 15(a).

247.07: Acceptance of Sports Wagers

- (1) Available Sports Wagers must be displayed to the public. The display must include the odds and a brief description of the Sporting Event and wagering proposition.
- (2) A Sports Wagering Operator may not accept a Sports Wager on a Sporting Event unless the availability of that Wager is posted in accordance with 205 CMR 247.07(1).
- (3) A Sports Wagering Operator may not set lines or odds or offer wagering propositions designed for the purposes of ensuring that a patron will win a Sports Wager or a series of Sports Wagers, unless the lines, odds, or wagering propositions are offered in connection with a promotional offer made in accordance with 205 CMR 247.09.
- (4) Sports Wagers may only be placed from:

- (a) A sports wagering counter or other counter locations within a Sports Wagering Facility or Sports Wagering Area as approved by the Commission;
  - (b) A Sports Wagering Kiosk, within a Sports Wagering Facility or Sports Wagering Area and in a location approved by the Commission;
  - (c) A designated counter in the cashier's cage within a Sports Wagering Facility or Sports Wagering Area for the redemption of winning sports wagering tickets or vouchers; or
  - (d) A mobile application or digital platform approved by the Commission.
- (5) Sports wagers within a Sports Wagering Facility or Sports Wagering Area may only be conducted with chips, tokens, electronic cards, or:
- (a) Cash or cash equivalents;
  - (b) Foreign currency and coin converted to US currency;
  - (c) Digital, crypto and virtual currencies converted to cash;
  - (d) Electronic funds transfers (EFTs), including online and mobile payment systems;
  - (e) Debit instruments, including debit cards and prepaid access instruments;
  - (f) Promotional gaming credits;
  - (g) Winning sports wagering tickets or vouchers;
  - (h) Sports Wagering Accounts; or
  - (i) Any other means approved by the Commission or its designee.
- (6) Sports wagering transactions using a mobile application or other digital platform may only be conducted by a patron physically located within the Commonwealth, using their Sports Wagering Account.
- (7) A Sports Wagering Operator shall prohibit any use of credit cards, either directly or indirectly, including without limitation through an account funded by credit card, in placing Sports Wagers.
- (8) A Sports Wagering Operator shall record the personally identifiable information required to register for a Sports Wagering Account under 205 CMR 248.03(1) before accepting anonymous Sports Wagers in excess of \$10,000 or issuing payouts on anonymous Sports Wagers in excess of \$10,000.

- (a) The Sports Wagering Operator shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a patron making a structured transaction, including multiple Sports Wagers or a series of Sports Wagers that are designed to accomplish indirectly that which could not be accomplished directly. A Sports Wager or wagers need not exceed the dollar thresholds at any single Sports Wagering Operator in any single day in order to constitute prohibited structuring.
  - (b) The Sports Wagering Operator shall not knowingly assist, encourage or instruct a player in structuring or attempting to structure Sports Wagers.
  - (c) 205 CMR 247.07(8) does not prohibit a Sports Wagering Operator from informing a player of the regulatory requirements imposed upon the Sports Wagering Operator, including the definition of structured Sports Wagers.
- (9) A Sports Wagering Operator must provide for the patron's review and finalization of a Sports Wager before the Sports Wagering Operator accepts it. The Sports Wagering Operator shall not change a Sports Wager after the patron has reviewed and finalized the wager. To the extent permitted by approved House Rules, a patron may change a Sports Wager after the patron has reviewed and finalized the wager.
  - (10) A Sports Wagering Operator may, in its discretion, cancel an accepted Sports Wager for an obvious error. An obvious error must be defined in the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.02.
  - (11) Except as otherwise provided in 205 CMR 238.51: *Cancelled or Void Wagers*, a Sports Wagering Operator may not unilaterally cancel an accepted Sports Wager without prior written approval of the Commission. A Ticket Writer, as defined in 205 CMR 238.01, may not cancel a Sports Wager for which the Ticket Writer assisted the patron for wager placement and must instead call a supervisor to cancel the Sports Wager.
  - (12) A Sports Wagering Operator shall have no obligation to accept a Sports Wager if unable to do so due to equipment failure.

247.08: Minimum and Maximum Wagers; Additional Wagering Requirements

- (1) Unless otherwise directed by the Commission, there is no limitation as to the minimum or maximum wager a Sports Wagering Operator may accept. This rule does not preclude a Sports Wagering Operator from establishing its own minimum or maximum wagers or limiting a patron's Sports Wager for reasons considered necessary or appropriate by the Sports Wagering Operator.
- (2) A Sports Wagering Operator shall provide notice of the minimum and maximum wagers in effect for each Sporting Event or Wager Category and any changes thereto in accordance with 205 CMR 247.03(3).



- (3) Notwithstanding 205 CMR 247.08(2), a Sports Wagering Operator may, in its discretion, permit a player to wager below the established minimum wager or above the established maximum wager unless otherwise directed by the Commission.
- (4) Nothing in 205 CMR 247.08 shall preclude a Sports Wagering Operator from establishing additional wagering requirements that are consistent with the House Rules, provided that the Sports Wagering Operator satisfies the notice requirements of 205 CMR 247.03(3).

#### 247.09: Promotional Offers

- (1) A Sports Wagering Operator must maintain a record of all promotional offers related to Sports Wagering. For each promotional offer, the Operator must document, at a minimum, the following:
  - (a) The name or identification of the promotional offer;
  - (b) The terms of the promotional offer, as specified in 205 CMR 247.09(2);
  - (c) The date(s) and time(s) the promotional offer was or is scheduled to be available;
  - (d) The date and time the promotional offer was or is scheduled to become discontinued; and
  - (e) The current status of the Promotional offer.
- (2) Sports Wagering Operators shall fully and accurately disclose the material terms of all promotional offers at the time such offers are advertised, and provide full disclosures of the terms of and limitations on the offer before the patron provides anything of value in exchange for the offer. If the material terms of a promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium, the material terms and conditions shall be accessed by hyperlink that takes the individual directly to the material terms or directs the individual to the site to access the promotional offer or terms and in reasonably prominent size. If the material terms of a promotional offer cannot be fully and accurately disclosed or made accessible by hyperlink, within the constraints of a particular advertising medium, the promotional offer may not be advertised in that medium. The terms disclosed according to this 205 CMR 247.09(2) must include, at a minimum, all of the following:
  - (a) The date and time advertisements for the offer are being presented;
  - (b) The date(s) and time(s) the offer is available;
  - (c) The date and time the offer becomes discontinued;
  - (d) Any requirements for a patron to be eligible;

- (e) Any associated restriction on withdrawals of funds;
  - (f) Wagering requirements and limitations on Sporting Events or Wager Categories;
  - (g) How the patron will be notified when they have received an award;
  - (h) The order in which funds are used for wagers;
  - (i) Eligible Sporting Events or Wager Categories; and
  - (j) Rules regarding cancellation.
- (3) No promotional offer available to new patrons may contain terms that delay its full implementation by the Sports Wagering Operator for a period of longer than ninety (90) days, regardless of the amount of Sports Wagering in that period by the patron.
- (4) A Sports Wagering Operator must provide a clear and conspicuous method for a patron to cancel their participation in a bonus or promotional offer that utilizes restricted wagering credits that cannot be cashed out until a wagering requirement or other restrictions associated with the credits is met:
- (a) Upon request for cancellation, the Sports Wagering Operator shall inform the patron of the amount of unrestricted funds that will be returned upon cancellation and the value of restricted wagering credits that will be removed from the Sports Wagering Account; and
  - (b) If a patron elects to proceed with cancellation, unrestricted funds remaining in a patron's Sports Wagering Account must be returned according to the terms of a promotional offer.
- (5) Once a patron has met the terms of a promotional offer, a Sports Wagering Operator must not limit payouts earned while participating in the offer.

247.10: Exchange Wagering and Other Peer-to-Peer Wagering

- (1) Prior to offering exchange wagering or other peer-to-peer wagering, a Sports Wagering Operator must obtain approval from the Commission. The rake taken on such wagers shall be considered Sports Wagering revenue and is subject to all taxes and tax requirements outlined in 205 CMR 240: *Sports Wagering Revenue Tax Remittance and Reporting*.
- (2) One or more Sports Wagering Operators may, with prior approval of the Commission, participate in a sports wagering network in accordance with a written agreement that has been executed by each Sports Wagering Operator. The agreement shall:

- (a) Designate the party responsible for the operation and administration of the network;
  - (b) Identify and describe the role, authority, and responsibilities of each participating Sports Wagering Operator and, if applicable, any Sports Wagering Vendor;
  - (c) Include a description of the process by which significant decisions that affect the operation of the network are approved and implemented by each Sports Wagering Operator; and
  - (d) Allocate the gross sports wagering receipts and tax liability between the participating Sports Wagering Operators to ensure the accurate reporting thereof.
- (3) Each party to an agreement to participate in a sports wagering network shall be jointly and severally liable for any acts or omissions in violation of M.G.L. c. 23N, 205 CMR, or the policies of the Commission.

**NEW Public Comments Pertaining to  
205 CMR 247: Uniform Standards of Sports Wagering**

Subsection	Comment	Commenter	Entity
247.05(1)	<p>247.05 (1): Proposing to remove “tier 1 Sports Wagers and”</p> <p>BetMGM Comment: We oppose Official League Data (“O.L.D.”) requirements but do not have a strong objection if it only applies to in-play (or “live”) betting, which involve Tier 2 wagers. However, we strongly oppose an O.L.D. requirement that would extend to Tier 1 (pre-game bets) as well, because we gather Tier 1 would constitute a much higher percentage of bets placed overall.</p> <p>247.05(1)(d): “The proprietor or manager of any data source that provides data directly to a Sports Wagering Operator must be licensed by the Commission as a Sports Wagering Vendor.”</p> <p>BetMGM Comment: We propose the deletion of subsection (d) because it would extend a licensure requirement (which can be onerous in terms of time and costs associated with the license application process) to data providers and others who would then pass along those costs to operators.</p>	<p>Jess Panora</p> <p>Jess.panora@betmgm.com</p>	BetMGM

**Public Comments Pertaining to  
205 CMR 247: Uniform Standards of Sports Wagering**

<b>Subsection</b>	<b>Comment</b>	<b>Commenter</b>	<b>Entity</b>
247.07(8)(a)	<p>247.07(8)(a)</p> <p>(a) The Sports Wagering Operator shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a patron making a structured, including multiple Sports Wagers or a series of Sports Wagers that are designed to accomplish indirectly that which could not be accomplished directly. A Sports Wager or wagers need not exceed the dollar thresholds at any single Sports Wagering Operator in any single day in order to constitute prohibited structuring.</p> <p>BetMGM Comment: There appears to be a missing word after “patron making a structured...”. Is it “transaction”? Please advise what this word should be.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM
247.09(2)	<p>BetMGM comment: The question at present is if the terms and conditions of a promotion are required to be directly visible within a promotional graphic. Due to the spatial limitations of most marketing assets, it would be difficult to include the entirety of a promotion’s terms and conditions within said graphic. BetMGM works to ensure that all terms and conditions</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM

	<p>for valid promotions are readily available through a landing page or in a patron’s “Promotions” section through BetMGM’s state-specific websites and the app that allows for state-specific login as well. Such information is available prior to a patron opting into an offer.</p> <p>For example on BetMGM’s NJ’s site, even when a patron is not logged in, they can generally view promotional information if need be. Any promotions specific to that patron would be featured similarly while logged into their account. The promotional graphic is then accompanied by both the generalized and full terms and conditions, the latter of which can be viewed by clicking a drop-down arrow. The general terms and conditions also include a reminder to encourage reading through the entirety of a promotion prior to participation. Responsible Gaming information specific to the state’s regulations are also provided consistently at the bottom of the webpage throughout each BetMGM website and along with the app.</p> <p>Clarification as to whether or not terms and conditions must be directly included within promotional graphics would be greatly appreciated.</p>		
247.02(4)	There has been a lot of discussion in how sportsbooks treated preseason	Steve Williams	

futures bets on wins by football teams, Bengals and Bills. A game was cancelled and not rescheduled when a player suffered a lifethreatening injury, creating a headache for sportsbooks and bettors.

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An issue is raised by statistics professor Harry Crane:  
<https://twitter.com/HarryDCrane/status/1618259189830397962>

He notes that an approved applicant in MA that operates in other states may have changed their house rules regarding futures bets since the time that the game was cancelled. I have no idea whether that happened but sportsbooks are likely to modify or update house rules over time, perhaps with commission notice and approval but not with public notice or announcement.

I recommend that the Commission add a clause following subsection 247.02(4) that a public changelog of modified specific house rules be included at the end of the sportsbook's publicly-posted house rules as required in subsection 247.02(2). The house rules do not need to be re-posted in entirety, just something to the effect of "rule has been changed from X to Y effective as of date Z."

Alternatively, the Commission may wish to update a page on its website of modified specific house rules

	<p>with a note as to which sportsbook modified the rules with effective date.</p> <p>This change will help save the Commission from probable future situations in which there is a dispute over what the house rules say or said. This additional transparency will also be of great benefit to players in the Commonwealth.</p>		
<p>247.01(b)(1)</p>	<p>There were past public comments from Sterl on eSports having hard-to-find governing bodies compared to regular sports. Just like the PGA (Professional Golfers' Association) organizes and governs golf tournaments, in eSports, developers of the videogames act in an equivalent governing and organizing capacity.</p> <p>Broadly, I would recommend that the Commission approve eSports matches in tournaments that are organized by the videogame developers themselves. Alternatively, these are the primary eSports available in the betting marketplace:</p> <p>Riot Games-organized events for League of Legends game &amp; Valorant game  Valve-organized events for DOTA game &amp; CS:GO (CounterStrike Go) game  Ubisoft-organized events for Rainbow Six game  Activision-organized events for Call of Duty game  Epic Games-organized events for Fortnite game</p>	<p>Steve Williams</p> <p><a href="mailto:stevewilliams320@gmail.com">stevewilliams320@gmail.com</a></p>	



	<p>Psyonix-organized events for Rocket League game  Blizzard-organized events for Overwatch game  Lightspeed &amp; Quantum-organized events for PUBG game  Tencent Games-organized events for Arena of Valor game  Respawn Entertainment-organized events for Apex Legends game  EA Sports-organized events for FIFA game &amp; Madden game</p> <p>The commission &amp; staff may use this handy link as a reference for the largest games and tournaments:  <a href="https://escharts.com/top-games?year=2022">https://escharts.com/top-games?year=2022</a> - click on a game to view information on the developer/organizer.</p> <p>The Commission should not view eSports as a peripheral opportunity. The largest tournaments see prize pools of between \$20 million and \$40 million which is larger than even major golf tournaments.</p> <p>Approving eSports governing bodies in this section or elsewhere would provide a tangible benefit to the Commonwealth.</p>		
<p>247.01(2)(a)(1),  247.01(2)(a)(2),</p>	<p>247.01(2)(a)(1): Requesting clarification: Is this section intended to mean that Operators cannot offer markets on a Collegiate Event where the outcome of that particular market is dependent on performance of an individual athlete (i.e., player props within a Team sport)?</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>BetMGM</p>

	<p>247.01(2)(a)(2): Requesting clarification: regarding “Collegiate Tournament,” would a future (outright) bet be permitted on a MA college to win its conference tournament?</p>		
247.01(2)(a)(2)	<p>247.01(2)(a)(2)  Proposing to change “2. Involving any collegiate teams from the Commonwealth, unless the teams are involved in a Collegiate Tournament.” to “2. Involving any collegiate teams from the Commonwealth, unless the teams are involved in a Collegiate Tournament located inside [or outside] the Commonwealth.”</p> <p>BetMGM Comment: For clarity, please include language that indicates whether the location of the tournament (i.e., inside or outside the Commonwealth) impacts this analysis.</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
247.08(1)	<p>Minas briefly introduces this subsection during a meeting on 12/22 (01:42:18) which allows "limiting a patron’s Sports Wager for reasons considered necessary or appropriate by the Sports Wagering Operator" but the commissioners don't have any comments at that time before moving onto next section. At the conclusion of the 1/12 meeting (06:35:00), the commissioners discuss this as a popular issue amongst citizens to be discussed in the future. On 1/20, Commissioner O'Brien again references this issue briefly (01:56:15)</p>	<p>Steve Williams  <a href="mailto:stevewilliams320@gmail.com">stevewilliams320@gmail.com</a></p>	

during discussion around 255 CMR 255 Play Management (for opting into self-limiting).

Here is my proposal for addressing this issue as appropriate in 247.08(1). Add the word "default" prior to "minimum or maximum wager" to apply the first sentence broadly to limits that apply only to the general user population. The second sentence currently gives operators unlimited authority to limit players. I think the commission will need to come to a consensus on what is an acceptable limiting percentage (such as 60 or 70%) relative to posted limits (247.08(2)) and add a new sentence/clause here like "A Sports Wagering Operator may not establish a maximum wager amount limiting a patron's Sports Wager that is below 70% of the posted maximum wager amount in accordance with 205 CMR 247.08(2)."

There is precedent for this in Spain:  
<https://www.yogonet.com/international/noticias/2021/07/30/58610-spain-courts-rule-against-betfair-and-bet365-for-suspending-accounts-of-customers-on-a-streak>

As an example, one approved applicant, DraftKings, allows for bets up to \$1 million (or bets to win up to \$1 million) on NFL games to its general population:  
<https://sportsbook.draftkings.com/help/general-betting-rules/sport-specific->

	<p>limits</p> <p>We know DraftKings recently allowed a \$1.4 million bet on the Chargers in an approved state that lost:  <a href="https://www.espn.com/chalk/story/_/id/35459170/notable-bets-los-angeles-chargers-jacksonville-jaguars-nfl">https://www.espn.com/chalk/story/_/id/35459170/notable-bets-los-angeles-chargers-jacksonville-jaguars-nfl</a></p> <p>DraftKings also posts a limit of \$250,000 on NCAA basketball matches (see rules reference above). But this user is unable to place a bet of more than \$26.20 to win a net profit of \$36.68:  <a href="https://twitter.com/ARo_17/status/1614497437220995075">https://twitter.com/ARo_17/status/1614497437220995075</a> That's an imposed limit of 99.99%.</p> <p>If not adopted, this becomes a responsible gaming issue if approved sportsbooks are allowed by statute to take \$1 million bets from losing players and limit winning players by 99.99%. The betting handle for the state over the long-run would come almost entirely from non-limited losing money, perhaps a substantial portion being what we would consider "at-risk" users.</p>		
247.07(1)	<p>I propose the following sentence be added to the end of this section: "The betslip for a wager must also include the maximum wager amount applicable to the user considering placing the bet."</p> <p>You can see this in action in Colorado-based Circa Sports:</p>	<p>Steve Williams</p> <p><a href="mailto:stevewilliams320@gmail.com">stevewilliams320@gmail.com</a></p>	

	<p><a href="https://co.circasports.com/sports">https://co.circasports.com/sports</a>. Without being logged in, click on an outcome and notice in the betslip on the right, you will see a Limit: 5000 message (or another amount). This amount could change depending on the logged in user.</p> <p>This change will a) add needed transparency for the bettor, b) visually aid users who are opting into self-limiting, c) reduce the risk that the bettor will attempt to place a bet over their limit and d) prevent sportsbooks from allowing bets over their stated limits.</p>		
247.04(6)	<p>247.04(6) Proposing to add “In no event shall such opportunity be less than seven (7) days.” BetMGM Comment: Less than seven days to comment would be impracticable for operators.</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
247.07(8)	<p>247.07(8) Proposing to add: “However, no personally identifiable information shall be obtained or retained for a longer period of time than would be lawful.” BetMGM Comment: For data privacy reasons, we suggest this limitation on retention of PII.</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM
247.01(c)(3)	<p>247.01(c)(3): proposing to add “except that a virtual sports event does not need to satisfy 205 CMR</p>	<p>Jess Panora</p>	Bet MGM

	<p>247.03(4)(a)” at the end of this sentence.</p> <p>As set forth in 205 CMR 247.01(c)(1), a virtual sports event must use a RNG, certified by an independent testing laboratory to determine the outcome(s). Therefore, the outcome of a virtual sports event will, by definition, be determined solely by chance and no virtual sports event request could satisfy 205 CMR 247.03(4)(a).</p>	<p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	
247.01(2)	<p>247.01(2): proposing to remove (h) and add “(3) An Operator shall not knowingly offer any Sporting Event or Wager Category in which the outcome has already been determined and is publicly known.”</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
247.05(2)	<p>247.05(2) Proposing to change: “(2) A Sports Wagering Operator shall report to the Commission the data source that it uses to resolve Sports Wagers. The Commission may disapprove of a data source for any reason.” to</p> <p>“(2) A Sports Wagering Operator shall report to the Commission the data source that it uses to resolve Sports Wagers. The Commission may disapprove of a data source on any reasonable basis.”</p> <p>BetMGM Comment: This requirement should be subject to a reasonableness standard.</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM





*Legal Division*

## **AMENDED SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 247.00: Uniform Standards of Sports Wagering** for which a public hearing was held on **February 28, 2023, at 9:15am EST**.

This regulation was developed as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §§ 4.

The adoption of 205 CMR 247.00 applies to all Sports Wagering Operators who have been licensed by the Commission, pursuant to G.L. c. 23N and 205 CMR, to establish parameters for permissible sports wagers in the Commonwealth. Accordingly, this regulation is unlikely to have an adverse impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As it is written, 247.00 is intended to establish parameters for permissible wagers within the Commonwealth. As these regulations apply to Sports Wagering Operators, the Commission does not anticipate the need to establish less stringent requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

As this regulation is not expected to impact small businesses, less stringent schedules, deadlines for compliance, and reporting requirements for small businesses have not been established.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

205 CMR 247.00 does impose compliance reporting requirements upon Sports wagering Operators who have received licensure by the Commission. This regulation does not impose reporting requirements upon small businesses, however.



Massachusetts Gaming Commission



4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

Performance based standards are set forth in this regulation for sports wagering operators who have been licensed by the Commission.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

This regulation is unlikely to deter or encourage the formation of businesses within the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

205 CMR 247.00 will not have an adverse impact on small businesses.

Massachusetts Gaming Commission  
By:

/s/ Judith A. Young  
Associate General Counsel  
Legal Division

Dated: January 26, 2023



Massachusetts Gaming Commission

## 205 CMR 248.00: SPORTS WAGERING ACCOUNT MANAGEMENT

248.01:	General Account Wagering
248.02:	Account Refusals
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248.04:	Age and Identity Verification
248.05:	Limitation to One Account Per Patron
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248.17:	Account Suspension and Restoration
248.18:	Account Closure
248.19:	Abandoned Funds and Dormant Accounts

### 248.01: General Account Wagering

- (1) A Sports Wagering Operator may offer a system of account wagering to its patrons whereby Wagers are debited from and payouts credited to a sum of money, deposited in a Sports Wagering Account by the patron held by the Sports Wagering Operator.
- (2) A Sports Wagering Account may only be established in the name of a patron and is not transferable.
- (3) A Person may only place a Wager through a mobile application or other digital platform using funds from a Sports Wagering Account.
- (4) No Sports Wagering Operator may charge any fee to maintain or administer any Sports Wagering Account.

### 248.02: Account Refusals

A Sports Wagering Operator may reserve the right to, at any time, refuse to open a Sports Wagering Account, accept a wager, or accept a deposit. The Sports Wagering Operator shall not establish or maintain an account for any Person who has self-excluded or otherwise been excluded from Sports Wagering pursuant to M.G.L. c. 23N, § 13(e) or 205 CMR.

### 248.03: Account Registration

- (1) Any Person registering for a Sports Wagering Account shall provide personally identifiable information to the Sports Wagering Operator. That information shall include, at a minimum, the following:
  - (a) Full legal name;
  - (b) Date of birth;
  - (c) Physical address of the Person's principal residence, which address shall not be a post office box;
  - (d) Social Security Number, or the last four (4) digits of the Social Security Number, or an equivalent Federal Identification Number for a noncitizen patron, such as a passport or taxpayer identification number; and
  - (e) Any other information sufficient to verify the registrant's identity and to prove the registrant is at least twenty-one (21) years of age.
- (2) During the registration process, the registrant shall:
  - (a) Not be permitted to register for a Sports Wagering Account if they submit a birth date which indicates that they are under the age of twenty-one (21);
  - (b) Be informed on the account application which information fields are "required," which are not, and the consequences of not filling in the "required" fields;
  - (c) Be required to agree to the terms and conditions and privacy policies of the Sports Wagering Operator;
  - (d) Be required to acknowledge that they are prohibited from allowing any other person to access or use their Sports Wagering Account;
  - (e) Be required to consent to the monitoring and recording of the use of their Sports Wagering Account by the Sports Wagering Operator and the Commission; and
  - (f) Be required to affirm that the personally identifiable information provided in accordance with 205 CMR 248.03(1) is accurate.
- (3) For each Sports Wagering Account, the Sports Wagering Operator must establish and maintain an electronic patron file, which must, at a minimum, include the following for each patron:
  - (a) Unique patron ID and, if different from the patron ID, the patron's username;
  - (b) The information provided in accordance with 205 CMR 248.03(1) to register the patron and create the Sports Wagering Account;
  - (c) The date and method of identity verification, including, where applicable, the document number of the government issued identification credential examined and its date of expiration, if applicable, or, if a government issued

identification credential is not required for registration, the electronic record documenting the process used to confirm the patron's identity;

- (d) The date of the patron's agreements to the terms and conditions and privacy policies in 205 CMR 248.06, and the date of the patron's agreement, acknowledgment, consent, and affirmation in accordance with 205 CMR 248.03(2)(c)-(f);
  - (e) Account details and current balance, including any incentive credits, provided, that all restricted wagering credits and unrestricted funds that may expire shall be maintained separately;
  - (f) The date on, and method by which, the Sports Wagering Account was registered;
  - (g) Every date on, time at which, and IP address from which the Sports Wagering Account is accessed; and
  - (h) The current status of the Sports Wagering Account (e.g., active, dormant, closed, suspended, excluded, etc.).
- (4) The following information maintained as part of the electronic patron file shall be stored in encrypted form:
- (a) The patron's social security number, taxpayer identification number, passport number, other government identification number(s), or portion(s) thereof;
  - (b) The patron's password(s), PIN(s), or other authentication credential(s); and
  - (c) The patron's debit instrument number(s), debit card number(s), bank account number(s) or other personal financial information.

248.04: Age and Identity Verification

- (1) No Sports Wagering Operator shall allow any individual who is either under twenty-one (21) years of age, or is a prohibited person, as defined in 205 CMR 238.49, to create a Sports Wagering Account. This section shall not be construed to prevent a restricted patron, as defined in 205 CMR 238.48, from creating a Sports Wagering Account and depositing funds to such an account.
- (2) The Sports Wagering Operator shall employ electronic verification with respect to each patron's name, date of birth and Social Security number, or the last four (4) digits of the Social Security number, or other Federal Identification Number, at the time of account establishment, by a Commission-approved national independent reference company or another independent technology approved by the Commission which meets or exceeds the reliability, security, accuracy, privacy and timeliness provided by individual reference service companies.
- (3) The Sports Wagering Operator shall refuse to establish an account if it finds that any of the information supplied is untrue or incomplete.

- (4) A Sports Wagering Operator must document and use commercially reasonable standards to confirm that an individual attempting to create a Sports Wagering Account is not a prohibited Person.
- (5) Upon developing reasonable suspicion that the patron's identification has been compromised, a Sports Wagering Operator must re-verify the patron's identification ~~within a reasonable time~~immediately.

#### 248.05: Limitation to One Account per Patron

- (1) No Sports Wagering Operator shall allow a patron to establish more than one username or more than one Sports Wagering Account with the Operator.
- (2) The system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238 shall implement procedures to terminate all accounts of any patron that establishes or seeks to establish more than one account, whether directly or by use of another Person as proxy. Such procedures may allow a patron that establishes or seeks to establish more than one username or more than one account to retain one account provided that the Sports Wagering Operator investigates and makes a good-faith determination that the patron's conduct was not intended to obtain a competitive advantage.

#### 248.06: Terms and Conditions and Privacy Policies

- (1) All terms and conditions and privacy policies for Sports Wagering Accounts shall be readily accessible to the patron before and after registration. Sports Wagering Operators shall inform patrons of any material changes or updates to said terms and conditions or privacy policies.
- (2) All terms and conditions for Sports Wagering Accounts must address all aspects of the Sports Wagering operation, including, but not limited to all of the following:
  - (a) A statement that only individuals over the age of twenty-one (21) and located in the authorized geographic boundaries within the Commonwealth may participate in Sports Wagering;
  - (b) Advice to the patron to keep their authentication credentials secure;
  - (c) All processes for dealing with lost authentication credentials, forced password changes, password strength and other related items as required by the Commission;
  - (d) Full explanation of all rules applicable to dormant Sports Wagering Accounts, including the conditions under which an account may be declared dormant and what actions will be undertaken on the account once this declaration is made;
  - (e) Actions that will be taken on the patron's pending wagers placed prior to any exclusion or suspension, including the return of all wagers, or settling all wagers, as appropriate;

- (f) Information about timeframes and limits regarding deposits to, or withdrawals from, the Sports Wagering Account, including a clear and concise explanation of all fees, if applicable; and
  - (g) Statements indicating that the Sports Wagering Operator has the right to:
    - 1. Refuse to establish a Sports Wagering Account for what it deems good and sufficient reason;
    - 2. Refuse deposits to, or withdrawals from, Sports Wagering Accounts for what it deems good and sufficient reason; and
    - 3. Unless there is a pending investigation or patron dispute, suspend or close any Sports Wagering Account at any time, provided such suspension or closure is in accordance with the terms and conditions between the Sports Wagering Operator and the patron, G.L. c. 23N, and 205 CMR.
- (3) All privacy policies for Sports Wagering Accounts must address all aspects of the personally identifiable information protection, including, at a minimum any measures required by M.G.L. c. 93H and any other applicable law, and the following:
- (a) The personally identifiable information required to be collected;
  - (b) The purpose and legal basis for personally identifiable information collection and of every processing activity for which consent is being sought;
  - (c) The period in which the personally identifiable information is stored, or, if no period can be possibly set, the criteria used to set this. It is not sufficient for the Sports Wagering Operator to state that the personally identifiable information will be kept for as long as necessary for the legitimate purposes of the processing;
  - (d) The conditions under which personally identifiable information may be disclosed;
  - (e) An affirmation that measures are in place to prevent the unauthorized or unnecessary disclosure of the personally identifiable information; and
  - (f) The identity and contact details on the Sports Wagering Operator who is seeking the consent, including any Sports Wagering Vendor(s) which may access and or use this personally identifiable information;
  - (g) That the patron has a right to:
    - 1. Access, export, or transfer their personally identifiable information;
    - 2. Rectify, erase, or restrict access to their personally identifiable information;

3. Object to the personally identifiable information processing;
  4. To withdraw consent, if the processing is based on consent;
- (h) The rights of a patron to file a complaint concerning the use or storage of the patron's personally identifiable information to the Commission, the Office of Consumer Affairs and Business Regulation, the Office of the Attorney General, or any other law enforcement entity regarding the use of the of the patron's personally identifiable information;
  - (i) For personally identifiable information collected directly from the patron, whether there is a legal or contractual obligation to provide the personally identifiable information and the consequences of not providing that information;
  - (j) Where applicable, information on the Sports Wagering Operator's use of automated decision-making, including profiling, and at least in those cases, without hindering compliance with other legal obligations:
    1. Sufficient insight into the logic of the automated decision-making;
    2. The significance and the envisaged consequences of such processing for the patron; and
    3. Safeguards in place around solely automated decision-making, including information for a patron on how to contest the decision and to require direct human review or intervention.

248.07: Account Access

- (1) Upon opening a Sports Wagering Account, the Sports Wagering Operator shall allow each patron to establish a password to be used in conjunction with a username, or an alternative secure authentication credential, for use by the patron to assure that only the patron has access to the Sports Wagering Account. The Operator may make more than one permitted method of authentication available for a patron to access their account.
- (2) If the system does not recognize the authentication credentials when entered, an explanatory message shall be displayed to the patron which prompts the patron to try again. The error message shall be the same regardless of which authentication credential is incorrect.
- (3) A multi-factor authentication process shall be employed for the retrieval or reset of a patron's forgotten authentication credentials.
- (4) Current account balance information, including any restricted wagering credits and unrestricted funds, and transaction options shall be available to the patron once the patron has been authenticated. All restricted wagering credits and unrestricted funds that may expire shall be identified separately.

- (5) The Operator shall employ a mechanism allowing for an account to be locked in the event that suspicious authentication activity is detected, including (but not limited to) three consecutive failed access attempts in a thirty-minute period. A multi-factor authentication process shall be employed for the account to be unlocked.

#### 248.08: Sufficient Account Balance

Wagers and withdrawals will not be accepted which would cause the available balance of a Sports Wagering Account to fall below \$0. Any account not updated when a transaction is completed shall be inoperable until the transaction is posted and the account balance updated.

#### 248.09: Financial Transactions

Operators shall provide a patron written confirmation or denial of every financial transaction initiated using the patron's Sports Wagering Account, including:

- (a) The type of transaction (deposit/withdrawal);
- (b) The transaction value; and
- (c) For denied transactions, a descriptive message as to why the transaction did not complete as initiated.

#### 248.10: Account Deposits

- (1) A Sports Wagering Account may be funded using approved methods which shall produce a sufficient audit trail for verification of the source of the wagers.
- (2) Approved methods for funding Sports Wagering Accounts include:
  - (a) Cash or cash equivalents;
  - (b) Foreign currency and coin converted to US currency;
  - (c) Digital, crypto and virtual currencies converted to cash;
  - (d) Electronic funds transfers (EFTs), including online and mobile payment systems;
  - (e) Debit instruments, including debit cards and prepaid access instruments;
  - (f) Promotional Gaming Credits;
  - (g) Sports Wager Payouts;
  - (h) Adjustments made by the Sports Wagering Operator with documented notification to the patron; and
  - (i) Any other means approved by the Commission or its designee.
- (3) No deposits may be made by credit card, and no Wagering on credit is allowed.



- (4) The Sports Wagering Account shall be credited for any deposit in accordance with the system of internal controls submitted by a Sports Wagering Operator in accordance with 205 CMR 238.
- (5) The proceeds of a check may first need banker's clearance. Holding periods will be determined by the Sports Wagering Operator and communicated to the patron.
- (6) For debit cards and EFTs, the patron may be liable for any charges imposed by the transmitting or receiving Sports Wagering Operator. Such charges may be deducted from the patron's Sports Wagering Account.

#### 248.11: Failed Electronic Funds Transfers (EFTs)

(1) The Sports Wagering Operator shall have security measures and controls to prevent EFT fraud where financial transactions are conducted through EFT. A failed EFT attempt is not considered fraudulent if the patron has successfully performed an EFT on a previous occasion and has no outstanding chargebacks. Otherwise, the Sports Wagering Operator shall:

- (a) Temporarily block the patron's Sports Wagering Account for investigation of fraud after five (5) consecutive failed EFT attempts within a ten-minute period. If there is no evidence of fraud, the block may be vacated; and
- (b) Suspend the patron's Sports Wagering Account after five (5) additional consecutive failed EFT attempts within any subsequent ten-minute period.

#### 248.12: Account Withdrawals

- (1) The Sports Wagering Operator shall implement procedures that:
  - (a) Prevent unauthorized withdrawals from Sports Wagering Accounts by the Sports Wagering Operator or others;
  - (b) Establish a protocol by which patrons can withdraw funds maintained in their Sports Wagering Accounts, whether such accounts are open or closed, except as otherwise provided in 205 CMR, or any other applicable state, local or federal law.
- (2) Pursuant to M.G.L. c. 23N, § 4(d)(2)(vi), a patron must be allowed to withdraw the funds maintained in his or her Sports Wagering Account, without further solicitation or promotion, in the manner in which the funds were deposited.
- (3) A Sports Wagering Operator must employ a mechanism that can detect and prevent any withdrawal activity initiated by a patron that would result in a negative balance of the Sports Wagering Account.
- (4) A Sports Wagering Operator shall not allow a Sports Wagering Account to be overdrawn unless caused by payment processing issues outside the control of the Sports Wagering Operator.

- (5) Except as otherwise provided in 205 CMR 248.12(5)(a), requests for withdrawals must be honored by the later of five (5) business days of the request or ten (10) business days of submission of any tax reporting paperwork required by law.
  - (a) If the Sports Wagering Operator believes in good faith that the patron engaged in either fraudulent conduct or other conduct that violate or would put the Sports Wagering Operator in violation of 205 CMR, the Sports Wagering Operator may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the patron.
  - (b) For purposes of the timing requirements of 205 CMR 248.12(5), a request for withdrawal will be considered honored if it is processed by the Sports Wagering Operator but delayed by a payment processor, debit card issuer or by the custodian of a financial account.
- (6) The Sports Wagering Operator shall not be liable for any unauthorized withdrawal of funds from a Sports Wagering Account where such unauthorized withdrawal is not caused by the negligence or intentional misconduct of the Sports Wagering Operator. It is the patron's responsibility to protect deposits in the account by keeping their authentication credentials strictly confidential.

#### 248.13: Account Adjustments

The Sports Wagering Operator shall perform periodic reviews of all adjustments to Sports Wagering Accounts for amounts of five hundred dollars or less by supervisory personnel. All adjustments of more than five hundred dollars must be authorized by supervisory personnel before being entered.

#### 248.14: Account Credits

When a Sports Wagering Account is entitled to a payout or refund, said monies will be credited to the respective account, thus increasing the credit balance. It is the responsibility of the patron to verify their balance and notify the Sports Wagering Operator of any discrepancy or dispute within the time frame specified in the terms and conditions. Unresolved disputes may be forwarded to the Commission by the Sports Wagering Operator or the patron. The Commission will consider no such claim unless submitted in writing and accompanied by supporting evidence.

#### 248.15: Account Records and Statements

The Sports Wagering Operator must maintain complete records of every deposit, withdrawal, wager, and payout for each Sports Wagering Account. In accordance with M.G.L. c. 23N, § 4(d)(2)(iv), upon request of the patron, the Sports Wagering Operator shall offer patrons access to a statement detailing their account history and account details for the past year.

#### 248.16: Responsible Gaming Limits

- (1) In accordance with M.G.L. c. 23N, § 13(e)(3), a Category 3 Sports Wagering Operator shall allow the patron to set self-imposed limitations on sports wagering at any time, including when the patron signs up for a Sports Wagering Account.
  - (a) The Operator must offer daily, weekly and monthly deposit limits, which shall specify the maximum amount of money a patron may deposit into his or her Sports Wagering Account during a particular period of time.
  - (b) The Operator must offer daily, weekly and monthly wager limits, which shall specify the maximum amount of patron funds that may be put at risk during a particular period of time.
- (2) Any decrease to these limits shall be effective immediately or at a point in time (e.g., next login, next day) that was clearly indicated to the patron. Any increase to these limits shall become effective only after the time period of the previous limit has expired, and the patron reaffirms the requested increase.

248.17: Account Suspension and Restoration

- (1) A Sports Wagering Account shall be suspended under the following conditions:
  - (a) When requested by the patron for a specified period of time, which must not be less than seventy-two hours;
  - (b) When required by the Commission;
  - (c) When a Sports Wagering Operator determines that the patron is a prohibited Person; or
  - (d) When a Sports Wagering Operator has evidence that indicates any of the following:
    1. That the account has been used for illegal activity;
    2. That the account has a negative balance; or
    3. That the patron has violated the account's terms and conditions.
- (2) When a Sports Wagering Account is suspended, the Sports Wagering Operator must do all of the following:
  - (a) Prevent the patron from placing Sports Wagers;
  - (b) Prevent the patron from depositing funds unless the account is suspended due to having a negative Sports Wagering Account balance, but only to the extent the account balance is brought back to zero dollars;
  - (c) Prevent the patron from withdrawing funds from a Sports Wagering Account, unless the Sports Wagering Operator determines that the funds have cleared, and that the reason(s) for suspension would not prohibit a withdrawal;

- (d) Prevent the patron from making changes to his or her Sports Wagering Account;
  - (e) Prevent the patron from permanently closing their Sports Wagering Account; and
  - (f) Prominently display to the patron that the Sports Wagering Account is suspended, the restrictions placed on the Sports Wagering Account, any further course of action needed to lift the suspension, a notification of the Patron's rights under the Operator's House Rules and Internal Controls to submit a complaint, and directions on how to file such a complaint.
- (3) A suspension may be lifted for any of the following reasons:
- (a) Upon expiration of the time period established by the patron;
  - (b) If authorized by the Commission;
  - (c) When the patron is no longer a prohibited Person; or
  - (d) When the Sports Wagering Operator has investigated the evidence of illegal activity, a negative account balance, or a violation of the account's terms and conditions, and determined that the suspension should be lifted.
- (4) Each Sports Wagering Operator shall, on a monthly basis, provide the Commission with a list of suspended accounts, including the reasons why the account is in suspended mode, and an explanation of the lifting of any suspension under 205 CMR 248.17(3)(d).

#### 248.18: Account Closure

The Sports Wagering Operator shall permit a patron to permanently close a Sports Wagering Account registered to the patron on any or all platforms owned or operated by the Sports Wagering Operator at any time and for any reason unless the account is in suspended mode pursuant to 205 CMR 248.17. The Sports Wagering Operator may also close a Sports Wagering Account when the patron makes repeated attempts to operate with an insufficient balance. Upon closing an account, the Sports Wagering Operator shall refund the remaining balance to the patron within five business days, provided that the Sports Wagering Operator acknowledges that the funds have cleared.

#### 248.19: Abandoned Funds and Dormant Accounts

- (1) Subject to the provisions of M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.00: *Procedures for the Administration of Abandoned Property*, the Sports Wagering Operator shall presume that the funds in any account without any activity for a period of three years after the balance in that account became payable or deliverable to the patron to have been abandoned. For purposes of this 205 CMR 248.19(1), the term "activity" means Sports Wagers, deposits, or withdrawals.
- (2) The Sports Wagering Operator shall report and deliver all Sports Wagering Accounts presumed abandoned to the Treasurer of the Commonwealth as provided

for by M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.03: *Reporting Abandoned Property*.

- (3) Subject to M.G.L. c. 200A, 7A and 960 CMR 4.03: *Reporting Abandoned Property*, at least 60 days prior to reporting any Sports Wagering Accounts to the Treasurer, the Sports Wagering Operator shall provide notice to the patron's last known address and conduct reasonable due diligence to locate the patron. During this time period the account shall be deemed dormant. In addition, the Operator shall:
- (a) Allow access to a dormant account only after performing additional identity verifications; and
  - (b) Protect dormant accounts that contain funds from unauthorized access, changes or removal.

REGULATORY AUTHORITY

M.G.L. c. 23N, §§ 4, 11 and 13; M.G.L. c. 200A, §§ 7 and 8A

**Public Comments Pertaining to  
205 CMR 248: Sports Wagering Account Management**

Subsection	Comment	Commenter	Entity
248.04(5)	<p>Upon developing reasonable suspicion that the patron’s identification has been compromised, a Sports Wagering Operator must re-verify the patron’s identification within a reasonable time. - we suggest replacing “within a reasonable time” with “immediately”</p>	<p>Matt Heap  <a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a></p>	Geocomply
248.17(d)(3)	<p>If the Commission moves to prevent limiting of players in the statute, I would recommend that the commission re-visit or add context to 205 CMR 248.17 (d)(3) which reads "When a Sports Wagering Operator has evidence that indicates any of the following ... 3. That the patron has violated the account’s terms and conditions."</p> <p>If approved sportsbooks aren't able to limit players as they wish, they will be more likely to utilize their unlimited ability to close accounts for violating terms and conditions. Unfortunately, for players, terms and conditions largely allow sportsbooks to close an account for any reason.</p> <p>For example, DraftKings terms state that it may disqualify a player for activity "the Company deems to be improper, unfair or otherwise adverse to the operation of the Game" as well as "Abusing the Website in any way."</p> <p>The Commonwealth would benefit from the Commission determining what</p>	<p>Steve Williams  <a href="mailto:stevewilliams320@gmail.com">stevewilliams320@gmail.com</a></p>	

	<p>specific non-illegal (as covered in d(1)) blanket violations of terms of conditions would constitute appropriate closure of an account and include those as bullet points in the statute under d(3). If the Commission is unable to do that, a clause should be added that an operator be required to disclose to the user at the time of account closure both the instance of violation and the clause of violation in the terms and conditions for transparency.</p> <p>An additional sentence/clause should be added that a user may appeal to the Commission, presenting their case to have the account reinstated.</p> <p>This would be a benefit to the Commonwealth because we want all players who wish to play with regulated, taxed operators to be able to do so to some extent.</p> <p>Thanks so much for your time and consideration of my concerns.</p>		
248.03(4)	<p>248.03(4): proposing to replace “encrypted form” with “non-clear text format (e.g., hashing)”</p> <p>Comment: Hashing can complete the same intent without creating additional system overhead. Hashing currently utilized for software validation.</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM
248.03(2)(f)	<p>248.03(2)(f)  Proposing to add: “Only personally identifiable information that must be</p>	<p>Jess Panora  <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

	<p>retained for legal or regulatory purposes shall be permitted to be kept by the Commission. All other personally identifiable information obtained shall be deleted or destroyed after the account registration process is complete.”</p> <p>BetMGM Comment: For data privacy purposes, BetMGM proposes this additional language to protect patrons.</p>		
248.03(4)	<p>248.03(4)</p> <p>Proposing to add: “(which shall be deleted or destroyed at the conclusion of the account registration process unless retention is necessary for legal or regulatory purposes)”</p> <p>BetMGM Comment: For data privacy purposes, BetMGM proposes this additional language to protect patrons</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM
248.06(3)(g)	<p>248.06(3)(g)</p> <p>Proposing to add “5. To be notified of any sharing of such personally identifiable information within a reasonable time after such information is shared with a third party.”</p> <p>BetMGM Comment: We propose patrons be at least given notice of PII sharing.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	Bet MGM
248.05(2)	<p>We suggest adding the following sentence to the end of (2) The Sports Wagering Operator shall also implement capabilities to detect and prevent proxy betting from occurring on the platform.</p>	<p>Matt Heap</p> <p><a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a></p>	Geocomply



248.07	<p>We suggest an edit to (3) A multi-factor authentication process shall be employed for securely issuing, modifying, and resetting a patron’s account credentials.</p> <p>We suggest adding a new paragraph (6):</p> <p>When a new device is used to login, or when a high-risk transaction is performed, multi factor authentication (MFA) shall be used at by the Operator to enhance security and integrity. MFA requires the use of 2 of the following factors:</p> <p>Something you know (e.g. Information known only to the patron, such as a password, pattern or answers to challenge questions);</p> <p>Something you own (e.g. an item possessed by a patron such as an electronic token, physical token or an identification card);</p> <p>Something you are; eg A patron's biometric data, such as fingerprints, facial or voice recognition, iris scan, palm print, etc.</p>	Matt Heap <a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a>	Geocomply
248.09	<p>We suggest incorporating the following into this section or wherever most appropriate:</p> <p>The operator should have specific measures in place to protect their patrons during certain “high risk transactions” on their account, where there is an increased susceptibility to fraud schemes such as Bonus abuse, Account Takeover, Payment Fraud, or Friendly Fraud / First Party Fraud. These high risk transactions shall be mitigated using biometrics, device fingerprinting, location intelligence and/or other fraud detection</p>	Matt Heap <a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a>	Geocomply

	<p>techniques. These “high risk transactions” include:  Any modification of contact information;  Addition of a new funding method;  Modification of an existing funding methods;  Addition of a withdrawal method;  Modification of withdrawal method;  Withdrawal of more than \$1,000, however this threshold can be raised for specific players, provided the operator utilizes analytical tools determining an individual patron’s transactional behavior and establish “high-risk” threshold on a individual basis based on historical activity  Activity from an OFAC restricted region</p>		
248.17	<p>We suggest adding more examples to (1)(d)  (1) A Sports Wagering Account shall be suspended under the following conditions:  (d) When a Sports Wagering Operator has evidence that indicates any of the following:  1. That the account has been used for illegal activity;  2. That the account has a negative balance; or  3. That the patron has violated the account’s terms and conditions.  When any of the following has been attempted or occurred:  Bonus abuse  Account Takeover has been attempted or occurred  Payment Fraud has been attempted or occurred  Friendly Fraud / First Party Fraud has</p>	<p>Matt Heap   <a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a></p>	<p>Geocomply</p>

	<p>been attempted or occurred</p> <p>Proxy betting</p>		
248	<p>We suggest adding a new section 248.20: Fraud Reporting and Analytics: The fraud system shall provide reporting, analytics, and automation capabilities to ensure ongoing prevention and reporting of fraudulent activities, including but not limited to:</p> <p>Real time monitoring tools and recurring reports detecting all fraud types including Bonus Abuse, Identity Theft, Account takeover, Bot Abuse, Fraudulent Chargebacks, Payment Fraud and Collusion.</p> <p>Recurring reports focused on player analytics at the following levels: device, account, and location;</p> <p>Detection and cessation of organized fraud groups, fraud rings;</p> <p>Provide link analysis between locations, accounts and devices;</p> <p>Prevent the victimization of genuine individuals;</p> <p>Identify and mitigate locations that are deemed high risk, eg. and/or where rapid account creation is identified and occurring; suspicious activity, fraud rings, etc.</p> <p>Suspend devices and accounts when deemed highly suspicious</p> <p>Suspicious Activity Report (SARs)</p> <p>Prior to conducting internet/mobile gaming, internet/mobile sports betting or establishing an account, the Operator shall develop and implement a policy for the handling of patrons discovered to be using an account in a fraudulent manner, that includes but is not limited to:</p>	<p>Matt Heap</p> <p><a href="mailto:matt.heap@geocomply.com">matt.heap@geocomply.com</a></p>	Geocomply

	<p>The maintenance of information about any patron’s activity, such that if fraudulent activity is detected the regulatory authority and/or law enforcement has all of the necessary information to investigate and take appropriate action;</p> <p>The suspension process for any account discovered to be providing access to fraudulent patrons; and</p> <p>The treatment of deposits, wagers, and wins associated with a fraudulent account.</p>		
<p>205 CMR 248.19(1) Abandoned Funds and Dormant Accounts</p>	<p>(1) Subject to the provisions of M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.00: Procedures for the Administration of Abandoned Property, the Sports Wagering Operator shall presume that the funds in any account without any activity for a period of three years after the balance in that account became payable or deliverable to the patron to have been abandoned. For purposes of this 205 CMR 248.19(1), the term “activity” means Sports Wagers, deposits, or withdrawals.</p> <p>BetMGM Comment: BetMGM is requesting that the MGC consider adding “a successful login” to the definition of “Activity” stated in 248.19: Abandoned Funds and Dormant Accounts (1). Pursuant to 960CMR 4.00 Section 4.02, examples of owner activity are not limited to those outlined under the definition of Activity which would allow you to consider the proposed revised text</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>Bet MGM</p>

	<p>and interpretation of Activity when applied to iGaming.</p> <p>In iGaming, a sports wager, deposit or withdrawal are all dependent on the patron’s successful login. Therefore, the addition of “a successful login” in the definition of “Activity” will align the regulation with established jurisdictions, and therefore allow for unified and coherent standard for all Operators to effectively comply with dormant regulations.</p>		
<p>205 CMR 248.19(1) Abandoned Funds and Dormant Accounts</p>	<p>BetMGM Comment: BetMGM is requesting that the MGC add “a successful login” to the definition of “Activity” stated in 248.19: Abandoned Funds and Dormant Accounts (1) for several reasons as follows:</p> <p>-The way the regulation currently reads, it forces a patron to engage on the platform via wager or transaction in order to prevent dormancy. This is a Responsible Gaming concern as not all patrons may be in a position either financially or emotionally to wager or make a transaction. Without adding the word ‘successful login’, you force all patrons, including those who are high risk for responsible gaming concerns, to wager or add money to their account in order to prevent the account from turning dormant.</p> <p>-In iGaming, a sports wager, deposit or withdrawal are all dependent on the</p>	<p>Jess Panora <a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>Bet MGM</p>

	<p>patron’s successful login which still meets the regulator’s intent.</p> <p>-Pursuant to Massachusetts Escheatment Law, 960CMR 4.00 Section 4.02, examples of owner activity are not limited to those outlined under the definition of Activity which would allow you to consider the proposed revised text and interpretation of Activity when applied to iGaming. Therefore, this deviates from Massachusetts Escheatment law.</p> <p>-Adding ‘Login’ is aligned with the U.S. Securities and Exchange Commission guidance for escheatment. Without adding login, the regulation at this time conflicts with federal guidance.</p> <p>-This deviates from industry standard as well as Escheatment law in general. All other markets allow for login in interpretation of activity in order to be classified as dormant.</p> <p>The addition of “a successful login” in the definition of “Activity” will remove the possibility of this being interpreted as a responsible gaming concern, align dormant account fund management with current escheatment law in Massachusetts as well as with the SEC, and remove the deviation from industry standard.</p>		
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**From:** [Grace Moat](#)  
**To:** [Young, Judith](#)  
**Cc:** [Jessica Gianduso](#); [Sarah Brennan](#)  
**Subject:** Regulation Comment  
**Date:** Thursday, February 23, 2023 2:42:29 PM  
**Attachments:** [image001.png](#)  
[image002.png](#)

You don't often get email from [grace.moat@betmgm.com](mailto:grace.moat@betmgm.com). [Learn why this is important](#)

Hello Ms. Young,

BetMGM would like to submit the following comment for draft regulation 248.19: Abandoned Funds and Dormant Accounts which states,

1. Subject to the provisions of M.G.L. c. 200A, §§ 7 and 8A, and 960 CMR 4.00: Procedures for the Administration of Abandoned Property, the Sports Wagering Operator shall presume that the funds in any account without any activity for a period of three years after the balance in that account became payable or deliverable to the patron to have been abandoned. **For purposes of this 205 CMR 248.19(1), the term “activity” means Sports Wagers, customer-generated deposits, or customer-generated withdrawals.**

For further context I am also including the above referenced statute, 960 CMR 4.00.

960 CMR 4.00. 4.02: Definitions. Activity: Action taken by an owner with respect to his or her property which indicates that the owner intends for the property not to be presumed abandoned. Examples of owner activity include, but are not limited to: an owner-initiated deposit or withdrawal or posting of interest on a piece of property, such as a savings or checking account; notification to a holder of change of owner address; payment of an installment loan, such as a mortgage, equity loan or automobile loan; payment of a safe deposit box rental fee; and any action, such as written correspondence, e-mail message, fax, telephone call or person-to-person conversation between an owner and a holder or his/her representative, which can be documented so as to indicate an owner’s interest in his or her property not being presumed abandoned.

**BetMGM Comment:** BetMGM is requesting that the MGC remove the last sentence of 248.19: Abandoned Funds and Dormant Accounts (1) in its entirety as it contradicts with Massachusetts Escheatment statute 960 CMR 4.00 as well as federal guidance issued by the SEC and is a serious Responsible Gaming concern. If that is not acceptable, please consider the addition of “a successful login” to the definition of “Activity” stated in 248.19: Abandoned Funds and Dormant Accounts. These revisions are necessary for the following reasons.

The last sentence of Regulation 248.19(1) directly contradicts the definition of activity stipulated in Massachusetts Escheatment Law 960 CMR 4.00. Pursuant to 960CMR 4.00 Section 4.02, examples of owner activity are not limited to wagers, deposits or withdrawals and may also include contact with operator or any action taken by the owner to indicate the property is not abandoned. A patron accessing their account is an action that would indicate the patron’s account is not abandoned. Further, broadening the interpretation of ‘Activity’ will align with the U.S. Securities and Exchange Commission guidance for escheatment which allows for login to be considered activity. Therefore, the regulation must be revised in a way to make it consistent with 960 CMR 4.00 as well as preventing it from conflicting with federal SEC guidance.

Without incorporating the above suggested revisions, not only will the regulation deviate from the

Massachusetts statute and SEC guidance, it also forces a patron to engage on the platform via wager or transaction in order to prevent dormancy. This is a serious Responsible Gaming concern as not all patrons may be in a position either financially or emotionally to wager or make a transaction. The current regulation wording forces all patrons, including those who are high risk for responsible gaming concerns, to wager or add money to their account in order to prevent the account from turning dormant. Additionally, putting the customer in a position where they are forced to wager or engage financially on the platform to prevent an account from going dormant or becoming eligible for escheatment, does not exist in any other jurisdiction's regulation.

The removal of the sentence in its entirety or the addition of “a successful login” in the definition of “Activity” will remove the possibility of this being interpreted as a responsible gaming concern, align dormant account fund management with current escheatment law in Massachusetts and prevent contradiction with federal guidance issued by the SEC.

Please let me know if you have any questions and if you would like to discuss. I am also available to discuss at the hearing scheduled for February 28, 2023.

**Grace Moat**

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*Legal Division*

## **AMENDED SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 248.00: Sports Wagering Account Management** for which a public hearing was held on February 28, 2023, at 9:15am EST.

This regulation was developed as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, §§ 4.

The adoption of 205 CMR 248.00 applies to all Sports Wagering Operators who have been licensed by the Commission, pursuant to G.L. c. 23N and 205 CMR, and their management of sports wagering accounts. Accordingly, this regulation is unlikely to have an adverse impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

The Commission does not anticipate that 248.00 will impact small businesses. Accordingly, the Commission has not established less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

This regulation does not impose schedules or deadlines for small businesses. Accordingly, less stringent schedules and deadlines have not been established.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

205 CMR 248 does not impose compliance or reporting requirements upon small businesses.

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:



Massachusetts Gaming Commission

Performance based standards are set forth in this regulation., however no standards are applicable to small businesses.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

As this regulation was promulgated to govern Sports Wagering operators and their management of patron accounts. It not evidence that this regulation will deter nor encourage formation of new businesses within the Commonwealth.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

The Commission does not anticipate an adverse impact upon small businesses by this regulation. Accordingly, alternative regulatory methods have not been established.

Massachusetts Gaming Commission  
By:

/s/ Judith A. Young  
Associate General Counsel  
Legal Division

Dated: January 26, 2023



Massachusetts Gaming Commission

205 CMR 254: TEMPORARY PROHIBITION FROM SPORTS WAGERING

Section

- 254.01: Scope and Purpose
- 254.02: Temporary Prohibition
- 254.03: Duration of Temporary Prohibition and Conclusion of Temporary Prohibition
- 254.04: Responsibilities of the Sports Wagering Operator
- ~~254.05: Sanctions Against a Sports Wagering Operator~~
- 254.05~~6~~: Collection of Debts

254.01: Scope and Purpose

As an alternative to voluntary self-exclusion as described in 205 CMR 233.00, Sports Wagering Operators shall allow individuals to designate themselves as temporarily prohibited from Sports Wagering. 205 CMR 254.00 shall govern the procedures and protocols relative to individuals' designation of themselves as temporarily prohibited from Sports Wagering. Designation is intended to offer individuals one means to help address potential problem gambling behavior, where individuals have not yet determined whether they may benefit from voluntary self-exclusion as described in 205 CMR 233.00.

254.02: Temporary Prohibition

(1) Individuals who designate themselves to a Sports Wagering Operator as temporarily prohibited from Sports Wagering shall be prohibited from ~~accessing-making any deposits into~~ the individual's Sports Wagering Account ~~maintained-or placing any wagers~~ on the Sports Wagering Operator's Sports Wagering Platform for the temporary prohibition period ~~specified-referred to~~ in 205 CMR 254.03(1). Provided, however, that employees of a Sports Wagering Operator who designate themselves to the Sports Wagering Operator as temporarily prohibited from Sports Wagering may engage in Sports Wagering solely for the purposes of performing the employees' job functions.

(2) Individuals who designate themselves as temporarily prohibited from Sports Wagering shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the temporary prohibition.

(3) Upon an individual's initial enrollment onto a Sports Wagering Platform, a Sports Wagering Operator shall conspicuously display a message ~~offering-notifying~~ an individual of the opportunity to designate themselves as temporarily prohibited from Sports Wagering. A Sports Wagering Operator shall require an individual to acknowledge the following prior to being designated as temporarily prohibited from Sports Wagering:

(a) That the individual will not ~~access-make any deposits into~~ the individual's Sports Wagering Account ~~maintained-or place any wagers~~ on the Sports Wagering Operator's Sports Wagering Platform in accordance with 205 CMR 254.02(1);

(b) That the individual shall not collect any winnings or recover any losses resulting from Sports Wagering in violation of the temporary prohibition in accordance with 205 CMR 254.02(2);

- (c) That once the individual is designated as temporarily prohibited from Sports Wagering, an individual's attempted Sports Wager ~~may~~ shall be rejected or, if placed, ~~may~~ shall be voided or cancelled by the Sports Wagering Operator.
- (4) If an individual elects to designate themselves as temporarily prohibited from Sports Wagering, the temporary prohibition shall become immediately effective.
- (5) Sports Wagering Operators shall maintain at all times a link prominently placed on the Sports Wagering Operator's Sports Wagering Platform on which individuals may designate themselves as temporarily prohibited from Sports Wagering.
- (6) If the Sports Wagering Operator utilizes an internal management system to track individuals temporarily prohibited from Sports Wagering, the Sports Wagering Operator shall update that system at least every 24 hours with the names of individuals designated as temporarily prohibited from Sports Wagering, or individuals who are no longer designated as temporarily prohibited from Sports Wagering. Such system shall notify the Sports Wagering Operator's marketing and communications departments so as to prevent the further marketing and communication of Sports Wagering material to individuals designated as temporarily prohibited from Sports Wagering.

254.03: Duration of Temporary Prohibition and Conclusion of Temporary Prohibition

- (1) An individual ~~shall~~ may select a temporary prohibition period ~~of 72 hours, one week, two weeks, three weeks, or four weeks.~~
- (2) An individual may elect to renew the temporary prohibition at any time by informing the Sports Wagering Operator of the individual's desire to renew the temporary prohibition period. There shall be no limitations regarding the number of times an individual is permitted to renew the temporary prohibition period.
- ~~(3) 24 hours prior to the expiration of the 72-hour or one-week temporary prohibition period, or 72 hours prior to the expiration of the two-week, three-week or four-week, temporary prohibition period, the Sports Wagering Operator shall notify the individual when the temporary prohibition will expire. The notification shall also provide the individual instructions on how to renew the temporary prohibition, and how to apply to have the individual's name placed on the voluntary self-exclusion list in accordance with 205 CMR 233.02(2).~~
- ~~(4) Upon conclusion of the temporary prohibition, the Sports Wagering Operator shall notify the individual that the temporary prohibition has concluded. The Sports Wagering Operator shall not accept Wagers from the individual until the individual has acknowledged the notification of the conclusion of the temporary prohibition. The notification shall provide the individual instructions on how to renew the temporary prohibition period, and how to apply to have the individual's name placed on the voluntary self-exclusion list in accordance with 205 CMR 233.02(2).~~

254.04: Responsibilities of the Sports Wagering Operator

A Sports Wagering Operator shall have the same responsibilities relative to the administration of the temporary prohibition from the Sports Wagering program as gaming licensees and Sports Wagering Operators have relative to the administration of the voluntary self-exclusion list pursuant to 205 CMR 133.06(3)-(6) and 7(b) and 205 CMR 233.06(4)-(8), respectively, including the obligation to submit a written policy for compliance with 205 CMR 254.00. Individuals who designate themselves to the Sports Wagering Operator as temporarily prohibited from Sports Wagering shall have the same rights as those provided under 205 CMR 133.06(7)(b). A Sports Wagering Operator shall also not accept any Sports Wager from an individual who designates themselves to the Sports Wagering Operator as temporarily prohibited from placing a Wager on the Sports Wagering Platform.

~~254.05: Sanctions Against a Sports Wagering Operator~~

- ~~(1) Grounds for Action. A Sports Wagering Operator license may be conditioned, suspended, or revoked, or a Sports Wagering Operator assessed a civil administrative penalty if it is determined that a Sports Wagering Operator has:
  - ~~(a) knowingly or recklessly failed to carry out the Sports Wagering Operator's responsibilities as set forth in 205 CMR 254.04. Provided, it shall not be deemed a knowing or reckless failure if an individual designated to the Sports Wagering Operator as temporarily prohibited from Sports Wagering shielded the individual's identity or otherwise attempted to avoid identification while present on the Sports Wagering Platform; or~~
  - ~~(b) failed to abide by any provision of 205 CMR 254.00 or a Sports Wagering Operator's approved written policy for compliance with the temporary prohibition from Sports Wagering program pursuant to 205 CMR 254.00. Provided, a Sports Wagering Operator shall be deemed to have marketed to an individual designated to the Sports Wagering Operator as temporarily prohibited from Sports Wagering only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by individuals on their designation form.~~~~
- ~~(2) Finding and Decision. If the bureau finds that a Sports Wagering Operator has violated a provision of 205 CMR 254.04(1), it may issue a decision or notice in accordance with 205 CMR 133.07(2).~~
- ~~(3) Civil Administrative Penalties. The Commission may assess a civil administrative penalty on a Sports Wagering Operator in accordance with M.G.L. c. 23N, § 16 for a violation of 205 CMR 254.04(1).~~
- ~~(4) Review of Decision. A recommendation that a Sports Wagering Operator license be suspended or revoked shall proceed in accordance with the procedures set out in 205 CMR 133.07(4).~~

~~254.056: Collection of Debts~~

Nothing in 205 CMR 254.00 shall be construed to prohibit a Sports Wagering Operator from seeking payment of a debt from an individual who is designated to the Sports Wagering Operator

as temporarily prohibited from Sports Wagering, but who violates the terms of the temporary prohibition.

REGULATORY AUTHORITY

M.G.L. c. 23N, § 4(d)2

**NEW Public Comments Pertaining to  
205 CMR 254: Temporary Prohibition from Sports Wagering**

Subsection	Comment	Commenter	Entity
254.02(3)	<p>Reason for Change: DraftKings respectfully requests that the information in this section be required to be displayed on the page on which the individual elects to be designated as temporarily prohibited, rather than requiring the individual to specifically acknowledge the information in each subsection. Displaying this information in such a way accomplishes the same goal without additional steps.</p> <p><b>Proposed Final Rule Language:</b></p> <p><b>(3) Upon an individual’s initial enrollment onto a Sports Wagering Platform, a Sports Wagering Operator shall conspicuously display a message offering an individual the opportunity to designate themselves as temporarily prohibited from Sports Wagering. A Sports Wagering Operator shall conspicuously display the following prior to an individual’s election as temporarily prohibited from Sports Wagering:</b></p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	DraftKings, Inc.
254.03(1)	<p>Subdivision 1 of section 254.03 of the Cooling Off Regulation provides that the timeframes which individuals may select for temporary prohibitions shall be: 72 hours, 1 week, 2 weeks, 3 weeks, or 4 weeks. While we understand that the Commission may want such time periods to be available as options to patrons, many operators, including FanDuel, allow patrons the opportunity to set the length of temporary prohibition that best suits their needs. We suggest that the Commission adopt the following edit to allow operators to provide that flexibility to patrons:</p>	<p>Andrew Winchell</p> <p><a href="mailto:andrew.winchell@fanduel.com">andrew.winchell@fanduel.com</a></p>	FanDuel

	<p>After "An individual shall" insert "be permitted to"</p> <p>Add a second sentence to read as follows:  "Nothing in this subdivision shall be interpreted to prevent a Sports Wagering Operator from additionally offering temporary prohibitions of other time periods."</p>		
<p>254.03(2)</p>	<p>Reason for Change: DraftKings respectfully requests that this section be amended so that individuals who have elected to designate themselves as temporarily prohibited be permitted to renew upon completion of the temporary prohibition. Allowing renewal during the temporary prohibition would require either those who have made such an election to log in to their account during the prohibition, in violation of 205 CMR 254.02(1), or it would require customer experience teams to manually manage an individual’s self-imposed limits.</p> <p>Proposed Final Rule Language:  (2) An individual may elect to renew the temporary prohibition <del>at any time by informing the Sports Wagering Operator of the individual’s desire to renew</del> <b><u>upon completion of</u></b> the temporary prohibition period. There shall be no limitations regarding the number of times an individual is permitted to renew the temporary prohibition period</p>	<p>David Prestwood</p> <p><a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	<p>DraftKings, Inc.</p>



<p>254.03(3)-(4)</p>	<p>Reason for Change: DraftKings respectfully requests that the Commission strike these two sections. Alerting individuals of expiring limits is not something that is done in any other jurisdiction. Additionally, there is evidence that contacting an individual while they are on a self-imposed break to let them know when that break expires may be seen by that individual as “countdown” to the time they are allowed to begin gaming again, and trigger excitement. This would be a poor responsible gaming practice. This would be true whether that notification comes from the operator, the Commission, or another source.</p> <p>Proposed Final Rule Language:  <b>Entity requests deletion of sections (3) and (4) in their entirety.</b></p>	<p>David Prestwood  <a href="mailto:d.prestwood@draftkings.com">d.prestwood@draftkings.com</a></p>	<p>DraftKings, Inc.</p>
<p>254.03(3) and(4)</p>	<p>Subdivisions 3 and 4 of section 254.03 of the Cooling Off Regulation require email notifications be sent to individuals who have chosen a temporary prohibition both in advance of, and at the time of, the expiration of the temporary prohibition. We do not believe these email notifications will be in the best interests of users who choose to utilize a cooling-off period. Users who have chosen to take a time out from online sports wagering should be able to choose to come back to the site at the end of the chosen period on their own volition, but we do not believe it is appropriate for the operator to remind them of the availability of a sports wagering platform at the end expiration of the period. It is likely for this reason that no other jurisdiction in the United States has instituted these types of notifications.</p>	<p>Andrew Winchell  <a href="mailto:andrew.winchell@fanduel.com">andrew.winchell@fanduel.com</a></p>	<p>FanDuel</p>

	<b>We strongly urge the Commission to remove subdivisions 3 and 4 in their entirety.</b>		
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Cory Fox  
cory.fox@fanduel.com

February 28, 2023

Via Email to [Bruce.Band@MASSGAMING.GOV](mailto:Bruce.Band@MASSGAMING.GOV)  
Bruce Band, Sports Wagering Division Director  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

**Re: FanDuel comments on proposed 205 CMR 254: COOLING OFF**

Dear Director Band:

I write to provide comments on behalf of FanDuel Group, Inc. (“FanDuel”) regarding the Massachusetts Gaming Commission’s (“Commission”) proposed regulation 205 CMR 254: COOLING OFF (“Proposed Cooling Off Regulation”) Based on our extensive experience as an operator in the online casino gaming, sports betting and fantasy sports industries and collaborator with regulators of sports betting in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Advertising Regulations can be improved for effectiveness and consistency with other state regulations.

Following the Supreme Court’s decision to strike down the Professional and Amateur Sports Protection Act (PASPA) in May of 2018, FanDuel has now become the leading sports wagering operator, and the largest online real-money gaming operator, in the United States. FanDuel currently operates twenty-eight (28) brick and mortar sportsbooks in sixteen (16) states and Washington D.C. and online sports wagering in eighteen (18) states and Ontario.

We thank the Commission for providing the opportunity for stakeholders to provide comment on the Proposed Cooling Off Regulation. For our proposed amendments to the Proposed Advertising Regulation, all changes will be shown as follows: proposed additional text will be bolded and underlined and all text to be deleted will be bolded, bracketed, and struck through. Where we are suggesting edits to a section that the Commission has already proposed edits, the Commission edits will be in black, and our suggested edits will be in red.

**Practical Concerns Regarding Implementation:**

Simply stated, the Cooling Off Regulation as proposed is not standard in other U.S. jurisdictions and will require significant technical changes to FanDuel's platform to implement in Massachusetts only. Notwithstanding the substantive concerns with the regulation as outlined below, operators require enough time to develop and implement product changes that are necessary for compliance with the **final** text of the regulations. Should the Commission preserve the current requirements of the Emergency Regulation, FanDuel strongly urges the Commission to consider a grace period or waiver of 90 to 120 days from the final adoption of the permanent regulation to allow for operators to build the specific product features requested and provide ample time for these features to be tested and validated.

### **Specific Substantive Concerns:**

- ***Issue 1 – Customer Notifications***

Subdivisions 3 and 4 of section 254.03 of the Cooling Off Regulation require email notifications be sent to individuals who have chosen a temporary prohibition both in advance of, and at the time of, the expiration of the temporary prohibition. We do not believe these email notifications will be in the best interests of users who choose to utilize a cooling-off period. Users who have chosen to take a time out from online sports wagering should be able to choose to come back to the site at the end of the chosen period on their own volition, but we do not believe it is appropriate for the operator to remind them of the availability of a sports wagering platform at the end expiration of the period. It is likely for this reason that no other jurisdiction in the United States has instituted these types of notifications.

We strongly urge the Commission to remove subdivisions 3 and 4 in their entirety.

- ***Issue 2 – Timeframe of Temporary Prohibition***

Subdivision 1 of section 254.03 of the Cooling Off Regulation provides that the timeframes which individuals may select for temporary prohibitions shall be: 72 hours, 1 week, 2 weeks, 3 weeks, or 4 weeks. While we understand that the Commission may want such time periods to be available as options to patrons, many operators, including FanDuel, allow patrons the opportunity to set the length of temporary prohibition that best suits their needs. We suggest that the Commission adopt the following edit to allow operators to provide that flexibility to patrons:

Section 254.03(1):



- (1) An individual shall **be permitted to** select a temporary prohibition of 72 hours, 1 week, 2 weeks, 3 weeks or 4 weeks. **Nothing in this subdivision shall be interpreted to prevent a Sports Wagering Operator from additionally offering temporary prohibitions of other time periods.**

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We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Cory Fox', written over a light blue horizontal line.

Cory Fox

Vice President for Product and New Market Compliance

**Public Comments Pertaining to  
205 CMR 254: Temporary Prohibition from Sports Wagering**

Subsection	Comment	Commenter	Entity
254.02	<p>BetMGM Comment: 205 CMR 254.02 currently prohibits an individual who has temporarily prohibited themselves from Sports Wagering from accessing their Sports Wagering Account.</p> <p>Common industry practice is to allow account access for the purposes of withdrawal of funds on the account, but not allow deposits or wagers.</p> <p>This is also in line with section A.3.8(c) of GLI-33 which the Commission has previously adopted in 205 CMR 243.01: While excluded, the player shall not be prevented from withdrawing any or all of their account balance, provided that the operator acknowledges that the funds have cleared, and that the reason(s) for exclusion would not prohibit a withdraw;</p>	<p>Robyn Bowes</p> <p><a href="mailto:robyn.bowes@betmgm.com">robyn.bowes@betmgm.com</a></p>	BetMGM
254.02(1)	<p>Standard practice in other jurisdictions is that individuals who are enrolled in an operator temporary prohibition (“cool-off”) are still able to access their account for the purpose of withdrawing funds from their wagering account, reviewing win/loss statements, setting up RG tools. They are however strictly prohibited from depositing and wagering while the cool-off is in effect. BetMGM would ask that this same type of functionality offered in Massachusetts, to ensure these individuals are able to access their funds and documents as needed.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

<p>254.03:</p>	<p>(1) The temporary prohibition shall be for a period of 30 days.</p> <p>Comment: For digital, we should recommend being able to use our standard duration of 72 hours up to a year. 30 days seems like an oddly specific timeframe and doesn't grant players with the flexibility they may need.</p> <p>For retail, without card swipes and requiring the identification of each player prior to placing a wager, I'm not sure how we would administer a cool-off program with such short time frames.</p> <p>(2) An individual may elect to renew the temporary prohibition at any time by informing the Sports Wagering Operator of the individual's desire to renew the 30-day temporary prohibition period. There shall be no limitations regarding the number of times an individual is permitted to renew the 30-day temporary prohibition period.</p> <p>(3) Seven (7) days prior to the expiration of the 30-day temporary prohibition period, the Sports Wagering Operator shall notify the individual when the temporary prohibition will expire. The notification shall also provide the individual instructions on how to renew the temporary prohibition, and how to apply to have the individual's name placed on the voluntary self-exclusion list in accordance with 205 CMR 233.02(2).</p> <p>Comment: I'm concerned that reaching out to</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>BetMGM</p>
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notify the player that their cool-off is expiring could have the unintended consequence of getting the player excited to gamble again. As an alternative, I think we should propose that cool-offs can only end after the period expires and the player acknowledges they are ready to have their account returned to an open status. During this acknowledgement, we can provide them with an opportunity to extend the cool-off as well as direct them to the MGC if they wish to enroll in the state self-exclusion program.

(4) Upon conclusion of the temporary prohibition, the Sports Wagering Operator shall notify the individual that the temporary prohibition has concluded. The Sports Wagering Operator shall not accept Wagers from the individual until the individual has acknowledged the notification of the conclusion of the temporary prohibition. The notification shall provide the individual instructions on how to renew the 30-day temporary prohibition period, and how to apply to have the individual's name placed on the voluntary self-exclusion list in accordance with 205 CMR 233.02(2).

Comment: Similar to the previous comment. I do not believe it's a good idea to proactively tell the player their cool-off has expired.



254.03(1)	<p>BetMGM Comment: Proposing that the temporary prohibition be for a minimum period of 72 hours. This would align with all of the other markets we are in, nine of which have specified a 72-hour minimum period, and one (Maryland) of which has specified a 24-hour minimum period. Clause citations are below</p> <p>CT: 12-865-11(w)</p> <p>IL: 1900.1250(c)</p> <p>LA: 1145.B(2)</p> <p>MD: 36.10.18.05.T</p> <p>MI: 432.759(1)</p> <p>NJ: 13:69O.1.4(j)</p> <p>PA: 812.12(a)</p> <p>TN: 1350-01-.08(17)</p> <p>VA: 11 VAC 5-70-290.R</p> <p>WV: 179-10-6.18.1</p> <p>WY: 6.13(a)</p>	Robyn Bowes <a href="mailto:robyn.bowes@betmgm.com">robyn.bowes@betmgm.com</a>	Bet MGM
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<p>254.03(1)</p>	<p>This rule specifies the specific durations a patron may choose to temporarily prohibit themselves from wagering. In essentially all other mobile sports wagering jurisdictions, operators offer a temporary prohibition function that gives patrons the ability to choose a duration between 3 - 364 days. We would respectfully request that the Commission adopt a similar, more flexible approach to the duration of temporary prohibitions in order to give patrons more control over their responsible gaming limits.</p>	<p>Alex Smith <a href="mailto:alex@betfanatics.com">alex@betfanatics.com</a></p>	<p>Fanatics</p>
<p>254.03(3)</p>	<p>As discussed at length during the Category 1 and Category 3 sports wagering licensing hearings, PENN and WynnBET are committed to providing responsible gaming resources and tools for all of its patrons. To that end, PENN and WynnBET offer many tools and resources designed to help patrons play responsibly, including temporary timeout functionality, as demonstrated during our product presentations. We write to comment that the language in 205 CMR 254.03(3) is not consistent with responsible gaming best practices, and respectfully suggest that the language be modified to be more consistent with those practices.</p> <p>By way of background, it is important to distinguish two tools used by operators and to discuss why it is important that they be treated differently. These two tools are (1) self-imposed limits and (2) self-exclusion. While both tools help players wager responsibly, the tools are distinct. Timeout functionality is a self-imposed limit tool that players can use to take a break from playing on a specific online platform, but is not as restrictive or extreme as voluntary self-exclusion.</p>	<p>Samantha Haggerty <a href="mailto:samantha.haggerty@pennertainment.com">samantha.haggerty@pennertainment.com</a></p>	<p>Penn and WynnBet</p>

Self-imposed limits are a proactive measure and are designed to help players create healthy gaming habits while mitigating potential problem gambling behaviors.

Alternatively, “self-exclusion is a reactive measure and is designed to help self-admitted problem gamblers regain control of their gambling behavior by supporting their efforts to abstain from at least one specific form of gambling for a particular amount of time” (Responsible Gambling Council 2016). Unlike self-imposed limits, self-exclusion is for players that already feel, or admit, that they have a gambling problem (Gainsbury 2013).

The current language of the following proposed rule, 205 CMR 254.03 (3), requires that an operator notify a customer that their timeout is expiring prior to its expiration. Customers may view this as an inducement, invitation, or encouragement to return to the platform (almost as a “reminder” that their timeout is expiring) and as such does not align with industry best practices concerning timeout and responsible gaming functionalities. As such, PENN and WynnBET suggest removing this section of the rule entirely, to allow operators to implement RG-friendly timeout functionality without encouraging patrons to return to a platform and gamble immediately upon the end of the patron’s chosen timeout term.

First, this section of the rule encourages operators to reach out and contact patrons before the expiration of the patron’s temporary timeout period, which is inconsistent with the nature and purpose of a timeout period. During the timeout period, the operator has made a commitment to honor the patron’s request to not be contacted or

encouraged to wager. PENN and WynnBET seek to honor that patron-based request by only allowing the patron to access or receive communications relating to the Barstool Sportsbook following the expiration of the patron-requested timeout period and not before that period expires.

We note that this section of the timeout rule closely mirrors the process created for self-exclusion, which, as explained, has an entirely different purpose. The self-exclusion process allows a patron who recognizes that they may have a gambling problem to completely remove themselves from sports wagering in Massachusetts for a relatively long period of time. Notably, a timeout period automatically expires, while a self-exclusion term does not – after a patron’s self-exclusion term has ended, that patron is required to complete a reinstatement session before being removed from the voluntary self-exclusion list. Therefore, while it may be appropriate in some circumstances to notify a customer that their self-exclusion is expiring, those same justifications are not present when a timeout is expiring.

Additionally, revised rule verbiage has been proposed that would allow the patron the choice of whether to be contacted before the timeout period ends. However, this revision also does not align with the intent or functionality of a timeout. It has also been suggested that a third party, such as GameSense or the Massachusetts Gaming Commission (“MGC”), would execute the proactive patron notification. However, there is currently no technological infrastructure to support the secure transmission of data from operators to a third party. As such, even this

	<p>potential solution would take a significant amount of time for operators, GameSense, and the MGC, to choose, design, and implement a method to transfer timeout data securely. As operators, we would also need to inform patrons that their data will be transferred to a third party and obtain patron permission. This may deter a patron from using the timeout functionality, which is inconsistent with the goal of the functionality.</p> <p>We respectfully request that the pre-expiration notice requirement in 254.03 (3) be removed in its entirety, to ensure this rule aligns with and incorporates industry best responsible gambling practices.</p> <p>Thank you in advance for your consideration. We are, of course, happy to discuss further at your request.</p>		
254.05(1)(a)	<p>Proposing to remove ‘or recklessly’ and ‘or reckless’ wording.</p> <p>BetMGM Comment: This discipline is only warranted in the event the operator knows of it.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	BetMGM

<p>254.05(1)(a)</p>	<p>Proposing to add “knowingly or recklessly” to state: “knowingly or recklessly failed to abide by any provision of 205 CMR 254.00 or a Sports Wagering Operator’s approved written policy for compliance with the temporary prohibition from Sports Wagering program pursuant to 205 CMR 254.00. Provided, a Sports Wagering Operator shall be deemed to have marketed to an individual designated to the Sports Wagering Operator as temporarily prohibited from Sports Wagering only if marketing materials are sent directly to an address, email address, telephone number, or other contact identified by individuals on their designation form.”</p> <p>BetMGM Comment: The knowing/reckless qualifier should apply to part (b) as well, to prevent inadvertent violations of an operator’s policy from being subject to discipline.</p>	<p>Jess Panora</p> <p><a href="mailto:jess.panora@betmgm.com">jess.panora@betmgm.com</a></p>	<p>BetMGM</p>
<p>254</p>	<p>It would appear the 205 CMR 254 requirements would apply to a patron excluding themselves from a particular website. This can be problematic as when kept at a website level, those that self-exclude at one website may immediately place bets with another website or at a physical location, which can be tempting for some. Instead, the 205 CMR 233 should be reworked to allow for a 30-day cooling off period at the state level.</p>	<p>Carl Sampson</p>	<p>Private Citizen</p>



*Legal Division*

## **AMENDED SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this amended Small Business Impact Statement in accordance with G.L. c. 30A, § 5 relative to the proposed amendments to **205 CMR 254.00: Temporary Prohibition from Sports Wagering** for which a public hearing was held on **February 28, 2023**.

205 CMR 254.00 was developed as part of the process of promulgating a regulatory framework governing the operation of Sports Wagering in the Commonwealth, and is governed by G.L. c 23N, §4. It is intended to offer individuals one means to help address potential gambling harms, by minimizing exposure to sports wagering at self-selected intervals.

The regulation applies to Sports Wagering Operators, their employees, the Commission, and the individuals seeking to temporarily prohibit themselves from engaging in sports wagering. Accordingly, this regulation is unlikely to have an impact on small businesses.

In accordance with G.L. c.30A, §5, the Commission offers the following responses on whether any of the following methods of reducing the impact of the proposed regulation on small businesses would hinder achievement of the purpose of the proposed regulation:

1. Establishing less stringent compliance or reporting requirements for small businesses:

As a general matter, no small businesses will be negatively impacted by this amendment as it relates to licensed Sports Wagering Operators, their employees, designated agents, and individuals seeking temporary prohibition from sports wagering. Accordingly, there are no less stringent compliance or reporting requirements for small businesses.

2. Establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses:

There are no schedules or deadlines for compliance or reporting requirements within this regulation that would pertain to small businesses.

3. Consolidating or simplifying compliance or reporting requirements for small businesses:

This regulation does not impose any reporting requirements upon small businesses.



Massachusetts Gaming Commission

4. Establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation:

This regulation utilizes performance-based standards. No standards applicable to Small businesses are set forth.

5. An analysis of whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:

The Commission does not anticipate that 204 CMR 254.00 will impact small businesses within the Commonwealth, nor will it deter or encourage the formation or small businesses.

6. Minimizing adverse impact on small businesses by using alternative regulatory methods:

The Commission does not anticipate this regulation will adversely impact small businesses. As a result, alternative regulatory methods have not been established.

Massachusetts Gaming Commission  
By:

/s/ Judith Young

Judith A. Young

Associate General Counsel  
Legal Division

Dated: January 26, 2023



Massachusetts Gaming Commission



## 205 CMR 256: SPORTS WAGERING ADVERTISING

### Section

256.01:	Third Parties
256.02:	Application
256.03:	Internal Controls
256.04:	False or Misleading Advertising
256.05:	Advertising to Youth
256.06:	Advertising to Other Vulnerable Persons
256.07:	Self-Excluded Persons
256.08:	Disruption
256.09:	Endorsement
256.10:	Records
256.11:	Enforcement

### 256.01: Third Parties

- (1) Each Sports Wagering Operator shall be responsible for the content and conduct of any and all advertising, marketing, or branding done on its behalf or to its benefit whether conducted by the Sports Wagering Operator, an employee or agent of the Sports Wagering Operator, or an affiliated entity or a third party pursuant to contract, regardless of whether such party is also required to be licensed or registered as a Sports Wagering Vendor or Non-Sports Wagering Vendor.
- (2) Each Sports Wagering Operator shall provide a copy of the regulations contained herein to all advertising, marketing, branding and promotions personnel, contractors, agents, and agencies retained by the Sports Wagering Operator or its agents and shall ensure and require compliance herewith.
- (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.
- (4) Any advertisement for Sports Wagering shall disclose the identity of the Sports Wagering Operator.

### 256.02: Application

- (1) The provisions of this section shall apply to all advertising, marketing, and branding for Sports Wagering aimed at, published, aired, displayed, disseminated, or distributed in the Commonwealth.
- (2) Sports Wagering advertisements may only be published, aired, displayed, disseminated, or distributed in the Commonwealth by or on behalf of Sports Wagering Operators licensed to offer Sports Wagering in the Commonwealth, unless the advertisement clearly states that the offerings are not available in the

Commonwealth or otherwise makes clear that the offerings are not intended for use in the Commonwealth. Sports Wagering Operators and their agents, employees, or any third party conducting advertising or marketing on their behalf shall not advertise forms of illegal gambling in the Commonwealth.

- (3) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering on any billboard, or other public signage, which fails to comply with any federal, state or local law.

256.03:        Internal Controls

Each Sports Wagering Operator shall include in its internal controls submitted pursuant to 205 CMR 138 and 238 provisions to ensure compliance with the requirements of 205 CMR 256.00.

256.04:        False or Misleading Advertising

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any unfair or deceptive advertising, marketing, or branding for Sports Wagering. Advertising, marketing, or branding that is unfair or deceptive includes, but is not limited to, advertising, marketing, or branding that would reasonably be expected to confuse and mislead patrons in order to induce them to engage in Sports Wagering.
- (2) No Sports Wagering Operator shall obscure or fail to disclose any material fact in its advertising, marketing, or branding for sports wagering or use any type, size, location lighting, illustration, graphic, depiction or color resulting in the obscuring of or failure to disclose any material fact in any advertising, marketing, or branding.
- (3) All Sports Wagering advertisements must clearly convey the conditions under which Sports Wagering is being offered, including information about the cost to participate and the nature of any promotions or information to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified in the advertisement.
- (4) No employee or vendor of any Sports Wagering Operator shall advise or encourage individual patrons to place a specific wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities.
- (5) A Sports Wagering Operator that engages in any promotion related to Sports Wagering shall clearly and concisely explain the terms of the promotion and adhere to such terms. If a Sports Wagering Operator offers complimentary items or promotional credit that are subject to terms, conditions or limitations in order to claim the item or redeem the item or credit, the Operator shall fully disclose all such terms, conditions or limitations through the following methods:
  - (a) In all advertisements or inducements where the complimentary item or promotion are advertised;

- (b) If being added to a Sports Wagering Account, through the use of a pop-up message either while the complimentary item or promotional credit is being added or when the patron next logs in to the Account, whichever is earlier; and
  - (c) If the offer requires the patron to Wager a specific dollar amount to receive the complimentary item or promotional credit, the amount that the patron is required to Wager of the patron's own funds shall be disclosed in the same size and style of font as the amount of the complimentary item or promotional credit, and the complimentary item or promotional credit shall not be described as free.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall:
- (a) Promote irresponsible or excessive participation in Sports Wagering;
  - (b) Suggest that social, financial, or personal success is guaranteed by engaging in event wagering;
  - (c) Imply or promote Sports Wagering as free of risk in general or in connection with a particular promotion or Sports Wagering offer;
  - (d) Describe Sports Wagering as "free", "cost free" or "free of risk" if the player needs to incur any loss or risk their own money to use or withdraw winnings from the Wager;
  - (e) Encourage players to "chase" losses or re-invest winnings;
  - (f) Suggest that betting is a means of solving or escaping from financial, personal, or professional problems;
  - (g) Portray, suggest, condone or encourage Sports Wagering behavior as a rite of passage or signifier of reaching adulthood or other milestones;
  - (h) Portray, suggest, condone or encourage Sports Wagering behavior that is socially irresponsible or could lead to financial, social or emotional harm;
  - (i) Imply that the chances of winning increase with increased time spent on Sports Wagering or increased money wagered;
  - (j) Be placed on any website or printed page or medium devoted primarily to responsible gaming;
  - (k) Offer a line of credit to any consumer.

256.05: Advertising to Youth

- (1) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall state that patrons must be twenty-one years of age or older to participate.
- (2) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed at individuals under twenty-one years of age.
- (3) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal primarily to individuals younger than twenty-one years of age.
- (4) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall be published, aired, displayed, disseminated, or distributed:
  - (a) in media outlets, including social media platforms, that are used primarily by individuals under twenty-one years of age;
  - (b) at events aimed at minors or where 25% or more of the audience is reasonably expected to be under twenty-one years of age;
  - (c) at any elementary, middle, and high school, or at any sports venue exclusively used for such schools;
  - (d) on any college or university campus, or in college or university news outlets such as school newspapers and college or university radio or television broadcasts; or
  - (e) to any other audience where 25% or more of the audience is presumed to be under twenty-one years of age.
- (5) No sports Wagering advertisements, including logos, trademarks, or brands, shall be used, or licensed for use, on products, clothing, toys, games, or game equipment designed or intended for persons under twenty-one years of age.
- (6) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict an individual who is, or appears to be, under twenty-one years of age, except live footage or images of professional athletes during sporting events on which sports wagering is permitted. Any individual

under the age of twenty-one may not be depicted in any way that may be construed as the underage individual participating in or endorsing sports gaming.

- (7) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall depict students, schools or colleges, or school or college settings.

256.06: Advertising to Other Vulnerable Persons

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that is aimed exclusively or primarily at groups of people that are at moderate or high risk of gambling addiction. A Sports Wagering Operator shall not intentionally use characteristics of at-risk or problem bettors to target potentially at-risk or problem bettors with advertisements.
- (2) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall include a link to and phone number for the Massachusetts Problem Gambling Helpline using language provided by the Department of Public Health and such other information regarding responsible gaming as required by the Commission (“Responsible Gaming Messaging”).
- (3) Such advertising, marketing, branding and other promotional materials shall not use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement of such Problem Gambling Helpline Information. font
- (4) Information regarding the Problem Gaming Helpline and any other required responsible gaming information (“Responsible Gaming Messaging”) must also meet the following requirements:
  - (a) For signs, direct mail marketing materials, posters and other print advertisements, the height of the font used to advertise Responsible Gaming Messaging must be the greater of:
    - i. The same size as the majority of the text used in the sign, direct mail marketing material, poster or other print advertisement; or
    - ii. 2% of the height or width, whichever is greater, of the sign, direct mail marketing material, poster or other print advertisement.
  - (b) For billboards, the height of the font used for Responsible Gaming Messaging must be at least 5% of the height or width, whichever is greater, of the face of the billboard.

(c) For digital billboards, Responsible Gaming Messaging must be visible for the entire time the rest of the advertisement is displayed.

(d) For video and television, Responsible Gaming Messaging must be visible for either:

i. The entire time the video or television advertisement is displayed, in which case the height of the font used for Responsible Gaming Messaging must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

ii. From the first time Sports Wagering Equipment, a Sports Wagering Facility, a Sports Wagering Area or Sports Wagering is displayed or verbally referenced, and on a dedicated screen shot visible for at least the last three (3) seconds of the video or television advertisement. If the Operator elects to utilize this option, the height of the font used for Responsible Gaming Messaging:

1. During the advertisement must be at least 2% of the height or width, whichever is greater, of the image that will be displayed.

2. On the dedicated screen shot must be at least 8% of the height or width, whichever is greater, of the image that will be displayed.

(e) For web sites, including social media sites:

i. Responsible Gaming Messaging must be posted in a conspicuous location on each webpage or profile page and on a gaming related advertisement posted on the webpage or profile page.

ii. The height of the font used for Responsible Gaming Messaging must be at least the same size as the majority of the text used in the webpage or profile page.

iii. For advertisements posted on the webpage or profile page, the height of the font used for Responsible Gaming Messaging must comply with the height required for signs, direct mail marketing materials, posters and other print advertisements,

256.07: Self-Excluded Persons

(1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for sports wagering that is aimed at persons who have enrolled in a Self-Exclusion Program pursuant to 205 CMR 233.

(2) No Sports Wagering Operator shall direct text messages or unsolicited pop-up advertisements on the internet to an individual in the Self-Exclusion Program or

shall allow any employee or agent of the Sports Wagering Operator, or affiliated entity or a third party pursuant to contract, to take such actions.

- (3) All direct advertising, marketing, or promotional materials shall include a clear and conspicuous method allowing patrons to unsubscribe from future advertising, marketing, or promotional communications.

256.08:      Disruption to Viewers

- (1) No Sports Wagering Operator shall allow, conduct, or participate in any advertising, marketing, or branding for Sports Wagering that obscures the game play area of a sporting event or obstructs a game in progress.
- (2) Advertisements for Sports Wagering may not be placed at a sports event with such intensity and frequency that they represent saturation of that medium or become excessive.

256.09:      Endorsements

- (1) An advertisement for Sports Wagering shall not state or imply endorsement by minors, persons aged 18 to 20 (other than professional athletes), collegiate athletes, schools or colleges, or school or college athletic associations.
- (2) An individual who participates in Sports Wagering in the Commonwealth under an agreement with a Sports Wagering Operator for advertising, branding or promotional purposes may not be compensated in promotional credits for additional wagers.

256.10:      Records

- (1) Each Sports Wagering Operator shall retain a copy of all advertising, marketing, branding and other promotional materials intended to promote any Sports Wagering within the Commonwealth, including a log of when, how, and with whom, those materials have been published, aired, displayed, or disseminated, for six (6) years. A Sports Wagering Operator shall also grant the Commission access to all social media platforms utilized by the licensee.
- (2) All advertising, marketing, branding, and other promotional materials related to Sports Wagering and the log described in subsection (1) shall be made available to the Commission or its agents upon request.

256.11:      Enforcement

- (1) A Sports Wagering Operator shall discontinue or modify as expeditiously as possible the use of a particular advertisement, marketing, or branding material in the Commonwealth or directed to residents in this state upon receipt of written notice that the Commission has determined that the advertisement, marketing, or branding material in question does not conform to the requirements of 205 CMR

256.00 or the discontinuance or modification of which is necessary for the immediate preservation of the public peace, health safety, and welfare of the Commonwealth.

- (2) A failure to adhere to the rules of 205 CMR 256.00 may be grounds for disciplinary action under any enforcement method available to the Commission, including emergency enforcement orders to immediately cease and desist such advertising pursuant to 205 CMR 109.
- (3) The Commission may, in addition to, or in lieu of, any other discipline, require an Operator that violates this section 205 CR 256 to provide electronic copies of all advertising, marketing and promotional materials developed by or on behalf of the Operator to the Commission at least ten (10) business days prior to publication, distribution or airing to the public.

#### REGULATORY AUTHORITY

G.L. c. 23N, §4



**Public Comments Pertaining to  
205 CMR 256.01(3)**

Subsection	Comment	Commenter	Entity
256.01(3)	<p><u>Proposed:</u> (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.</p> <p>Comment: DraftKings respectfully requests that the Commission clarify its intentions in rule 205 CMR 256.01(3). DraftKings reads the below to only allow for flat fee arrangements with third parties to conduct advertising, marketing, or branding on behalf of operators. In other jurisdictions an arrangement based upon a cost per acquisition model is permitted. Clarification as to the Commission’s intentions will allow DraftKings and other operators to appropriately plan for the upcoming Massachusetts launch.</p>		Draft Kings Inc.
256.01(3)	<p>Proposed: (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of [<del>patrons or</del>] wagers placed, or the outcome of wagers.”</p> <p>Comment: Section 205 CMR 256.01(3) of the Proposed Advertising Regulation prohibits any advertising or marketing contracts where</p>	Cory Fox  cory.fox@fanduel.com	FanDuel Inc.

	<p>compensation is based on “the volume of patrons or wagers placed, or the outcome of wagers.” While we understand the concern about compensation based on the volume of wagering or the outcome of wagers, this language appears to prohibit a standard marketing practice used by operators throughout the United States.</p> <p>It is standard industry practice to pay marketing affiliates on a cost per acquisition (“CPA”) basis. This is in line with marketing practices in many other industries where compensation is provided for referrals. We strongly urge the Commission to clarify that compensation of marketing affiliates is authorized based on the number of patrons they assist the operator in acquiring, while still prohibiting compensation based on player activity (amount wagered, amount won or lost).</p>		
256.01(3)	<p><del>Proposed (delete): (3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.</del></p> <p>Comment:</p> <p>PENN recommends this regulation be removed as it is unprecedented in the sports wagering industry and prohibits standard marketing</p>		PENN

	<p>practices and agreements currently in place across multiple jurisdictions. PENN operates online sports wagering in 15 jurisdictions and retail sports wagering in 12 jurisdictions (excluding Plainridge Park Casino in MA), none of which impose a ban on establishing agreements with third party marketing entities based on the volume of patrons or wagers placed, or the outcome of wagers. It is standard industry practice to base compensation of a third-party marketing entity on the volume of new players it generates through its advertising for the Sports Wagering Operator as this is an objective metric to evaluate the partnership's success. However, the compensation terms of an agreement between a Sports Wagering Operator and a third-party marketing partner are immaterial to the messaging of marketing, advertising, and branding that will be present in the Commonwealth on a Sports Wagering Operator's behalf.</p> <p>Additionally, notwithstanding the removal of this regulation, the Massachusetts Gaming Commission will continue to maintain regulatory oversight of all advertising, marketing, and branding conducted by such third-party marketing partners as 205 CMR 256 are applicable to all such activity done on Sports Wagering Operators' behalf pursuant to rule 256.01(1).</p>		
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256.01(3)	<p>Comment: (1)Regarding Section 256.01(3), this section appears to prohibit compensation arrangements for marketing affiliates and similar vendors on the basis of “volume of patrons or wagers placed, or the outcome of wagers.” WynnBET does not believe that the common form of compensation, cost per acquisition (CPA), which is driven by a flat fee for a single patron enrollment, would fall within this prohibition. To the extent that it is the intention of this proposed section, WynnBET would respectfully request reconsideration. Nearly all mobile sports betting jurisdictions permit CPA as a method of payment for marketing affiliates and similar companies. A majority also allow revenue sharing arrangements that are tied to player activity. While some require a higher level of licensing for such a compensation, a majority of mobile sports betting states have some allowance for it.</p>	Jennifer Roberts, General Counsel, VP Wynnbet	WSI US, LLC, dba WynnBET,
256.01(3)	<p>I’m writing on behalf of Better Collective USA, Inc. (“BC US”, “we”, or “us”), a Delaware corporation and a wholly owned subsidiary of Better Collective A/S, a Denmark-based public company listed on Nasdaq Stockholm.</p> <p>The global and US leader in the affiliate marketing space, BC works exclusively with regulated sportsbooks. As a result, we take seriously our role within the ecosystem to educate and guide our users on all aspects of legal sports betting, including how to gamble responsibly. We believe that doing so creates a more sustainable industry for all involved,</p>	Katherine McCord	Better Collective USA, Inc.

	<p>including states such as Massachusetts that have chosen to legalize sports betting.</p> <p>While we are pleased that Massachusetts has regulated online sports betting, we have concerns about the current proposed regulation limiting performance-based compensation like CPA and revenue share, which we fear will be harmful to the sports wagering market and is unnecessary for regulatory oversight of affiliates. As more fully detailed below, restrictions on performance-based affiliate compensation models create an anti-competitive environment due to the compensation restrictions with third parties. These restrictions make it unduly difficult for regulated affiliates to compete with unregulated affiliates and Operators. As a result, we worry the Massachusetts regulated market will lose revenue to the offshore markets.</p> <p>First, due to the oversight of the Massachusetts Gaming Commission (“MGC”) through affiliate licensing requirements, restrictions on performance-based affiliate compensation models are unnecessary. Some form of performance-based marketing is permissible in all states except Connecticut, which restricts CPA and revenue share, and Illinois, which restricts revenue share. Neither Connecticut nor Illinois impose any vendor registration or affiliate licensing requirements. With the MGC’s direct enforcement power over affiliates,</p>		
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	<p>it is unnecessary to also restrict performance-based compensation.</p> <p>Limiting the affiliate commercial model away from traditional performance-based compensation methods like CPA and revenue share also hurts the growth of a newly regulated market like Massachusetts in the following ways:</p> <p>Channelization: Responsible affiliates like BC US exclusively promote licensed operators. Many consumers refer to specific affiliate-run websites, like BC US’s sportshandle.com, actionnetwork.com and vegasinsider.com, for betting information and education, such as which Operators are licensed. Discouraging affiliates from participating in the market by limiting affiliate compensation models allows offshore Operators to flourish. Diverting consumers from the regulated market decreases legitimacy and compliance, and reduces taxes to the state.</p> <p>Sustainable Marketing Spend: Operators typically prefer compensation models based on key performance metrics (such as CPA on deposit, CPA on first wager, or revenue share) because it allows for efficiency in their marketing spend. This predictability allows them to invest in other areas that will grow handle, gross gaming revenue and tax revenue as much as possible.</p>		
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Competitive Market: Restricting performance-based affiliate payment hinders competition within a state by ensuring that only the biggest sportsbooks with the largest marketing budgets will be successful. For instance, some smaller Operators are unable to work with affiliates in Illinois (which prohibits revenue share) because their marketing spend is too low to pay on CPA.

Prohibiting both CPA and revenue share would only compound the problem smaller Operators face in Illinois. This consolidation will hurt the state economy over time, as less money will be invested by second- and third-tier operators, and it's bad for consumers who will be left with fewer choices.

Mass Media: In assessing gambling advertising, it is important to differentiate between "pull" and "push" advertising. Push marketing, such as TV advertising, paid social media ads and others, is designed to entice consumers to a product. Conversely, most affiliate marketing can be categorized as pull marketing, designed to provide information to consumers who are proactively searching for sports betting information. Limiting performance-based compensation will result in Operators focusing their marketing budgets away from pull advertising and towards push advertising. Responsible gaming resources and educational content are scarce at best on push marketing, and shown to all age demographics.

	<p>Education and Responsible Gaming: Affiliates provide betting information and insights, including introductions to various bet types and markets, and information and resources on responsible gaming, including compulsive gambling self-tests. BC US is committed to fostering wider initiatives in the affiliate marketing sector to promote social responsibility and create a safer gambling environment for consumers, including offering responsible gaming products that help consumers track their wins and losses across all Operators.</p> <p>Limiting compensation models paid by Operators will limit regulated affiliate activities in the state, reducing access to resources our consumers depend on to make informed betting decisions that are particularly essential in a newly regulated market.</p> <p>It is vital that consumers searching for gambling related products find the product offerings of responsible, regulated operators, rather than those of unlicensed operators. To achieve this, it is necessary to create a commercially viable market in which affiliate marketers can thrive.</p> <p>We would welcome the opportunity to discuss further and can be reached via email at <a href="mailto:kmccord@bettercollective.com">kmccord@bettercollective.com</a> and</p>		
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	<p>Legal.US@bettercollective.com, or by phone at 203-536-2138.</p>		
<p>256.01(3)</p>	<p>On behalf of Better Collective USA, Inc. (“we”, “us” or “BC”), we respectfully submit the below comments on the Massachusetts Gaming Commission’s (“Commission”) proposed Sports Wagering Advertising regulations 205 CMR 256.</p> <p>As a leading marketing affiliate, BC takes seriously our role within the sports wagering ecosystem to responsibly educate and guide users. While we understand and are aligned with the Commission’s concerns on advertising with respect to responsible gaming, we believe that 205 CMR 256 as currently drafted will have a significant dampening effect on the new Massachusetts market without any measurable increase in consumer protections. Accordingly, we provide the following comments:</p> <p>We respectfully urge the Commission to delete 205 CMR 256.01(3) in its entirety to allow for performance-based marketing compensation models such as revenue share and cost per acquisition (“CPA”). Prohibiting industry-recognized commercial models like CPA and revenue share in a newly regulated</p>	<p>Katherine McCord</p>	<p>Better Collective USA, Inc.</p>

<p>Massachusetts will limit both marketing affiliate activity and competition between sports wagering operators, negatively impacting tax revenue to the state and hurting consumers.</p> <p>Some form of performance-based marketing is permissible in all states where sports wagering is legal except Connecticut, which restricts CPA and revenue share, and Illinois, which restricts revenue share. Neither Connecticut nor Illinois impose any vendor registration or affiliate licensing requirements. With the Commission’s direct enforcement power over marketing affiliates through the vendor registration process, it is unnecessary to also restrict performance-based compensation.</p> <p>Additionally, we note feedback from Todd Grossman conveyed by email on February 16 that operators may enter into revenue share or CPA agreements where compensation is based on the number of visits to the operator’s website, i.e., a cost-per-click model (“CPC”). Operators typically prefer to compensate marketing affiliates based on key performance metrics (such as CPA on deposit, CPA on first wager, or revenue share) because it allows for efficiency in their marketing spend. This predictability allows them to invest in other areas that will grow handle, gross gaming revenue and tax revenue as much as possible.</p> <p>Responsible marketing affiliates like BC exclusively promotes licensed operators. Many consumers refer to specific affiliate-run websites, like BC’s sportshandle.com, actionnetwork.com and vegasinsider.com, for betting information and education, such as</p>		
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<p>which operators are licensed. Discouraging affiliates from participating in the market by limiting affiliate compensation models allows offshore operators to flourish. Diverting consumers from the regulated market decreases legitimacy and compliance, and reduces taxes to the state.</p> <p>Restricting revenue share and CPA also limits competition by ensuring that only the biggest sportsbooks with the largest marketing budgets will be successful. For instance, some smaller operators are unable to work with affiliates in Illinois (which prohibits revenue share) because their marketing spend is too low to pay on CPA. Prohibiting both CPA and revenue share would only compound the problem smaller operators face in Illinois. This consolidation will hurt the state economy over time as the majority of the market share is concentrated to one or two operators, and it's bad for consumers who will be left with fewer choices.</p> <p>In assessing gambling advertising, it is important to differentiate between “pull” and “push” advertising. Push marketing, such as TV advertising, paid social media ads and others, is designed to entice consumers to a product. Conversely, most affiliate marketing can be categorized as pull marketing, designed to provide information to consumers who are proactively searching for sports betting information. By prohibiting CPA and revenue share in favor of CPC, operators will instead focus their marketing budgets away from pull advertising (such as agreements with marketing affiliates) and towards push advertising. Push advertising is shown across all age</p>		
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	<p>demographics, and doesn't include the same responsible gaming resources and educational content that marketing affiliates provide.</p> <p>Marketing affiliates provide betting information and insights, including introductions to various bet types and markets, and information and resources on responsible gaming, including compulsive gambling self-tests. BC is committed to fostering wider initiatives in the affiliate marketing sector to promote social responsibility and create a safer gambling environment for consumers, including offering responsible gaming products that help consumers track their wins and losses across all operators.</p> <p>It is vital that consumers searching for gambling related products find the product offerings of responsible, regulated operators, rather than those of unlicensed operators. To achieve this, it is necessary to create a commercially viable market in which affiliate marketers can thrive.</p> <p><b>As such, we respectfully request that 205 CMR 256.01(3) be removed in its entirety.</b></p>		
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# CAESARS. SPORTSBOOK

February 6, 2023

Bruce Band  
Sports Wagering Division Director  
Massachusetts Gaming Commission  
101 Federal Street, 12<sup>th</sup> Floor  
Boston, MA 02110

Re: **Caesars Sportsbook Comments on Proposed Rulemaking Regulation 205 CMR 256**

Dear Mr. Band:

On behalf of Caesars Sportsbook (“Caesars”), respectfully submits these comments to the Massachusetts Gaming Commission (“Commission”) proposed regulations 205 CMR 256, regarding advertisement provisions. Caesars would like to thank the Commission for the opportunity to comment on the proposed rules and respectfully requests the Commission take into consideration the following suggestions:

### **CMR 256.01 – Third Parties**

~~*(3) No Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.*~~

Caesars supports operators taking full responsibility for the actions of their third-party marketing affiliates and efforts to protect the consumers, but this regulation does not provide further protections for the public and instead mandates contractual relationship terms between private

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parties. Many of the other provisions in the marketing regulations provide ample, and often best-in-class, consumer protections. Further, the vagueness of the terms “moderate” and “high risk” render this regulation inherently problematic. For example, if it were determined that males are at higher risk of gambling disorder than females, would an advertisement depicting just males be prohibited? If persons of color are at a higher risk of gambling disorder than persons not of color, would an advertisement depicting primarily group of people of color be prohibited? Caesars recommends deleting this regulation.

## **CMR 256.02 - Application**

*(2) Sports Wagering advertisements may only be published, aired, displayed, disseminated, or distributed in the Commonwealth by or on behalf of Sports Wagering Operators licensed to offer Sports Wagering in the Commonwealth, unless the advertisement clearly states that the offerings are not available in the Commonwealth or otherwise makes clear that the offerings are not intended for use in the Commonwealth. Sports Wagering Operators and their agents, employees, or any third party conducting advertising or marketing on their behalf shall not advertise forms of illegal gambling in the Commonwealth.*

Caesars supports this regulation but recommend this not apply to national advertising buys. While we are licensed to operate in the Commonwealth, it would be onerous on the staff, and potentially illegal, to regulate out-of-state media organizations.

## **CMR 256.04 – False or Misleading Advertising**

*(1) No Sports Wagering Operator shall allow, conduct, or participate in any unfair or deceptive advertising, marketing, or branding for Sports Wagering. ~~Advertising, marketing, or branding that is unfair or deceptive includes, but is not limited to, advertising, marketing, or branding that would reasonably be expected to confuse and mislead patrons in order to induce them to engage in Sports Wagering.~~*

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Caesars supports the Commonwealth's goal of prohibiting deceptive advertising practices, but as written it is too broad to provide meaningful direction to the operators and may be impossible to comply with.

*(3) All Sports Wagering advertisements must clearly convey the conditions under which Sports Wagering is being offered, including information about the cost to participate and the nature of any promotions or information to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified in the advertisement.*

Caesars believes it would be impracticable to include all terms and conditions in an advertisement. For example, an NFL game earlier this season was canceled in the first quarter because a player collapsed from cardiac arrest. This was an unprecedented result for a NFL game. Operators in legal jurisdictions were bound by their internal controls and terms and conditions. Listing every possible condition would not be possible.

## **CMR 256.04: False or Misleading Advertising**

*(4): No employee ~~or vendor~~ of any Sports Wagering Operator (or employees of its vendors) shall advise or encourage individual patrons on a one-on-one basis to place a specific wager of any specific type, kind, subject, or amount. This restriction does not prohibit general advertising or promotional activities, which may require a patron to place a specific wager type, kind, subject, or amount in order for patron to receive a promotional benefit.*

Caesars believes the proposed change above would clarify that standard industry promotions advertised publicly or to certain market segments that require a participating customer to place a specific wager type, kind, subject or amount in order to receive a particular promotional benefit would not be prohibited.

## **CMR 256.05 – Advertising to Youth**

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*(3) No advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall contain images, symbols, celebrity or entertainer endorsements, or language designed to appeal primarily to individuals younger than twenty-one years of age.*

Caesars believes further clarification if this is a ban on celebrity and entertainment endorsements, or those designed to appeal to minors. Caesars supports the former interpretation. Celebrities that appeal to adults can be a key part of a marketing strategy to attract customers who currently bet illegally and to grow the market through new customers who will generate increased tax revenues for the Commonwealth.

## **CMR 256.06 – Advertising to Other Vulnerable Persons**

*(3) Advertising, marketing, branding, and other promotional materials published, aired, displayed, disseminated, or distributed by or on behalf of any Sports Wagering Operator shall include a link to and phone number for the Massachusetts Problem Gambling Helpline, or a national problem gambling helpline, using ~~language provided by the Department of Public Health~~ and such other information regarding responsible gaming as required by the Commission (“Responsible Gaming Messaging”).*

National leaders in responsible and problem gaming have requested the industry use the national 1-800 number where possible to create consistency and to allow the experts there to direct customers to the best local resources. This has become an industry best practice.

We thank the Commission for requesting input on these matters and hope our comments are helpful for your consideration.

Sincerely,



Curtis Lane Jr.

Digital Compliance Manager



# CAESARS<sup>®</sup> SPORTSBOOK

Caesars Sportsbook

Cc: Jeffrey P. Hendricks, Lisa Rankin

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MYANMAR

ALLIANCES IN MEXICO

February 6, 2023

VIA E-MAIL

Bruce E Band  
Sports Wagering Division Director  
Massachusetts Gaming Commission  
Bruce.Band@MASSGAMING.GOV  
101 Federal Street, 12th Floor  
Boston, Massachusetts 02110  
Tel 617.979.8470  
Cell 857.301.2645

**Re: 205 CMR 256: SPORTS WAGERING ADVERTISING COMMENTS**

Dear Director Band:

As you may be aware, this firm represents FBG Enterprises Opco, LLC d/b/a Fanatics Betting & Gaming ("Fanatics"). As you further know, last month the Massachusetts Gaming Commission ("Commission") found Fanatics to be preliminarily suitable to hold a Category 3 sports wagering operator license. Fanatics, through the leadership of its highly experienced executive team comprised of former leaders of top tier sportsbook operators, plans to launch mobile sports wagering in the Commonwealth in the coming months. Based on this experience, Fanatics believes it can provide the Commission with constructive comments to help make the rulemaking process as productive and efficient as possible. Accordingly, on behalf of Fanatics, we provide the following comments, organized generally by rule number, to 205 CMR 256: Sports Wagering Advertising.

### ***Global Comment***

Generally, the proposed advertising rules apply to "branding" and not just advertising and promotional materials. Fanatics submits that these requirements, as applied to branding, create unnecessarily burdensome requirements for operators and their employees. For example, under these rules, as written, operators would have to include responsible gambling messages in simple logo placement branding. Further, inclusion of "branding" in the rules would impinge

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requirements on employees of operators who set up LinkedIn profiles, or, for example, share a press release about a sportsbook opening. Further, and as alluded to above, it is increasingly likely that new entrants to the sports betting market will be part of larger and diversified organizations whose success is premised on brand awareness – both in and out of the gaming space. The inclusion of “branding” within these rules thus could subject such companies to overly exhaustive and near impossible to follow gambling-advertising requirements. Such a result would also potentially confuse the public and limit companies’ abilities to establish a diverse brand that only partially encompasses the gaming industry. As such, Fanatics respectfully requests that the Commission amend these rules to remove the inclusion of “branding.”

***Rule 256.05(2)-(7) – Advertising to Youth***

Subsections (2)-(7) of this rule, generally, prohibit sports wagering operators from advertising and marketing to persons under twenty-one years of age and limit the dissemination of marketing information at certain venues, including schools and college campuses. As written, the prohibitions are broad and when read literally are not necessarily limited to sports wagering, or gaming-related advertisements. While Fanatics understands the presumed purpose and shares the goal of preventing the promotion of sports wagering to youth, the provisions as written are overly limiting. Particularly, Fanatics recommends that the Commission amend these subsections to remove any potential ambiguity and make clear that the rules relate solely to an operator’s gaming-related business. Such a clarification would be timely and consistent with the scope and presumed objectives of the sports wagering statute given that as the gaming industry expands and new multi-dimensional and innovative companies enter the market, it is likely that such companies will seek to advertise and market their gaming business while also growing their non-gaming assets.

Moreover, as to subsection (4)(e), Fanatics submits that the use of the phrase “presumed to be under 21” is ambiguous. Fanatics submits that the presumed intention of subparagraph (e) is captured in subparagraph (b), which prohibits advertising at events aimed at minors or where 25% or more of the audience is “reasonably expected” to be under twenty-one years of age. As such, Fanatics recommends that the Commission delete this language and instead rely upon the clear mandate set forth in subsection (b).

***Rule 256.06 – Advertising to Other Vulnerable Persons***

This rule, among other things, requires that marketing and advertising include a link to and phone number for the Massachusetts Problem Gambling Helpline, as well as state-specific problem gambling messages, regardless of whether the marketing and advertising is targeted to Massachusetts. Consistent with the approach accepted in numerous jurisdictions, Fanatics recommends that the Commission give operators the ability to use the "1-800 GAMBLER" number and message for national or regional advertisements. Fanatics submits that the requirement to list state-specific responsible gaming messages in national advertisements does

not further operators' and regulators' shared goal of providing customers straightforward guidance on how to seek assistance with problem gaming. More particularly, Fanatics submits that permitting operators to utilize one helpline for national or regional advertisements will promote greater awareness, consistency in messaging and understanding by patrons of the resources available to persons in need of valuable problem gambling resources. To the contrary, a state-by-state approach on the issue risks creating confusion amongst patrons and makes responsible gaming disclosures on multi-state advertisements harder to read and quickly comprehend.

Consistent with the above recommendations, Fanatics submits that the Commission should limit the express requirements in subsection (4)(d) (related to video and television responsible gaming messaging) and subsection (4)(e) (related to websites and social media responsible gaming messaging) to advertising specifically targeting the Massachusetts market or the promotion of Massachusetts-specific offerings - as opposed to national or regional advertisements. Further to this point, Fanatics again submits that operators should be permitted to utilize national problem gambling messaging (i.e., 1-800 GAMBLER" number and message for national advertisements) when conducting multi-state marketing efforts on its websites and social media assets in order to permit easy viewing and comprehension of responsible gaming messaging, and in turn give patrons straightforward guidance on seeking assistance.

Finally, as to subsection (e)(1), Fanatics recommends that the Commission replace the word "webpage" with "website." Fanatics understands the importance for operators to clearly and prominently display responsible gaming messaging. Fanatics believes that this amendment gives more flexibility to determine the appropriate placement of the messaging on the overall websites to meet that requirement. This will allow operators to effectively provide the requisite messaging to patrons in a location on the website that is easily accessible and in a manner that is most user friendly. In this regard, Fanatics suggests that the Federal Trade Commission's ("FTC") ".com Disclosures: How to Make Effective Disclosures in Digital Advertising"<sup>1</sup> may provide additional guidance on the issue. The FTC's guidance provides that the use of hyperlinks to provide relevant disclosures (or by extension other means to provide disclosures in a manner that is one-click away) are particularly useful if a disclosure in question is lengthy or needs to be repeated. Fanatics submits that it should be permitted to use a similar approach for including responsible gaming messaging on advertisements on social media platforms as well.

#### ***Rule 256.07(2) – Self Excluded Persons***

Subsection (2) prohibits sports wagering operators from directing text messages or "unsolicited pop-up advertisements on the internet" to individuals in the self-exclusion program. Fanatics recommends that the Commission amend this rule to replace "unsolicited pop-up

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<sup>1</sup> The FTC's guidance is available here: <https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosures-information-about-online-advertising.pdf>.

advertisements,” with “directed marketing to Massachusetts residents.” Digital companies, whether gaming businesses or otherwise, in almost all cases do not have the ability to determine the identity of the person receiving a non-targeted marketing pop-up, and by extension whether the recipient of such a pop-up is a self-excluded person. By focusing this requirement toward directed marketing activities, operators would still be prohibited from directly advertising to persons known to be self-excluded, which is consistent with requirements in other sports wagering jurisdictions.

***Rule 256.04(5)(b) and (c) – False or Misleading Advertising***

Subsection (5)(b) provides that sports wagering operators who offer complimentary items or promotional credits that are subject to terms, conditions or limitations must fully disclose the terms, conditions or limitations through the use of a pop-up message. While Fanatics appreciates the importance of disclosing any specific terms, conditions or limitations, Fanatics submits that this requirement is overly limiting. Fanatics recommends that the Commission amend this rule to give operators the option of making the terms of an offer available through webpage disclosures (which could be one-click away), as opposed to requiring them to display terms through a pop up. Fanatics submits that this approach is consistent with Federal Trade Commission guidance as well as the goal of ensuring that the terms of an offer are fully disclosed to patrons in a manner that is most user friendly and easy to comprehend.

Subsection 5(c) also applies to sports wagering operators who offer complimentary items or promotional credits that are subject to terms, conditions or limitations. This subsection provides that if the offer requires the patron to wager a specific dollar amount, operators must disclose the amount in the same size and style of font as the amount of the complimentary item or promotional credit. Fanatics submits that the Commission should amend this rule to require that sports wagering operators must disclose “clearly and conspicuously” the amount a patron must wager, as opposed to the “same font” requirement. The requirement, as written, limits operators' ability to exercise discretion in establishing marketing campaigns and to determine what is most appropriate for a particular advertisement.

***Rule 256.01 – Third Parties***

This rule provides that sports wagering operators shall be responsible for the content and conduct of any and all advertising and marketing conducted on its behalf. Fanatics submits that, to the extent an advertisement is improperly placed on behalf of a sports wagering operators without its prior approval, the sports wagering operator should not be responsible for said marketing/advertisement. Said otherwise, an operator should not be subject to punishment in situations where it has taken reasonable steps to ensure that it maintains the right to review all advertisements made on its behalf prior to public dissemination, but where a third party fails to adequately provide such operator with an opportunity for prior approval of content.

***Rule 256.10(1) and (2) – Records***

Subsection (1) requires operators to maintain all promotional materials for six years. Fanatics submits that this rule is unnecessarily burdensome for operators and not in accordance with market standards. As such, Fanatics respectfully recommends that the Commission adopt a two-year retention standard, which is in line with the rules in other jurisdictions that have recently adopted robust advertising regulations, such as Ohio.

Subsection (2) requires operators to make advertising and marketing materials available to the Commission or its agents upon request. Fanatics recommends that the Commission amend this subsection to clarify that operators are only required to give "read only" access to social media accounts and not control of such accounts. Such access controls would not undermine the purpose of the rule.

Thank you for your consideration and please do not hesitate to contact us should you wish to discuss our comments.

Very truly yours,

DUANE MORRIS LLP



Adam Berger  
Partner

AB

# GAMING SOCIETY

February 23, 2023

**PRIVATE AND CONFIDENTIAL**

Massachusetts Gaming Commission  
101 Federal St., 12th Floor  
Boston, MA 02110  
[cathy.judd-stein@massgaming.gov](mailto:cathy.judd-stein@massgaming.gov)

## **Re: Proposed 205 CMR 256.01 – Sports Wagering Advertising**

Dear Chairwoman Judd Stein and Honorable Commissioners:

I understand that the Commission is holding a roundtable on February 27, 2023, to discuss marketing affiliates and sports wagering advertising. I am a co-founder of the Gaming Society (<https://thegamingsociety.com/>) with Jaymee Messler, and Jaymee will participate in the roundtable discussion. While my schedule on Monday does not permit me to join the roundtable, I know that you will gain valuable insights from Jaymee and others in the affiliate industry. I would also like to submit the following for your consideration.

The Gaming Society, a newer entrant in the affiliate market, is a betting education company on a mission to build an inclusive community. Sports betting can appear intimidating, especially to new sports fans. At Gaming Society, our mission is to make sports betting more *accessible, responsible, and easier to understand*. As sports betting continues to grow, the need to promote responsible betting is more important than ever.

The Gaming Society creates videos, newsletters, games and immersive educational experiences. We seek to democratize sports betting so every fan has the tools and knowledge to have skin in the game. In 2021, Gaming Society partnered with the WNBA Players Association to launch its “Bet On Women” campaign, a movement to advance women’s sports forward through gamification and sports betting.

Affiliate marketers do not come in one shape, size or demographic focus, which is a great thing – because we want many diverse voices in the sports betting industry. Consumers seek out affiliates for information, education, and comparative offers. Affiliates like Gaming Society provide articles, updates, games and other content to enable consumers to become educated about sports and sports betting. Consumers seek out these sources, unlike mass media advertisements such as broadcast ads which consumers encounter frequently but do not contain the education and information content provided by affiliate advertisers. We focus on *informed, responsible gaming*. In fact, in 2022, we partnered with the

American Gaming Association in AGA's Have a Plan Bet Responsibly initiative, a public service campaign that brings together organizations across the gaming and sports industries.

As the Commission considers affiliate advertising, it should be cautious to avoid limiting how affiliate advertisers may be compensated. We rely on operator compensation in order to continue to provide these diverse sources of information to consumers. Affiliate advertisers also promote competition in the sports betting industry by promoting a wide range of sports betting operators – giving licensees who may have less recognizable brand names an opportunity to build their brands in a market (especially when advertising on broadcast television, radio or cable may be cost-prohibitive for emerging operators). Affiliate advertisers like the Gaming Society help these non-dominant operators compete on a more level playing field. Therefore, we support changes to the current draft of 205 CMR 256 in order to support a sustainable and healthy sports wagering ecosystem.

Commissioners, let's also not forget that we want to protect residents of the Commonwealth from illegal (often offshore) operators. Affiliate marketers drive consumers to legal, regulated sportsbooks. We educate consumers about illegal sportsbooks.

In establishing sports betting advertising regulations, it is important that the Commission's regulations do not overly restrict compensation models common across the industry and the states. This will only eliminate diverse voices in the industry, negatively impact smaller operators, and reduce competition, all to the detriment of consumers.

The Gaming Society seeks to make the sports betting industry more accessible and inclusive by prioritizing betting education for underserved audiences in the Commonwealth and in other regulated markets. Thank you for your consideration.

Respectfully submitted,

Kevin Garnett  
Co-Founder, Gaming Society



Comments of the iDevelopment and Economic Association on the  
Massachusetts Gaming Commission Regulations for Sports Wagering Advertising, 205 CMR 256

February 24, 2023

## Introduction

The members of iDevelopment and Economic Association (“iDEA”), by and through its counsel, submit these comments on the Massachusetts Gaming Commission’s Regulation on Sports Wagering Advertising, 205 CMR 256 (the “Regulation”). On January 13, 2023, the Massachusetts Gaming Commission (“Commission”) posted the proposed Regulation. On January 26, 2023, the Commission commenced and approved the promulgation process and/or adoption of the Regulation for emergency purposes. The Commission is seeking input from the public, the sports wagering industry, and other stakeholders regarding the Regulation. The Commission’s website requests that all such comments be submitted by Tuesday, March 21, 2023 at 5 p.m.

iDEA is a trade association organized exclusively to support and conduct research, education, advocacy, and informational activities to increase public awareness of the online gaming industry and the economic benefits. iDEA seeks to “grow jobs and expand online interactive entertainment business in the United States through advocacy and education.”<sup>1</sup> iDEA’s members represent all sectors of the internet gaming and entertainment industry, including operations, development, technology, marketing, payment processing, and law. Many of iDEA’s members will be participating in the Massachusetts market. Members share the common goal of expanding American consumers’ access to secure and regulated online gaming.

As of the date of this submission, iDEA is comprised of thirty-one members, including: 888.com, Anaxi, Bet365, Catena Media, Continent 8 Technologies, Digital Gaming Corporation, DraftKings, Entain, Every Matrix, Evolution Gaming, Fanatics Sportsbook, FanDuel, FoxBet, Gamesys, Gamewise, GeoComply, Golden Nugget, Ifrah Law, Kambi Group/Unibet, Kindred, Light & Wonder, Pala Interactive, Parx Interactive, Paysafe, Playtech, Resorts Digital Gaming, Saiber, Sightline, Sportradar, and Worldpay.

iDEA appreciates the opportunity to submit these comments on the Regulation. As a preliminary matter, iDEA applauds the Commonwealth of Massachusetts’ decision to legalize sports betting following the United States Supreme Court’s decision in *Murphy v. National*

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<sup>1</sup> About iDEA, <https://ideagrowth.org/about/> (last visited Feb. 22, 2023).

*Collegiate Athletic Association*, 138 S. Ct. 1461 (2018) (striking down the federal Professional and Amateur Sports Protection Act (“PASPA”) on grounds that it violated the anti-commandeering doctrine). iDEA supports the efforts to provide for the legalized and licensed sports betting market. iDEA also supports the efforts to ensure that residents of Massachusetts are not unduly burdened by sports wagering ads and are duly informed of responsible gaming information and resources.

Nonetheless, iDEA submits that the Regulation can be improved if amended. Both industry stakeholders and consumers in Massachusetts will benefit from the removal of unnecessary restrictions on third-party advertising contracts and amending impractical and unclear requirements for advertisers.

Moreover, for the reasons explained below, iDEA urges the Commission to (i) do away with the restrictions on how third-party advertisers may be compensated; and (ii) provide more narrow regulations for protections against false and misleading advertising, and in connection with advertisements on or using social media.

**A. The Regulation (205 CMR 256.01(3)) Effectively Prohibits Affiliate Marketers from Providing their Services to Massachusetts Consumers**

i. What/Who is a Marketing Affiliate and their Advertising Strategy

Marketing Affiliates, commonly referred to as affiliates, are entities that promote or direct customer traffic to gaming operators. Affiliates usually provide and publish informational content to interested parties. Consumers looking for sports betting options turn to affiliate websites, such as [Actionnetwork.com](http://Actionnetwork.com), [Gambling.com](http://Gambling.com), and [Legalsportsreport.com](http://Legalsportsreport.com), to assist them in finding the legal options available to them and evaluating deals or best odds being offered at any given time. Affiliate websites provide links and informative content such as expert reviews, comparisons of the products offered by gaming operators, available player incentives and other informational content such as gaming industry news and “how to” guidance. The affiliate sites typically also include information and resources on responsible gaming, including compulsive gambling self-tests. Successful affiliates act as gateways to the legal gaming operators with whom they choose to work, pulling individuals away from entering the illegal market.

As opposed to traditional “push” advertising, affiliates engage in “pull” marketing. Push advertising, such as TV ads, radio ads, social media ads, etc., is designed to entice consumers to a product. Otherwise stated, push advertisements push or encourage consumers to buy or engage with a certain business unprompted. It advertises to all, regardless of age demographics and product/service interest. Affiliates, however, do not generally engage in direct or push marketing.

Conversely, pull advertising, a strategy used by nearly all affiliates, is designed to provide information to consumers who are proactively searching for sports betting information. A prime example in a different industry is a travel website such as Expedia or Travelocity. When a potential traveler visits these websites, they already intend to book a trip. They are using these websites to evaluate all of their options and learn about new offers or places they could stay. Like potential travelers visiting these websites, consumers that visit affiliate websites primarily do so through unpaid channels, including search engine optimization. Search engine optimization is the process of optimizing websites to make them more appealing to search engines so they rank favorably in search engines’ results pages for certain queries. It would be rare for a consumer to be shown advertisements from a marketing affiliate unless they were already interested in making a wager or learning more about legal sports wagering.

In an affiliate/operator contractual relationship, affiliates receive performance-based marketing compensation, such as revenue share and cost per acquisition (“CPA”). Some form of performance-based marketing is permissible in all states where sports wagering is legal except Connecticut, which restricted CPA and revenue share, and Illinois, which restricts revenue share.<sup>2</sup> Operators either compensate affiliates on a performance metric basis, such as CPA on deposit, CPA on first wager, or revenue, because they allow for the most efficient marketing spend. Without such predictability and ensured results from affiliates, operators would have little to no reason to outsource marketing efforts.

ii. Benefits of Marketing Affiliates in a Legal Market

Affiliates provide crucial aid in a legal and competitive market for two key reasons. First, one of, if not the ultimate, major challenge all legal wagering states face is aiding their licensees

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<sup>2</sup> Note that neither of these states require vendor registration or affiliate licensing requirements.

to capture market share from existing, entrenched offshore operators who have been active in states like Massachusetts for decades. Offshore illegal sportsbooks have been able and continue to advertise freely to customers in all 50 states. Even today, offshore sportsbooks continue to obtain a significant share of customers. Offshore sportsbooks and those that advertise on their behalf frequently appear in search results like “Massachusetts online sports betting”. A top priority and goal of affiliates is to reduce or fully eradicate offshore sportsbooks, ensuring that customers who wish to participate in a regulated and approved market do so only with Massachusetts licensed operators.

Second, affiliates assist in facilitating and providing a competitive sports betting market. Restrictions on revenue share and CPA compensation limits competition by ensuring that only the biggest sportsbooks with the largest marketing budgets will be successful.<sup>3</sup> For instance, some smaller operators are unable to work with affiliates in Illinois, which prohibits revenue share, because their marketing spend is too low to pay affiliates a CPA.

Marketing affiliates are a neutral informational source for consumers to explore all licensed options in the market. Without affiliates present in a legal market, it is harder for consumers to be educated on brands that are less front facing or with smaller advertising budgets; thereby consolidating the power at the top and stifling the natural abilities for the market to be competitive. Such consolidation will hurt the Massachusetts’ legal sports betting economy over time as the majority of the market share remains concentrated to one or two operators, with the true victims being Massachusetts consumers who will be uninformed and left with fewer choices.

### iii. Current Impact of Regulations on Marketing Affiliates

The current regulation prohibits revenue share and CPA compensation to affiliates, stating that “[n]o Sports Wagering Operator may enter into an agreement with a third party to conduct advertising, marketing, or branding on behalf of, or to the benefit of, the licensee *when compensation is dependent on, or related to, the volume of patrons or wagers placed, or the outcome of wagers.*” From the outset to those unfamiliar with affiliates and their benefits, such prohibition could seem reasonable, but it will have detrimental effects to the Massachusetts sports

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<sup>3</sup> Note that this may be part of the reason that Connecticut has not struck its restrictions. Connecticut law only currently permits three online sports betting operators.

betting marketing. Consequently, the Regulation makes it infeasible for an affiliate to enter into agreements in Massachusetts.

Additionally, by prohibiting revenue share and CPA, the likely result will be that those that have a true interest in being educated and placing a wager in the legal market will not be able to effectively do so as takes place in other regulated jurisdictions. Additionally, as explained above, offshore sportsbooks will be more likely to continue prospering, and the market is likely to become consolidated and anti-competitive.

iv. Recommendations for Amending

The vast majority of states that have legalized sports betting do not regulate the compensation structures available to affiliates. In fact, the majority of states have limited to no regulations at all in regards to marketing affiliates, with most not even requiring affiliates to register or obtain a license. It is our recommendation that the Commission strike regulation 205 CMR 256.01(3), and instead focus on ways it can effectively license and register such affiliates.

As has been done in other legal wagering states, we suggest that if the Commission has concerns on certain compensations structures, then they effectively regulate and monitor those entities through elevated licensing requirements. For example, of the legalized states, Colorado, Michigan, New Jersey, and Pennsylvania have explicit elevated licensing requirements for affiliates receiving a revenue share compensation as opposed to the more traditional CPA compensation. Other states such as Kansas, Louisiana, and Maryland only require licenses or elevate the level of license if a vendor/affiliate's annual expected revenue from the state exceeds a certain dollar threshold. All other states with registration or licensing requirements demand the same level of registration/licensing from affiliates regardless of their compensation structure: Arizona, Indiana, Virginia, and West Virginia.

Marketing affiliates are vital to a legal sports wagering market. Through appropriate licensing any and all of the Commissions third-party advertising concerns will be assuaged. Therefore, we recommend striking 256.01(3) and instead provide a more structured licensing scheme for affiliates, perhaps being elevated, or differentiated depending on their payment structure.

**B. The Deceptive and Youth Advertising Prohibitions along with Requirements to Disclose Responsible Gaming Messaging are Too Broad to Realistically Allow for Compliance (205 CMR 256.04; 205 CMR 256.05; 205 CMR 256.06)**

iDEA fully supports the Commission’s goal to prohibit deceptive advertising and any ads specifically intended for youth or other vulnerable audiences. iDEA also fully supports the Commission’s intentions to have advertisers clearly disclose responsible gaming messaging. However, the requirements of the Regulation’s sections 256.04, 256.05, and 256.06 are too broad to be effective and realistically allow compliance or their intended result.

i. Section 256.04 False or Misleading Advertising

Section 256.04(2) and (3) require conspicuous disclosure of all terms and conditions on advertisements including disclosing “any material fact in its advertising” and “information about the cost to participate and the nature of any promotions or information to assist patrons in understanding the odds of winning.” Such a requirement would effectively render all digital advertisements and promotions impossible. Displaying such information within an advertisement would render it useless, the content would be nothing but terms and conditions, and not provide any effective marketing of the product or service. It is commonly understood that the most effective means to provide a message or marketing is within easily understood and digestible words or phrases, not long-winded displays of terms and conditions which are commonly ignored. The Commission’s intentions can be better captured by requiring such disclosures similar to those in Ohio. The Ohio Administrative Code 3775-16-08(A)(1) allows such disclosures to be displayed in a one-click link on the advertisement.<sup>4</sup>

Further, section 256.04(4)’s prohibition against vendors advising “patrons to place a specific wager of any specific type, kind, subject, or amount” is ripe for unintended negative consequences. The sports wagering market is new to consumers in Massachusetts. It is more than likely that many consumers will be unfamiliar with odds or types of bets and where such wagers

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<sup>4</sup> Ohio Admin. Code 3775-16-08(A)(1) (requiring all sports gaming advertisements to “clearly convey the conditions under which sports gaming is being offered, including information about the cost to participate and the nature of any promotions and information to assist patrons in understanding the odds of winning. Any material conditions or limiting factors must be clearly and conspicuously specified. If an advertisement is not of sufficient size or duration to permit inclusion of such information, that advertisement shall refer to a website or application that does prominently include such information within one click”) (emphasis added).

may be legally placed. These individuals must have resources to inform them of the specific types and kinds of bets that are not only accessible but also permitted in Massachusetts. Many marketing affiliates publish and provide this sort of content, and it has shown to be beneficial in aiding consumers to place well and more informed wagers. We request that the Commission reconsider the wording in this section to ensure that Massachusetts sports wagering consumers remain able to seek advisements through informational resources.

ii. Section 256.05 Advertising to Youth

Section 256.05(a) prohibits advertisements and promotions published or disseminated “in media outlets, including social media platforms, that are *used primarily by individuals under twenty-one years of age.*” This requirement is vague. We request that the Commission provide clearer guidance on the specific media outlets such content cannot be disseminated. It is well known that individuals under the age of 21 are active on many social media platforms, but it is nearly impossible for an advertiser to determine at any one time if such platform is “primarily” used by those underage.<sup>5</sup> The Commission’s concern is valid, however, we advise that they provide operators and third-party advertisers more specific guidance media outlets and social media platforms that are strictly prohibited, and regularly update that guidance. Importantly, we note that social media, like affiliate marketing, is an effective way to advertise the legal and regulated market, thereby drawing individuals away from the illegal market and making regulators operators known to consumers.

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<sup>5</sup> According to a 2022 statistical analysis by statista.com around 7%-10% of TikTok users in the United States are between the ages of 18 and 19, usage among those between ages 20 and 29 was approximately 56%. (<https://www.statista.com/statistics/1095186/tiktok-us-users-age/#:~:text=As%20of%202022%2C%20approximately%2041,years%20was%20approximately%2056%20percent,> last visited February 23, 2023). According to an analysis from the same source as of December 2022, 27.8% of U.S. Instagram users were between the ages of 25 and 34, 25% of users were between the ages of 18 and 24, under 7% U.S. users were between the ages of 13 and 17 years old, and only 4.7% of U.S. users were aged 65 and older. (<https://www.statista.com/statistics/398166/us-instagram-user-age-distribution/>, last visited February 23, 2023). Further, a similar study by statistica.com analysis Facebook user sin the U.S. found that as of December 2022 23.7% of users were between the ages of 25 and 34, 18% of users were between the ages of 18 to 24, and the smallest audience (3.9%) were those between the ages of 13 and 17. (<https://www.statista.com/statistics/187549/facebook-distribution-of-users-age-group-usa/>, last visited February 23, 2023).



iii. Section 256.06 Advertising to Vulnerable Persons

iDEA is highly invested in providing consumers with meaningful and easily accessible resources in connection with responsible gaming. Section 256.06's requirement for Massachusetts-specific messaging, along with the messaging length and font size requirements for responsible gaming messages, are not practical. A state specific messaging approach will be very difficult for multi-jurisdictional operators and advertisers and is ripe for unintended errors. Such operators and advertisers provide advertisements and promotional content nationally and/or throughout the legal wagering jurisdictions, and many forms of advertising that cross national or regional borders is not well suited for jurisdiction specific responsible gaming messaging.

As stated above, when an ad contains too many disclaimers, they are more likely to be ignored or drowned out by the other messaging. Instead, iDEA suggests that the Commission follow in the footsteps of other states and allow advertisements to display the national hotline, 1-800-GAMBLER, at a minimum for advertisements that are intended to be deployed on a multi-jurisdictional basis. The national hotline is very effective in providing access to problem gaming resources. By using the national hotlines, it is less likely the important messaging will be lost, and the messaging will be more effective to those that require such assistance and guidance.

Additionally, it is important to note that the provisions of Chapter 23N, Section(4)(d)(3) only require display of the "problem gambling hotline overseen by the department of health" to patrons "upon each entry into the application or platform."<sup>6</sup> There is no requirement in statute to utilize the Massachusetts specific messaging in advertisements.

### **Conclusion**

iDEA thanks the Commission for considering its comments concerning improvements to the Regulation. Please do not hesitate to contact the undersigned for additional information or clarification on the issues raised herein.

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<sup>6</sup> M.G.L. c. 23N § 4(d)(3).



*State of New Jersey*

Chris Christie  
*Governor*

Office of the Attorney General  
Department of Law and Public Safety  
Division of Gaming Enforcement  
1300 Atlantic Avenue  
Atlantic City, NJ 08401

John J. Hoffman  
*Acting Attorney General*

Kim Guadagno  
*Lt. Governor*

David Rebeck  
*Director*

June 9, 2014

**Director's Advisory Bulletin: 2014-01**

RE: Licensing of Internet Marketing Companies

Several internet gaming platform providers and internet gaming marketing companies have raised issues about how the Division of Gaming Enforcement ("Division") licenses internet marketing companies ("affiliates"). Currently, the Division licenses these affiliates as either vendor registrants (pursuant to N.J.S.A. 5:12-92c(1)) or ancillary casino service industry enterprises (CSIE) (pursuant to N.J.S.A. 5:12-92a(3)) depending on how the affiliate is compensated. Affiliates that are paid a flat fee for simply directing traffic to a site are eligible for vendor registration while affiliates whose compensation is tied to player activity require an ancillary CSIE.

The Division recognizes that affiliate marketing companies are important to the growth of internet gaming and has reevaluated its initial licensing determinations. The Division has approved the following list of compensation models, categorized by the type of licensure required. These are the only compensation models approved by the Division at this time. Should an affiliate desire to utilize a different compensation model, it should notify the Division in advance so that a determination can be made about the type of licensure required, or, alternatively, the company could move forward and file for an ancillary CSIE. These companies should contact DAG Michael Golub ([michael.golub@njdge.org](mailto:michael.golub@njdge.org)) or DAG Louis Rogacki ([louis.rogacki@njdge.org](mailto:louis.rogacki@njdge.org)).

Vendor Registration Required

**1. Cost Per Click (CPC or PPC):** An affiliate gets paid a flat amount of money every time a user clicks on a banner or link on its website and is taken to a licensed New Jersey gaming site.



(609) 441-3106

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**2. Cost Per Impression (CPM) or Cost Per View (CPV):** Affiliates receive a flat fee for advertising based upon the number of people projected to view the advertisement or that actually view it.

**3. Sponsorship Deals:** Gaming platforms pay a flat fee to an entity (e.g. a sports team, concert venue) to be their official partner.

**4. Cost Per Action (CPA) Flat Rate Deals:** Affiliate gets paid based upon a defined user non-gaming action:

A. *Sign Up Fee:* Affiliate gets paid a defined flat fee for every coded user that signs up through it. (Also known as Cost Per Lead (CPL)).

B. *Deposit Fee:* Affiliate gets paid a defined flat fee for every coded user that deposits a defined amount of money.

C. *Download Fee:* Affiliate gets paid a defined flat fee for every coded user that downloads a gaming app. (Also known as Cost Per Install (CPI)).

D. *Betting Fee:* Affiliate gets paid a defined flat fee for every coded user that makes a certain number of bets on a gaming site.

#### Ancillary CSIE Required

**1. Cost Per Action (CPA):** Affiliate gets paid based upon a defined user gaming action and/or compensation is tied to a variable, like the amount the player deposits or total bets:

A. *Deposit Percentage Fee:* An affiliate gets a certain percentage of the deposit for every coded user it signs up.

B. *Betting Fee:* An affiliate gets paid once a coded user plays a certain amount of money or wins/loses a certain amount of money on a gaming site.

**2. Revenue Share:** Affiliate is paid a percentage of net gaming revenue of a coded user.

**3. Hybrid CPA and Revenue Share:** Affiliate earns both a CPA and revenue share for a coded user.

Additional Information

1. **Refer a Friend:** A current user refers a friend to use a licensed New Jersey gaming site and the platform provider compensates the current user a defined flat fee for each referral. The Division has determined that no licensure will be required provided that the current user receives less than \$2,500 in a calendar year.

2. **Sub-affiliates:** If a "master affiliate" has an agreement with a platform provider or casino through which the master affiliate receives compensation for referring sub-affiliates to the casino or platform provider, the master affiliate's licensure is based upon the type of compensation it receives. For example, if the master affiliate receives a revenue share based upon the compensation of a sub-affiliate, it will require an ancillary CSIE. However, if the master affiliate receives a defined flat fee per user that the sub-affiliate refers, the master affiliate would require a vendor registration. Similarly, a sub-affiliate's licensure is based upon the type of compensation it receives.

All sub-affiliates are required to submit their contracts to the Division and obtain the appropriate level of licensure. All affiliates are required to ensure that any sub-affiliate that they do business with are appropriately licensed and that the contract is filed with the Division. Therefore, payment by a master affiliate to an unlicensed sub-affiliate or payments by an unlicensed sub-affiliate to a master affiliate, could result in the Division taking regulatory action against the master affiliate or the sub-affiliate, including the revocation of a registration or license.

3. An affiliate is permitted to switch its compensation models between models in the same licensing class. All new agreements are still required to be submitted to the Division though pre-approval is not required before proceeding. The Division reserves the right to reopen an affiliate's licensure based upon a newly submitted contract.

4. The Division will require the Internet Gaming Permit Holders and their platform providers to produce a monthly report to the Division's Service Industry Licensing Bureau, Intake Unit, detailing any monies or other compensation paid to affiliates, including refer a friend payments or other compensation.

5. All compensation for New Jersey business must be based on the contract that the affiliate submits to the Division for review. Affiliates may not receive compensation for New Jersey business through contracts or relationships that are based outside of New Jersey. Any circumvention of this by any party will result in a Division investigation to determine whether there are violations of New Jersey law, and may result in the Division taking regulatory action, including the revocation of a registration or license.

Dated:

June 9, 2014



David L. Rebeck  
Director



February 27, 2023

Cathy Judd Stein  
Chair, Massachusetts Gaming Commission  
101 Federal St., 12th Floor  
Boston, MA 02110

**Re: Proposed Changes to 205 CMR 256.01 – Sports Wagering Advertising and 205 CMR 234 – Sports Wagering Vendors**

Dear Chairwoman Judd Stein:

Our law firm, Ifrah PLLC, together with Smith Costello & Crawford, represent the following three leading marketing affiliates: Better Collective USA, Inc., Catena Media plc, and GDC America, Inc. (collectively, “Affiliate Group”). On behalf of the Affiliate Group, we thank you and your fellow Commissioners for taking the time today to listen to our presentation and being open to re-consider the regulations on this issue.

The Affiliate Group supports efforts to properly license and register affiliates. The Affiliate Group is also in support of following directives from other states where affiliates offering services under a revenue share compensation method are licensed at a higher level. To further assist the Commissioners and their staff in preparing appropriate language to address these requirements we respectfully request the Commission to review language from other jurisdictions with effective affiliate licensing/registration. .

**Colorado**

First, we direct your attention to the Colorado Department of Revenue Division of Gaming’s Sports Betting Regulations.<sup>1</sup> Colorado classifies vendors into two categories: Major and Minor. A Vendor major license is required in a number of instances, but pointedly for any person or entity that “[p]rovides products, services, information or assets to an establishment licensed to operate sports betting and/or *receives therefor a percentage of gaming revenue* from the establishment’s sports betting system.”<sup>2</sup> As compared with the Vendor minor license which is required for “[a]ny person who is employed for, contracts with, or acts on behalf of an establishment licensed to operate sports betting, and is involved in the operation of sports betting, other than those activities specified under [the requirements for a vendor major license]”.<sup>3</sup> Thus, under Colorado’s licensing scheme, affiliates that enter into agreements and offer services with a revenue share compensation must be licensed as a Vendor Major, as opposed to CPA compensated affiliates which must obtain a Vendor Minor license.

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<sup>1</sup> 1 CCR 207-2, *et seq.*

<sup>2</sup> 1 CCR 207-2 Rule 3.1(1)(a)(iv) (*emphasis added*).

<sup>3</sup> 1 CCR 207-2 Rule 3.1(3)(a).

## **Pennsylvania**

Pennsylvania has an almost identical licensing/registration distinction with vendors but refer to them using different terminology. As opposed to vendors, Pennsylvania categorizes such entities as “interactive gaming service providers” and distinguishes them within two categories: a certification or registration, instead of having major and minor licensing.<sup>4</sup> Those providers subject to and applying for a certification must complete higher-level disclosures and are subject to a more in-depth investigation by the Pennsylvania Gaming Control Board than those interactive service providers subject to registration. The Pennsylvania Code is explicit when an affiliate is subject to each threshold. The Pennsylvania Code states certification is required for an “[i]nteractive affiliate [when] the interactive affiliate is being paid a revenue share.”<sup>5</sup> This higher-level licensing is compared to the registration for “the interactive gaming service provider or person ... providing goods or services related to interactive gaming or interactive wagering and the interactive gaming service provider or person is *not required to be certified* as an interactive gaming service provider.”<sup>6</sup> Within the subsections of the Pennsylvania Code on this topic, it is explained that “‘interactive affiliate’ means ... [an] entity involved in promoting, marketing and directing business to online gaming sites in exchange for compensation paid based on player activity not a flat fee.”<sup>7</sup>

## **Other States**

Notably, in addition to Colorado and Pennsylvania, states like Michigan and New Jersey require similar levels of elevated licensing/registration for affiliates receiving a revenue share.<sup>8</sup>

## **Massachusetts Regulation**

The Massachusetts Gaming Commission’s Sports Wagering Vendors’ regulation is already primed to make the same distinctions for affiliates.<sup>9</sup> The Sports Wagering Vendors’ regulation, 205 CMR 234, requires vendors to either be licensed or registered. It is our recommendation to address the current issues with

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<sup>4</sup> 58 Pa. Code § 807a, *et seq.*

<sup>5</sup> 58 Pa. Code § 807a.1(a)(4).

<sup>6</sup> 58 Pa. Code § 807a.1(b) (*emphasis added*) (providing clarity that registration as opposed to certification is required for any affiliate being compensated on a CPA or flat fee payment basis).

<sup>7</sup> 58 Pa. Code § 8071.1(a)(4).

<sup>8</sup> See Mich. Admin. Code §§ 432.722(3)(f), 432.729(1)(a)(i) (requiring a vendor registration from “affiliate marketers that do not have an agreement based on the sharing of customer revenue” and supplier licensing for affiliates that do have such agreements); *Licensing of Internet Marketing Companies*, OFFICE OF THE ATTORNEY GENERAL DEPARTMENT OF LAW AND PUBLIC SAFETY DIVISION OF GAMING ENFORCEMENT DIRECTOR’S ADVISORY BULLETIN: 2014-01 (June 9, 2014), found at: <https://www.nj.gov/oag/ge/docs/Bulletins/LicensingofMarketingCompanies.pdf> (explaining that affiliate marketing companies “whose compensation is tied to player activity” are required to be licensed, as opposed to lower-level vendor registration for those being paid a flat rate per persons directed to a site).

<sup>9</sup> 205 CMR 234.01(1) (listing requirements for vendor licensing and vendor registration).



the Sports Wagering Advertising regulation 205 CMR 256.01(3) by removing such provision in its entirety and adding a new sub-section or distinction to the Sports Wagering Vendors' regulation.

The new language to the Sports Wagers Vendors' regulation should require vendor licensing for affiliates with revenue share compensation and require the current vendor registration for those affiliates receiving CPA based compensation. Such licensing/registration scheme would be in-line with effective licensing in other legal sports wagering markets.

We recommend that the Commission put such regulation into effect by adding a sub-section to 205 CMR 234.01(2) which states, "In connection with affiliate marketers, all such Vendors shall be required to register with the Commission as a Sports Wagering Registrant; except for any affiliate marketing Vendor involved in promoting, marketing, and directing business to online gaming sites in exchange for compensation based on the sharing of customer revenue which shall be required to obtain a Sports Wagering Vendor License."

#### **Time is of the Essence**

We understand that the Commission is reviewing affiliate advertising and vendor regulations in an upcoming Open Meeting. We respectfully request the Commissioners take notice of effective licensing/registration schemes for affiliates in other legal sports wagering markets, and our suggestions listed above when doing so.

As discussed during the Round Table on February 27, 2023, there is an urgent need for the Commission to establish these regulations so operators and affiliates can enter into contractual agreements and affiliates can submit appropriate forms and documentation. In the interest of time, we request that the Commission, at minimum, establish temporary regulations which allow CPA and revenue share affiliate agreements, subject to regulatory oversight to be finalized in the coming weeks.

Respectfully submitted,

/s/ Jeff Ifrah

Jeff Ifrah  
Counsel to the Affiliate Group

## 205 CMR 234: SPORTS WAGERING VENDORS

234.01	Vendors
234.02	Forms; Fingerprinting
234.03	Submission by Applicants; Fees
234.04	Investigation, Determination, and Appeals for Sports Wagering Vendors
234.05	Affirmative License Standards for Sports Wagering Vendors
234.06	Affirmative Registration Standards for Sports Wagering Registrants
234.07	Temporary Licenses for Sports Wagering Vendors
234.08	Administrative Closure of Applications for Sports Wagering Vendor Licensure
234.09	Term of Sports Wagering Vendor License; Renewal
234.10	Duties of Applicants and Licensees
234.11	Disciplinary Action
234.12	Application following Denial or Revocation

### 234.01 Vendors

#### (1) Requirement for Licensure or Registration.

(a) Unless otherwise licensed as a gaming vendor pursuant to 205 CMR 134.00, no Person shall conduct business with a Sports Wagering Operator as a Sports Wagering Vendor unless such Person has been licensed as a Sports Wagering Vendor. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

(b) Except as provided in 205 CMR 234.01(2), a Non-Sports Wagering Vendor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under this 205 CMR 234. As part of its license application process, a prospective Operator shall be required to identify all of its known or anticipated vendors providing goods or services to whom the prospective Operator reasonably expects to pay an amount of \$10,000 or more within a 12-month period, including Non-Sports Wagering Vendors, and if licensed the Operator shall have a continuing duty to update the Bureau relative to the identification of any new vendors. The Bureau may, at its discretion, require the submission of additional information and documents from an Operator, prospective Operator, or a Non-Sports Wagering Vendor.

(c) Except as provided in 205 CMR 234.01(2) and in 205 CMR 234.01(c), a Sports Wagering Subcontractor shall not be required to obtain a Sports Wagering Vendor License or to register as a Sports Wagering Registrant under this 205 CMR 234. As part of its application process, a prospective Sports Wagering Vendor shall be required to identify all of its known or anticipated Sports Wagering Subcontractors providing goods or services to whom the vendor reasonably expects to pay an amount of \$10,000 or more within a 12-month period, and if licensed the vendor shall have a



continuing duty to update the Bureau relative to the identification of any new Subcontractors. The Bureau may, at its discretion, require the submission of additional information and documents from a Sports Wagering Subcontractor or a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License including, but not limited to, the Sports Wagering Subcontractor Information Form as provided in 205 CMR 234.02(3).

- (d) Third-party marketing and advertising entities.
- (i) For purposes of this 205 CMR 234.00, a “third-party marketing or advertising entity” is ~~any~~ Person:
- (a) -who is not a Sports Wagering Subcontractor;
- (b) who is not a revenue-sharing advertiser as defined in 205 CMR 234.01(1)(e)(i);
- (c) who regularly promotes or directs patrons to sports wagering on mobile applications or other digital platforms; ~~or~~
- (d) who regularly hires or recruits persons to do the same, in exchange for a fee paid by the Operator;
- (e) who does not otherwise provide goods, software, or services which directly relate to Sports Wagering operations; and
- (f) who is not an entity described in 205 CMR 234.01(3)(a)(ii) as “television, radio, newspaper, internet or other similar media used for advertising purposes.”
- (ii) Notwithstanding 205 CMR 234.01(1)(a) and 205 CMR 234.01(1)(c), no Person shall conduct business with a Sports Wagering Operator as a third-party marketing or advertising entity unless such Person has been registered as a Sports Wagering Registrant under this 205 CMR 234.00. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.
- (iii) Notwithstanding any other provision of this Section 205 CMR 234, the Division of Licensing may, after consultation with the Bureau, require a third-party marketing or advertising entity to be licensed as a Sports Wagering Vendor.
- (iv) In making the determination whether to require a third-party marketing or advertising entity to be licensed as a Sports Wagering

Vendor, the Bureau may consider, without limitation, any factor listed in 205 CMR 231.01(2)(b)(i)-(x).

(v) If the Division of Licensing, after consultation with the Bureau, determines that the third-party marketing or advertising entity should instead be licensed as a Sports Wagering Vendor, it shall notify the entity of that decision and of the vendor's obligation to register. Within 45 days of service of the notice, the entity shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(1) for licensure or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for licensure. The Bureau may order any Person that fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.

(b) Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a third-party marketing or advertising entity they need not be registered, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.

(e)

(f) Revenue-sharing advertisers.

(i) For purposes of this 205 CMR 234.00, a "revenue-sharing advertiser" is any Person who regularly promotes or directs patrons to sports wagering on mobile applications or other digital platforms, or who regularly hires or recruits persons to do the same, in exchange for a fee paid by the Operator in exchange for a percentage of net gaming revenue earned from users that the entity directs to the Operator.

(ii) Notwithstanding 205 CMR 234.01(1)(a) and 205 CMR 234.01(1)(c), no Person shall conduct business with a Sports Wagering Operator as a revenue-sharing advertiser unless such Person has been licensed as a Sports Wagering Vendor under this 205 CMR 234.00. A Person shall be considered to be conducting business upon commencement of performance of a contract or provision of a good or service.

(2) Designation for Registration.

(a) Notwithstanding any other provision of this Section 205 CMR 234, the Division of Licensing may, after consultation with the Bureau, designate a

Non-Sports Wagering Vendor or a Sports Wagering Subcontractor a Sports Wagering Registrant, regardless of the types of goods or services being provided by that vendor.

- (b) In making the determination whether to designate a vendor or a Subcontractor a Sports Wagering Registrant, the Bureau may consider the following factors, without limitation:
- (i) whether the total dollar amount by which the vendor's or Subcontractor's business with an Operator exceeds \$250,000 in gross sales within a 12 month period, or \$100,000 in gross sales within a three month period; or
  - (ii) the relative value of the vendor or Subcontractor's business with the Operator compared to the Operator's overall disbursements to vendors;
  - (iii) whether the goods or services are limited to the pre-operating phase of the Operator's business in the Commonwealth;
  - (iv) the duration of the contract;
  - (v) whether the vendor will be providing goods or services at an on-site facility of the Operator;
  - (vi) the number of Sports Wagering Subcontractors involved in the performance of the vendor's contract with the Operator;
  - (vii) the number of employees employed by the vendor;
  - (viii) whether the vendor is licensed, registered or certified and regulated by another Governmental Authority;
  - (ix) the nature of the goods or services; and
  - (x) public safety considerations.
- (c) If the Division of Licensing, after consultation with the Bureau, determines that the Non-Sports Wagering vendor or subcontractor should instead be registered as a Sports Wagering Registrant, it shall notify the vendor of that decision and of the vendor's obligation to register. Within 45 days of service of the notice, the vendor shall submit the applicable completed Registration Form-Sports Wagering Vendor as set forth in 205 CMR 234.02(2+) for registration or file a written request to the Division of Licensing for reconsideration from the determination requiring filing of an application for registration. The Bureau may order any Person that fails to comply with such notice to cease conducting business with a Sports Wagering Vendor or an Operator immediately.

- (d) Nothing herein shall be construed to limit the Commission's or the Bureau's ability to require a Person designated as a Non-Sports Wagering Vendor or Subcontractor by an Operator to be licensed as a Sports Wagering Vendor.

(3) Exceptions.

- (a) For purposes of 205 CMR 234.01, Persons engaged in the following fields of commerce who provide goods or services to an Operator or an Applicant for a Sports Wagering Operator license and who are not otherwise required to be licensed or registered by the Commission as a Sports Wagering Vendor or Sports Wagering Registrant, shall not be required to obtain licensure or registration as a vendor:
  - (i) insurance companies and insurance agencies, other than Sports Wagering risk management vendors;
  - (ii) television, radio, newspaper, internet or other similar media used for advertising purposes, not including third-party marketing or advertising entities;
  - (iii) Governmental Authorities or other governmental entities;
  - (iv) legal, accounting, lobbying and financial services entities;
  - (v) labor organizations, unions, or Affiliates registered in accordance with 205 CMR 134.00;
  - (vi) utility companies;
  - (vii) telecommunications companies;
  - (viii) providers of training seminars, publications, subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
  - (ix) nonprofit charitable corporations or organizations, provided that no consideration is received for the contribution;
  - (x) court order or stipulation of settlement or for settlement of consumer losses or consumer refunds;
  - (xi) payments for freight charges to freight transporters selected by the vendor for delivering goods;
  - (xii) professional entertainers and/or celebrity appearances;

- (xiii) any Person that, by submission of a written petition, can demonstrate to the Division of Licensing after consultation with the Bureau that licensure as a Sports Wagering vendor is not necessary to protect the public interest;
  - (xiv) upon submission of a written certification by an Operator, any Person providing goods or services not directly related to Sports Wagering to whom the Operator reasonably expects to pay an amount less than \$10,000 within a 12-month period.
- (b) Any other Person, by submission of a written petition, may request a determination from the Bureau that despite meeting the definition of a Sports Wagering Vendor they need not be licensed or registered, or despite meeting the definition of a Sports Wagering Vendor should be a Sports Wagering Registrant and do not require a Sports Wagering License, on the grounds that they are not providing goods or services on a regular or continuing basis, that the goods or services they provide do not directly relate to Sports Wagering, or that they are otherwise licensed as a gaming vendor or non-gaming vendor.
- (4) Sports Wagering Vendor Qualifiers.
- (a) Persons designated as Sports Wagering vendor qualifiers must establish their qualifications in accordance with 205 CMR 234.05.
  - (b) ~~Sports Wagering Vendors~~. The following Persons shall be designated as Sports Wagering Vendor qualifiers:
    - (i) If the prospective Sports Wagering Vendor is a sole proprietor: The owner.
    - (ii) If the prospective Sports Wagering Vendor is a corporation:
      - ~~(a)~~(g) Each officer;
      - ~~(b)~~(h) Each inside director;
      - ~~(e)~~(i) Any Person owning more than 10% of the common stock of a company applying for licensure as a Sports Wagering Vendor, or a holding, intermediary or subsidiary company of such company and who has the ability to control the activities of the prospective vendor; and
      - ~~(d)~~(j) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions

concerning the prospective vendor's operations in the Commonwealth.

- (iii) If the prospective Sports Wagering Vendor is a limited liability corporation:
  - (a) Each Member;
  - (b) Each transferee of a Member's interest;
  - (c) Each Manager; and
  - (d) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.
- (iv) If the prospective Sports Wagering Vendor is a limited partnership:
  - (a) Each General Partner;
  - (b) Each Limited Partner; and
  - (c) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the prospective vendor's operations in the Commonwealth.
- (v) If the Sports Wagering Vendor is a partnership:
  - (a) Each Partner; and
  - (b) In the judgment of the Division of Licensing after consultation with the Bureau, any Person with significant and substantial responsibility for the Applicant's business under the jurisdiction of the Commission or having the power to exercise significant influence over decisions concerning the Sports Wagering Vendor's operations in the Commonwealth.
- (c) Other Qualifiers. The Division of Licensing, after consultation with the Bureau, may, at its discretion, require other Persons that have a business

association of any kind with the Applicant for a Sports Wagering Vendor License to be subject to the qualification requirements as a qualifier. These Persons include, but are not limited to, an Affiliate or holding, intermediary or subsidiary company of the Applicant for a Sports Wagering Vendor License.

- (d) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau, in accordance with 205 CMR 234.01(4), to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.
- (5) Waiver. In addition to any other exception or exemption under 205 CMR 234.00, upon written petition, the Commission may waive the requirement to be qualified as a Sports Wagering Vendor qualifier for:
  - (a) Institutional investors holding up to 15% of the stock of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or holding, intermediary or subsidiary company thereof, upon a showing by the Person seeking the waiver that it purchased the securities for investment purposes only and does not have any intention to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof; provided, however, any institutional investor granted a waiver which subsequently determines to influence or affect the affairs or operations of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof shall provide not less than 30 days' notice to the Commission of such intent and shall file an application and may be subject to the licensing requirements of 205 CMR 234.00 before taking any action that may influence or affect the affairs of the Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company. Any Person holding over 15% of a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License, or a holding, intermediary or subsidiary company thereof, shall be required to apply for a license before doing business in the Commonwealth; or
  - (b) Any Person who, in the opinion of the Bureau or the Commission, cannot exercise control or provide direction to a Sports Wagering Vendor or Applicant for a Sports Wagering Vendor License or a holding, intermediary or subsidiary company thereof.
- (6) Qualification of New Qualifiers for Sports Wagering Vendors.

- (a) No Person requiring qualification pursuant to 205 CMR 234.01(4) may perform any duties or exercise any powers relating to the position that said qualifier is seeking to assume for a Sports Wagering Vendor unless the Person notifies the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by the applicable business entity or personal disclosure form specified by the Bureau. Following such notification and submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (b) A Person with reason to believe that his or her new position with a Sports Wagering Vendor may require qualification pursuant to 205 CMR 234.01(4) shall notify the Bureau in writing within 30 days of appointment to the position. Such notification shall be accompanied by a summary of the responsibilities and/or features of the position. The Bureau shall determine whether the Person shall be designated a qualifier pursuant to 205 CMR 234.01(4)(b) and shall notify the Person of such designation in writing. Within 30 days of designation as a qualifier, the Person shall submit a completed personal disclosure form pursuant to 205 CMR 234.02(2). Following submission of the completed Form, the Person may continue to perform duties and exercise powers relating to the position pending qualification.
- (c) The Bureau shall review the forms submitted by the new qualifier, as well as such other information that the Bureau may request, and, upon completion of its investigation, shall make a determination and inform the Commission in accordance with 205 CMR 234.00 whether the new qualifier meets the standards for suitability.
- (d) Upon notification by the Bureau of a determination that reasonable cause exists to believe the qualifier may not ultimately be found suitable, a Sports Wagering Vendor shall promptly remove the qualifier from his or her position until such time as the Commission makes its final determination on suitability.
- (7) Internal Review of Determinations. An Applicant may ask for review of any determination made by the Bureau in accordance with 205 CMR 234.01(4)-(6) to the Commission, by filing a petition on a form prescribed by the Commission. The Commission shall decide the question at a public meeting on the matter at which it may allow representatives of the petitioner and Bureau to testify.

#### 234.02 Forms; Fingerprinting

- (1) Sports Wagering Vendor License Application Form. Every Person applying for a Sports Wagering Vendor License shall be obligated to complete and submit a Sports Wagering Vendor Business Entity Disclosure Form to the Division of



Licensing. Said forms shall be created by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the forms. The license application forms for Sports Wagering vendors shall require, at a minimum, the following information:

- (a) The name of the Applicant;
  - (b) The post office address and, if a corporation, the name of the state under the laws of which it was incorporated, the location of its principal place of business and the names and addresses of its directors and stockholders;
  - (c) The Applicant's criminal and arrest record;
  - (d) Any civil judgments obtained against the Applicant pertaining to antitrust or security regulation;
  - (e) The identity of every Person having a direct or indirect interest in the business and the nature of such interest; provided, however, that if the disclosed entity is a trust, the application shall disclose the names and addresses of all beneficiaries; provided further, that if the disclosed entity is a partnership, the application shall disclose the names and addresses of all partners, both general and limited; and provided further, that if the disclosed entity is a limited liability company, the application shall disclose the names and addresses of all members;
  - (f) An independent audit report of all financial activities and interests including, but not limited to, the disclosure of all contributions, donations, loans, loan forgiveness, or any other financial transactions to or from a gaming entity or Operator in the past three years; and
  - (g) Clear and convincing evidence of financial stability including, but not limited to, bank references, business and personal income and disbursement schedules, tax returns and other reports filed by governmental agencies, and business and personal accounting check records and ledgers.
- (2) Sports Wagering Registration Form. Every person seeking to register as a Sports Wagering Registrant shall be obligated to complete and submit a registration form to the Division of Licensing. The registration form shall be created by the Bureau and shall request the disclosure of any information deemed necessary by the Bureau, subject to the approval of the Commission. The Division of Licensing may make non-material changes to the form.
  - (3) Qualifiers. Every Person designated as a qualifier for a Sports Wagering Vendor under 205 CMR 234.01(4) shall be obligated to complete and submit a personal disclosure form to the Division of Licensing. Said forms for Sports Wagering Vendor qualifiers shall be created by the Bureau, subject to the approval of the

Commission. The Division of Licensing may make non-material changes to the forms.

- (4) Non-Sports Wagering Vendor and Sports Wagering Subcontractor Information Forms. A Non-Sports Wagering Vendor form to be completed by the Operator, and a Sports Wagering Subcontractor information form to be completed by Sports Wagering Vendors shall be created by the Bureau requesting any information as deemed necessary by the Bureau and submitted to the Division of Licensing. The Division of Licensing may make non-material changes to the form.
- (5) Fingerprinting. Each Sports Wagering Vendor License qualifier shall be fingerprinted under the supervision of the Commission in accordance with the procedures in 205 CMR 134.13.

#### 234.03 Submission by Applicants; Fees

- (1) An application, disclosure form or registration for the initial issuance of a Sports Wagering Vendor License shall include all of the following:
  - (a) A completed Business Entity Disclosure Form-Sports Wagering Vendor, as applicable, as set forth in 205 CMR 234.02(1) and (2); and
  - (b) Proof of the vendor's business relationship with one or more Operators in the manner prescribed by the Division of Licensing.
- (2) A Sports Wagering Vendor, Sports Wagering Registrant or qualifier (individual) shall file all the applicable Sports Wagering Business Entity Disclosure Forms or Sports Wagering employee disclosure forms, or a Sports Wagering Registration Form.
- (3) A qualifier for a Sports Wagering Vendor License may, if authorized by the Bureau, instead file disclosure information including, but not limited to, for publicly traded companies, copies of securities filings and/or audited consolidated financial statements for a period as determined by the Bureau, in lieu of the form identified in 205 CMR 234.03(1)(a).
- (4) Except as otherwise provided for in 205 CMR 234.07, each Applicant shall file a complete application pursuant to 205 CMR 234.03(1) with the Division of Licensing in the manner prescribed by the Division of Licensing. The Division of Licensing shall not accept an incomplete application.
- (5) Fees.
  - (a) A non-refundable fee of \$15,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for licensure as a Sports Wagering Vendor.

- (b) A non-refundable fee of \$5,000 for an initial application and \$5,000 for a renewal shall be paid at the time of application for registration as a Sports Wagering Registrant.
- (c) Such fees shall be subject to the provisions of 205 CMR 134.15 regarding increases in application fees and manner of submittal of such fees.

234.04 Investigation, Determination, and Appeals for Sports Wagering Vendors and Sports Wagering Registrants

- (1) Upon receipt of an application for a Sports Wagering Vendor License or registration or a Sports Wagering vendor qualification, the Division of Licensing shall conduct a review of each for administrative completeness and then forward the application or submission to the Bureau which shall conduct an investigation of the Applicant. In the event an application or submission is deemed incomplete, the Division of Licensing may either request supplemental information from the Applicant or administratively close the application in accordance with 205 CMR 234.08. For individuals, the investigation shall include obtaining and reviewing criminal offender record information from the Department of Criminal Justice Information Services (DCJIS) and exchanging fingerprint data and criminal history with the Massachusetts Department of State Police and the United States Federal Bureau of Investigation. The investigation shall be conducted for purposes of determining whether the Applicant is suitable to be issued a license or registration in accordance with 205 CMR 234.05 and 205 CMR 234.06.
- (2) In determining the weight to be afforded any information bearing on suitability in accordance with 205 CMR 234.05 or 205 CMR 234.06, the Division of Licensing, Bureau, or Commission, as applicable, shall consider: the relevance of the information to doing business with a Sports Wagering Operator in general, whether there is a pattern evident in the information, and whether the Applicant is likely to be involved in Sports Wagering related activity. Further, the information will be considered in the light most favorable to the Applicant, unless the information cannot be so viewed pursuant to M.G.L. c. 23K or M.G.L. c. 23N, or the information obtained does not otherwise support such view. For purposes of 205 CMR 234.00, an adjudication of delinquency shall not be considered a conviction. Such a finding may, however, be considered for purposes of determining the suitability of an Applicant. Sealed or expunged records of criminal or delinquency appearances, dispositions, and/or any information concerning such acts shall not be considered for purposes of making a suitability determination in accordance with 205 CMR 234.00, and M.G.L. c. 23N.
- (3) Sports Wagering Vendor License Decisions. Upon completion of the investigation, conducted in accordance with 205 CMR 234.04(1), the Bureau shall either approve or deny the application for a Sports Wagering Vendor License. If the Bureau approves the application for a Sports Wagering Vendor,

the Bureau shall forward a written approval to the Division of Licensing which shall issue a license to the Applicant on behalf of the Commission. If the application is denied, the Bureau shall forward the determination of denial and reasons therefor to the Division of Licensing which shall issue a written decision to the Applicant explaining the reasons for the denial. The decision shall include an advisory to the Applicant that they may appeal the decision in accordance with 205 CMR 101.00. If the denial is based upon information contained in a Person's criminal record, the decision shall also include an advisory that the Person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The decision may be served *via* first class mail or email to the addresses provided by the Applicant on the application.

- (4) Sports Wagering Registration Decisions. The Division of Licensing shall issue a registration to the Applicant for Sports Wagering Registration on behalf of the Commission in accordance with 205 CMR 234.06. In the event that the Bureau determines, upon completion of the investigation conducted in accordance with 205 CMR 234.04(1), that the Applicant should be disqualified from holding a registration or is otherwise unsuitable in accordance with 205 CMR 234.06, it shall forward the results of the investigation to the Division of Licensing which shall issue a written notice to the Applicant denying or revoking the registration. The notice shall include an advisory to the Applicant that they shall immediately cease doing business with the gaming establishment and may request an appeal hearing in accordance with 205 CMR 101.00. If the denial is based upon the information contained in the person's criminal record, the decision shall also include an advisory that the person will be provided with a copy of their criminal record upon request and that they may challenge the accuracy of any relevant entry therein. The notice may be served *via* first class mail or *via* email to the addresses provided by the Applicant on the application.

#### 234.05 Affirmative License Standards for Sports Wagering Vendors

- (1) An Applicant for a Sports Wagering Vendor License and any Sports Wagering Vendor qualifier shall establish individual qualifications by clear and convincing evidence.
- (2) In determining whether an Applicant for licensure is suitable for purposes of being issued a Sports Wagering Vendor License, being qualified as a Sports Wagering Vendor qualifier or for having a Sports Wagering Vendor License or qualification renewed, the Bureau shall evaluate and consider the overall reputation of the Applicant and qualifiers, if any, including, without limitation:
  - (a) the integrity, honesty, good character and reputation of the Applicant and qualifiers;
  - (b) the financial stability, integrity, and background of the Applicant and qualifiers;

- (c) whether the Applicant and its qualifiers have a history of compliance with gaming and Sports Wagering licensing requirements in other jurisdictions;
  - (d) whether the Applicant or any qualifier, at the time of application, is a defendant in litigation;
  - (e) whether the Applicant is disqualified from receiving a license under 205 CMR 234.05(3);
  - (f) whether the Applicant or any qualifier has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the Applicant or any qualifier has associated with members of organized crime and other Persons of disreputable character;
  - (h) the extent to which the Applicant and qualifiers have cooperated with the Bureau in connection with the background investigation; and
  - (i) the integrity, honesty, and good character of any subcontractor.
- (3) The Bureau and Commission shall deny an application for a Sports Wagering Vendor License if the Applicant or a qualifier:
- (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a Sports Wagering Vendor License to an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);
  - (b) submitted an application for a license under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
  - (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for a license; or
  - (d) has Affiliates or Close Associates that would not qualify for a license or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth.
- (4) Rehabilitation.

- (a) An Applicant may provide proof of rehabilitation from a criminal conviction as part of the application for licensure.
- (b) In considering the rehabilitation of an Applicant the following shall be considered:
  - (i) the nature and duties of the position of the Applicant;
  - (ii) the nature and seriousness of the offense or conduct;
  - (iii) the circumstances under which the offense or conduct occurred;
  - (iv) the date of the offense or conduct;
  - (v) the age of the Applicant when the offense or conduct was committed;
  - (vi) whether the offense or conduct was an isolated or repeated incident;
  - (vii) any social conditions which may have contributed to the offense or conduct; and
  - (viii) any evidence of rehabilitation, including recommendations and references of persons supervising the Applicant since the offense or conduct was committed.
- (c) A Sports Wagering Vendor License qualifier shall be at least 18 years of age at the time of application.

234.06 Affirmative Registration Standards for Sports Wagering Registrants

- (1) Upon submission of an administratively complete registration form as a Sports Wagering Registrant, the Division of Licensing shall issue the registration on behalf of the Commission. A registration may be denied or subsequently revoked if it is determined that the Applicant is disqualified in accordance with 205 CMR 234.06(2) or unsuitable for any criteria identified in 205 CMR 234.06(3).
- (2) The Bureau and Commission shall deny or revoke a registration if the person:
  - (a) has been convicted of a felony or other crime involving embezzlement, theft, fraud or perjury; except that for such disqualifying convictions which occurred before the ten-year period immediately preceding submission of the application for licensure, the Bureau may, in its discretion, approve the issuance of a registration to an Applicant who affirmatively demonstrates rehabilitation in accordance with 205 CMR 234.05(4);

- (b) submitted a registration form under M.G.L. c. 23K, §§ 30, 31, 205 CMR 134.00, M.G.L. c. 23N or 205 CMR 234.00 that willfully, knowingly or intentionally contains materially false or misleading information;
  - (c) committed prior acts which have not been prosecuted or in which the Applicant was not convicted, but which form a pattern of misconduct that makes the Applicant unsuitable for registration; or
  - (d) has affiliates or close associates that would not qualify for a license or whose relationship with the Applicant may pose an injurious threat to the interests of the Commonwealth in approving a registration.
- (3) In determining whether an Applicant is suitable for purposes of being issued a registration or having a registration renewed, the Bureau may evaluate and consider the overall reputation of the Applicant including, without limitation:
- (a) the integrity, honesty, good character and reputation of the Applicant;
  - (b) the financial stability, integrity, and background of the Applicant;
  - (c) whether the Applicant has a history of compliance with gaming licensing requirements in other jurisdictions;
  - (d) whether the Applicant, at the time of submission of the registration form, is a defendant in litigation;
  - (e) whether the Applicant is disqualified from receiving a registration under 205 CMR 234.06(2);
  - (f) whether the Applicant has been convicted of a crime of moral turpitude;
  - (g) whether, and to what extent, the Applicant has associated with members of organized crime and other persons of disreputable character;
  - (h) the extent to which the individual has cooperated with the Bureau in connection with the background investigation; and
  - (i) the integrity, honesty, and good character of any Subcontractor.

(4) ~~(5)~~ An Applicant for a registration shall be 18 years of age or older at the time of application.

(5) ~~(6)~~ The Bureau may deny an application for registration if it determines that the Applicant formed the Applicant entity for the sole purpose of circumventing the requirement to be licensed as a Sports Wagering Vendor.

234.07 Temporary Licenses for Sports Wagering Vendors

- (1) Notwithstanding any other provision of 205 CMR 234.00, upon petition to the Commission by an Operator, the Commission may issue a temporary Sports Wagering Vendor License to an Applicant for a Sports Wagering Vendor License if:
  - (a) the Applicant for a Sports Wagering Vendor License has filed a completed application with the Commission and has submitted all of the disclosure forms as required by the Division of Licensing. The Bureau may waive the requirement to submit application information for some or all of the Applicant's individual and entity qualifiers prior to issuance of a Temporary License;
  - (b) the Operator certifies, and the Commission finds, that the issuance of a temporary Sports Wagering Vendor License is necessary for the operation of Sports Wagering and is not designed to circumvent the normal licensing procedures; and
  - (c) the Operator certifies that, to the best of its reasonable knowledge and belief, the proposed temporary Sports Wagering Vendor meets the qualifications for licensure pursuant to 205 CMR 234.05 and that the Operator understands that it may be denied an Operator License if it has willfully, knowingly or intentionally provided false or misleading information regarding the proposed vendor.
- (2) An Applicant applying for a Sports Wagering Vendor License on or before August 31, 2023 shall demonstrate its suitability for temporary licensure upon certification by the Applicant under the pains and penalties of perjury that the Applicant entity:
  - (a) is not disqualified under one or more of the criteria listed in 205 CMR 234.05(3);
  - (b) is properly licensed or registered, and in good standing, to conduct the same operations in every other jurisdiction where it operates as a Sports Wagering Vendor or the equivalent; and
  - (c) has disclosed any other information not previously disclosed of which it is aware or reasonably should be aware which would negatively impact a determination on the Applicant's suitability for a sports wagering vendor license.
- (3) On or after September 1, 2023, a temporary Sports Wagering Vendor License shall issue, unless:



- (a) A preliminary review of the Applicant shows that the Applicant is disqualified under one or more of the criteria listed in 205 CMR 234.05(3); or
  - (b) A preliminary review of the Applicant shows that the Applicant will be unable to establish his or her qualifications for licensure under the standards set forth in 205 CMR 234.05(1).
- (4) If an Applicant for a temporary Sports Wagering Vendor License is licensed or registered in another jurisdiction within the United States with comparable license and registration requirements, as determined by the Bureau, and is in good standing in all jurisdictions in which it holds such a license or registration, the Commission may issue the vendor a temporary Sports Wagering Vendor License; provided, however, that the Commission shall reserve its rights to investigate the qualifications of an Applicant at any time.
- (5) Unless otherwise stated by the Commission, a temporary Sports Wagering Vendor License issued under this 205 CMR 234.07 shall expire upon issuance of a full Sports Wagering Vendor License or upon suspension or revocation of the temporary Sports Wagering Vendor License, and in any event no later than the term of the license as set forth in 205 CMR 234.09(1).

234.08 Administrative Closure of Applications for Sports Wagering Vendor Licensure or Registration

- (1) All Applicants for a Sports Wagering Vendor License or registration shall promptly respond to any request for information from the Division of Licensing and/or the Bureau. This obligation is in addition to the continuing duty set forth in 205 CMR 234.10.
- (2) Failure of an Applicant for a Sports Wagering Vendor License or registration to respond to a request for information from the Division of Licensing and/or the Bureau within 21 days of the request may result in the administrative closure of the application for licensure or registration and the corresponding administrative revocation of a Sports Wagering Vendor license or registration, if applicable.
- (3) In the event that an application for licensure or a registration is administratively closed for failure to provide requested information or to comply with the obligations set forth in either 205 CMR 234.08(1) or 205 CMR 234.10, the Division of Licensing or the Bureau will notify the Applicant of the determination in writing and will identify the specific deficiencies in the application that served as the basis for the closure. Once an application for licensure or registration has been administratively closed, the Applicant is required to submit a new application in order to be considered for licensure or registration. In that event, the Applicant shall submit a complete application including all outstanding information as previously detailed by the Division of Licensing or the Bureau. The submission of outstanding information is not a

guarantee of licensure or registration, but is a prerequisite for the application to be deemed administratively complete.

234.09 Term of Sports Wagering Vendor License or Registration; Renewal

- (1) Term. Sports Wagering Vendor licenses and registrations and Sports Wagering vendor qualifications shall be for an initial term of three years. The initial term of a Sports Wagering Vendor License or registration shall expire and be renewable on the last day of the month on the third anniversary of the issuance date.
- (2) Renewal.
  - (a) At a minimum of 150 days prior to expiration, each Sports Wagering Vendor shall submit a new and updated application or registration in accordance with 205 CMR 234.00.
  - (b) If a vendor or qualifier has made timely and sufficient application for a renewal, the Applicant's existing license or registration shall not expire and the Applicant shall remain in good standing until the Bureau has issued a decision on the application or registration. If a renewal application or registration is received after the renewal date and the license or registration expires before the Commission issues a new license or registration, the Person shall not conduct business with an Operator until a new license or registration is issued.
  - (c) It shall be the responsibility of the vendor to ensure that their license or registration is current.

234.10 Duties of Applicants, Licensees, and Sports Wagering Registrants

All Sports Wagering Vendor Applicants, Sports Wagering Vendors, Sports Wagering Registrants and qualifiers, shall have the same duties and obligations required of gaming vendor Applicants, licensees, and registrants pursuant to 205 CMR 134.18.

234.11 Disciplinary Action

~~(1) — Grounds for Disciplinary Action. Any Sports Wagering Vendor License or registration issued under 205 CMR 234.00 may be conditioned, suspended, or revoked, or a civil administrative penalty assessed, if the Commission finds that a vendor or qualifier has:~~

~~(a) — been charged with or convicted of a crime while employed by an Operator and failed to report the charges or the conviction to the Commission; or~~

~~(b) — failed to comply with any provision of M.G.L. c. 23N or 205 CMR pertaining to licensees or registrants, including failure to act in conformance with an applicable provision of the Operator's system of internal controls.~~

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~~(2) — Finding and Decision. If the Commission finds that a Sports Wagering Vendor or Non-Sports Wagering Registrant has violated a provision of 205 CMR 234.11(1), it may issue a written notice of its intent to reprimand, suspend, or revoke said vendor's license or registration. Such notice shall be provided in writing and contain a factual basis and the reasoning in support of the decision, including citation to the applicable statute(s) or regulation(s) that supports the action. It shall further advise the vendor of their right to a hearing and their responsibility to request a hearing in accordance with 205 CMR 234.11(4), if they so choose, and that failure to do so may result in the decision automatically being imposed. Mailing of the notice to the address on record with the Commission, or emailing the notice to the address provided to the Commission by the licensee or registrant shall be deemed satisfactory service of the notice. The Commission may alternatively issue an order temporarily suspending a license or registration.~~

~~(3) — Civil Administrative Penalties. The Commission may assess a civil administrative penalty on a Person in accordance with M.G.L. c. 23N, § 21(a) for a violation of 205 CMR 234.11(1).~~

~~(4) — Review of Decision. Any Person aggrieved by a decision made by the Commission, in accordance with 205 CMR 234.11(2) or (3), may request review of said decision in accordance with 205 CMR 101.00. Failure to request such review may result in the decision automatically being imposed. Sports Wagering Vendor Licensees and Sports Wagering Registrants may be disciplined in accordance with 205 CMR 232.00 or any other applicable provision of 205 CMR or G.L. c. 23N.~~

#### 234.12 Application Following Denial or Revocation

No individual who has been denied a license or registration or has had their license or registration revoked pursuant to 205 CMR 234.11, 205 CMR 232.00, or any other provision of 205 CMR or G.L. c. 23N may reapply for the same license or registration prior to two years from the date of denial or revocation. If an individual has appealed the denial or revocation of their license or registration, the two year period shall begin to run from the date that the denial or revocation is affirmed pursuant to 205 CMR 101.00 or otherwise pursuant to M.G.L. c. 30A.

#### REGULATORY AUTHORITY

G.L. c. 23K, § 4(42); c. 23N, §§ 4(a)-(b), 5



## **SMALL BUSINESS IMPACT STATEMENT**

The Massachusetts Gaming Commission (“Commission”) hereby files this Small Business Impact Statement in accordance with G.L. c. 30A, §2, relative to the proposed amendment of **205 CMR 234: SPORTS WAGERING VENDORS**.

This regulation is being promulgated as part of the process of promulgating regulations governing sports wagering in the Commonwealth, and is primarily governed by G.L. c. 23N, § 4.

The proposed 205 CMR 234 applies to sports wagering vendors and the Commission. Accordingly, this regulation is unlikely to have an impact on small businesses. Under G.L. c.30A, §2, the Commission offers the following responses to the statutory questions:

1. Estimate of the number of small businesses subject to the proposed regulation:

This regulation is unlikely to have an impact on small businesses.

2. State the projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed regulation:

There are no projected reporting, recordkeeping, or other administrative costs required for small businesses to comply with this regulation. Small businesses serving as Sports Wagering Vendors may have to be licensed or register, but, unless further licensing is later required, would not need to undertake additional reporting or recordkeeping obligations.

3. State the appropriateness of performance standards versus design standards:

The standards set forth are licensing requirements, akin to performance standards.

4. Identify regulations of the promulgating agency, or of another agency or department of the Commonwealth, which may duplicate or conflict with the proposed regulation:

There are no conflicting regulations in 205 CMR, and the Commission is unaware of any conflicting or duplicating regulations of any other agency or department of the Commonwealth.

5. State whether the proposed regulation is likely to deter or encourage the formation of new businesses in the Commonwealth:



Massachusetts Gaming Commission

Sports wagering is a new industry in Massachusetts, and these regulations are intended to enable and encourage, not deter it.

Massachusetts Gaming Commission

By:

/s/ Caitlin Monahan  
Caitlin W. Monahan, Deputy General Counsel

Dated: February 21, 2023

DRAFT



Massachusetts Gaming Commission