

STAFF AGENDA MEMORANDUM

TO: Maryland Lottery and Gaming Control Commission

FROM: Jim Nielsen, Deputy Director / COO

DATE: November 16, 2021

SUBJECT: Proposed Amendments to Regulations
Voluntary Exclusion and Responsible Gaming and
Fantasy Competitions

Summary:

We are presenting proposed amendments to regulations in the Voluntary Exclusion and Responsible Gaming chapter and the Online Fantasy Competition subtitle to incorporate changes made by HB 940, which as codified amends State Government Article (“SG”) § 9-1D *et seq.*, Annotated Code of Maryland as well as other clarifying amendments.

VOLUNTARY EXCLUSION AND RESPONSIBLE GAMING

COMAR 36.01.03.01 – 36.01.03.07 Voluntary Exclusion and Responsible Gaming

The proposed amendments would update the Voluntary Exclusion and Responsible Gaming (“VE and RG”) chapter to include sports wagering and fantasy competitions.

.01 General

Proposed amendments define sports wagering licensee, for purposes of the VE and RG chapter, to be facility, mobile, facility operator, and online operator licensees, and would allow individuals to choose to self-exclude from fantasy competitions or sports wagering.

.02 Application for Placement on the Commission’s Voluntary Exclusion List

Proposed amendments would expand where an individual can obtain an application for self-exclusion by cross-referencing the types of gaming from proposed amendments to 36.01.03.01, clarify that the Commission is included in the entities to be held harmless when referring to the State, and include an acknowledgment in the voluntary exclusion application pertaining to facilities potentially banning an individual on the Commission’s Voluntary Exclusion List from their facilities or platforms in other jurisdictions.

.03 Direct Exclusion

Proposed amendments would authorize mobile sports wagering licensees (through their platform or their online sports wagering operator’s platform), and fantasy competition operators, to directly exclude individuals from participating on their platform. This direct exclusion would be separate from the Commission’s Voluntary Exclusion List.

.04 Voluntary Surrender

Proposed amendments would expand the definition of “unredeemed item” to include prizes and items used by individuals participating in fantasy competitions and sports wagering, and would define “not including cash” consistent with the sports wagering regulations.

.05 The Commission’s Voluntary Exclusion List

Proposed amendments would delineate who may request to be placed on the Commission’s Voluntary Exclusion List, and would expand the list of persons who may request placement on the Commission’s Voluntary Exclusion List to include those affiliated with fantasy competitions and sports wagering.

.06 Removal from the Commission’s Voluntary Exclusion List

Proposed amendments would remove the requirement for an individual requesting removal from the List to first obtain a specified problem gambling assessment. Since this requirement was first included in regulation, Staff has become aware that impractical and additional burdens and costs are associated with this requirement, especially for excluded individuals who do not live in Maryland.

.07 Access to the Commission’s Voluntary Exclusion List

Proposed amendments would update the reference to the voluntary exclusion list to the “Commission’s Voluntary Exclusion List,” to clearly distinguish it from the direct exclusion from fantasy competition operators and mobile sports wagering licensees’ platforms.

FANTASY COMPETITIONS

COMAR 36.09 Online Fantasy Competition

Proposed amendments would break out the Fantasy Competition subtitle into chapters, similar to other chapters in the Commission’s regulations in Title 36, and would incorporate changes made by HB 940 and capture some best practices for registration of fantasy competitions, which other states have adopted.

COMAR 36.09.01 General

Proposed amendments would break out the definitions into a separate regulation along with a scope to clarify the scope of the subtitle applies to fantasy competitions offered by various electronic means; incorporated definitions from SG § 9-1D; and added a definition for private fantasy sports competitions; a private fantasy competition is only open to employees and their immediate family members.

COMAR 36.09.02 Registration

Proposed amendments would create a registration process for fantasy competition operators, as required by amendments to SG § 9-1D. This chapter was amended to include a \$100 registration fee; require registered fantasy competition operators to submit proposed fantasy competition rules prior to conducting a new type of fantasy competition; identifies what minor variations may be exempted from submission; and establishes renewal requirements.

COMAR 36.09.03 General Standards and Prohibitions

Proposed amendments would reorganize regulations .02, .03, .04, .05, .10, .09, and .15 into a new chapter, incorporate changes required under amendments to SG § 9-1D, and add a fantasy competition operator employee exclusion. Private fantasy competitions are permitted for employees of a fantasy competition operator.

COMAR 36.09.04 Financial Standards

Proposed amendments would reorganize existing regulations into a new chapter and incorporate the 15% proceeds to be paid to the Commission, as well as requiring a fantasy competition operator to report prize payouts larger than \$600 to the Comptroller of Maryland and the IRS and issue 1099 Misc tax forms.

COMAR 36.09.05 Responsible Gaming

Proposed amendments would reorganize existing regulation to be incorporated into this new chapter, and add the requirement for fantasy competition operators to create a responsible gaming plan. Proposed amendments would also identify the fantasy competition operators’ requirements for preventing self-excluded individuals from entering fantasy competitions; and prohibiting marketing to self-excluded individuals.

COMMISSION ACTION REQUESTED:

- 1) After review and any discussion, approve the proposed amendments to regulations on Voluntary Exclusion and Responsible Gaming;
- 2) After review and any discussion, approve the proposed amendments to regulations on Online Fantasy Competitions regulations; and
- 3) Motion to delegate to Staff the authority to make any non-substantive changes to the approved regulation amendments that may be necessary to prepare them for publication in the *Maryland Register*.

Staff Recommendation: Staff recommends approval of all 3 motions.