

**STAFF AGENDA MEMORANDUM**

**TO:** Maryland Lottery and Gaming Control Commission

**FROM:** Jim Nielsen, Deputy Director / COO

**DATE:** April 28, 2022

**SUBJECT:** Proposed Non-Substantive Changes to Voluntary Exclusion and Responsible Gaming and Online Fantasy Competition Regulations

**ATTACHMENTS:** Summary of Non-Substantive Changes and Requests Not Recommended for Changes  
Draft Regulations Incorporating Non-Substantive Changes

---

**Summary:**

We are presenting staff recommendations for non-substantive changes to the proposed amended Voluntary Exclusion and Responsible Gaming, and Online Fantasy Competition regulations, found at COMAR Title 36, Subtitle .01 Chapter .03 and Title 36, Subtitle .09. On November 16, 2021, the Commission approved the proposed regulations as emergency and regular regulations. On December 16, 2021, the Joint Committee on Administrative, Executive, and Legislative Review approved the proposed regulations on an emergency basis. Unless extended, these emergency regulations will expire on June 3, 2022. While operating under the emergency regulations, the public comment period for the proposed regulations ran from January 28, 2022 through February 28, 2022. The public comments received during the comment period are available online at <https://www.mdgaming.com/wp-content/uploads/2022/04/RG-Fantasy-Competition-Public-Comments.pdf>. The suggested non-substantive changes before you today are based on MLGCA Staff’s review of public comments on, and Staff’s ongoing review of, the voluntary exclusion and responsible gaming, and fantasy competition regulations.

These suggested changes to the proposed regulations do not substantively modify the November 16 Commission approved regulations. The suggested non-substantive changes to the proposed regulations would, for example, correct internal inconsistencies, make technical corrections, provide clarifications, and eliminate unnecessary text.

Attached to this Memorandum are a summary of the non-substantive changes; the requests received but not recommended; and a document showing Staff’s suggested non-substantive changes to the Voluntary Exclusion and Responsible Gaming, and Online Fantasy Competition regulations. This Memorandum and its attachments are publicly available on the MLGCA website at <https://www.mdgaming.com/commission-meeting-4-28-2022/>. If the Commission approves these suggested changes, they would be incorporated into the Voluntary Exclusion and

Responsible Gaming and Online Fantasy Competition regulations in COMAR Title 36, which would be proposed for final adoption in the *Maryland Register*.

**COMMISSION ACTION REQUESTED APPROVE EACH MOTION SEPARATELY:**

- 1) After review and discussion, motion to approve Staff's proposed non-substantive changes to the regulations on Voluntary Exclusion and Responsible Gaming found in COMAR Title 36, Subtitle 01, Chapter 03, as set forth in Staff's Agenda Memorandum.

**Staff Recommendation:** Staff recommends approval of the motion.

- 2) After review and discussion, motion to approve Staff's proposed non-substantive changes to the regulations on Online Fantasy Competitions found in COMAR Title 36, Subtitle 09 as set forth in Staff's Agenda Memorandum.

**Staff Recommendation:** Staff recommends approval of the motion.

- 3) Motion to approve for final adoption COMAR Title 36, Subtitle 01, Chapter 03 as approved to include the non-substantive changes.

**Staff Recommendation:** Staff recommends approval of the motion.

- 4) Motion to approve for final adoption COMAR Title 36, Subtitle 09 as approved to include the non-substantive changes.

**Staff Recommendation:** Staff recommends approval of the motion.

- 5) Motion to delegate to Staff the authority to make any further non-substantive changes to the regulations found in COMAR Title 36, Subtitle 01, Chapter 03 and Title 36, Subtitle 09, that may be necessary for publication in the *Maryland Register* for final adoption.

**Staff Recommendation:** Staff recommends approval of the motion.

**Voluntary Exclusion and Responsible Gaming; and Fantasy Competition Regulations**  
**Proposed Non-Substantive Changes**  
April 28, 2022

The following summarizes non-substantive changes Staff is suggesting, based on public comments and further Staff review of the proposed regulations.

1. Various corrections to comply with the *Style Manual for Maryland Regulations* and correct typographical errors.
2. Various clarifications to align the language with the intent of the regulation.
3. Replace “web-based” with “online.”
4. Replace “money” with “cash.”
5. Adding “**friends** of an employee of a fantasy competition operator” to the list of people that may be included in a private fantasy competition, which includes employees and immediate family of an employee of a fantasy competition operator. (emphasis added).
6. In order to avoid winnings from validly entered fantasy competitions from being liquidated and contributed to the Problem Gambling Fund, clarified that only unredeemed items received from a fantasy competition entered after the individual is placed on the Commission’s Voluntary Exclusion List and unredeemed items in the possession of an individual on the Commission’s Voluntary Exclusion List may be contributed to the Problem Gambling Fund.
7. Fantasy competitions may not permit a player to wager against the operator; this change corrects the inconsistency where the language stated that a competition could be between one or more players and changes “one” player to “two” or more players.
8. Clarified that “prize” includes monetary equivalents, subject to the approval of the Commission.
9. Changed “conspicuously identify” to “prominently display” and clarified what “prominently display” means by adding its definition.
10. Changed “published” to “displayed” for clarification.
11. Require a different audit partner manages the audit after 5 years instead of 3.
12. Removed “Prevent fantasy competition players from entering more than the maximum number of allowed fantasy competitions,” for clarity because there is no maximum number of allowed fantasy competitions stated elsewhere in the regulations.

**Voluntary Exclusion and Responsible Gaming; and Fantasy Competition Regulations**  
**Requests Not Recommended**  
April 28, 2022

The following summarizes public comments Staff is not recommending for proposed changes.

1. Removing the ban on single player fantasy games under the definition of “fantasy competitions”.
2. Allowing fantasy competition operators to redistribute liquidated unredeemed items from an individual on the Commission’s Voluntary Exclusion List to the next eligible winner as opposed to the Problem Gambling Fund.
3. Providing fantasy competition operators with a list of Commission and Agency Staff and housemates so that operators can exclude those individuals from participating in fantasy competitions.
4. Completely removing “conspicuously” from the disclosure requirement for fantasy competition operators; however, some modifications clarifying that publicly display is required.
5. Remove the option for placement on the Commission’s Voluntary Exclusion List for life.
6. Add 5 or 15 years to the options that a person may select for placement on the Commission’s Voluntary Exclusion List.
7. Requesting to limit the possible charges that a person on the Commission’s Voluntary Exclusion List may be charged with if they are on property from which they have excluded themselves by keeping the term “trespassing” and not changing the phrase to “criminal charges.”
8. Add “any other necessary organization” to the list of organizations that must be given the Commission’s Voluntary Exclusion List.

**Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 01 GENERAL PROVISIONS**

**Chapter 03 Voluntary Exclusion and Responsible Gaming**

Authority: Criminal Law Article, §§12-301.1 and 12-308; State Government Article, §§9-110, ~~and~~ 9-1A-24(e), ~~9-1D-05, 9-1E-04, 9-1E-11~~ Annotated Code of Maryland

**.01 General**

*A. Scope.* This chapter establishes a mechanism by which an individual may request to be placed on ~~a list~~ the Commission's Voluntary Exclusion List of individuals with gambling problems who ~~[have been voluntarily excluded]~~ have requested to self-exclude themselves from:

(1) – (2) (text unchanged)

(3) Instant bingo facilities under COMAR 36.07 with more than 10 instant bingo machines; ~~[or]~~

(4) Participating in fantasy competitions offered by fantasy competition operators registered under COMAR 36.09;

(5) Participating in sports wagering offered by a sports wagering licensee; or

~~[(4)]~~ (6) Any combination of the ~~[three]~~ five.

*B. Definitions.*

(1) Unless context or the individual regulation dictates otherwise, in this chapter the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Commission's Voluntary Exclusion List" means the list established by the Commission as a measure to reduce or mitigate the effects of problem gambling that allows individuals with gambling problems to request to be excluded from participating in certain lottery and gambling activities for a specified period of time.

(b) "Direct exclusion" means the ability of a person to make a request directly to a fantasy sports competition operator or a sports wagering licensee for exclusion from their ~~[[web-based]]~~ online services.

(c) "Sports wagering licensee" means:

(i) Sports wagering facility licensee;

(ii) Mobile sports wagering licensee;

(iii) Sports wagering facility operator licensee; and

(iv) Online sports wagering operator licensee.

~~[B-]~~ C. The Commission shall:

(1) Maintain ~~[a list of]~~ the Commission's Voluntary Exclusion List for individuals who have requested to be excluded from:

(a) ~~[video]~~ Video lottery facilities;

(b) ~~[lottery]~~ Lottery play in the State ~~[-and]~~;

(c) ~~[instant]~~ Instant bingo facilities with more than 10 instant bingo machines; ~~[and]~~

(d) Fantasy competitions offered by registered fantasy competition operators; or

(e) Participating in sports wagering offered by sports wagering licensees; and

(2) Establish measures to reduce and mitigate the effects of problem gambling.

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

A. An application for ~~[voluntary exclusion]~~ placement on the Commission's Voluntary Exclusion List shall be available ~~[at:]~~ through:

(1) Each licensed video lottery facility upon request ~~[of]~~ to Commission staff;

(2) Each licensed instant bingo facility with more than 10 instant bingo machines; and

(3) The ~~[Agency's offices]~~ Agency.

B. Information about applications for placement on the Commission's Voluntary Exclusion List shall be available through:

(1) Each licensed video lottery facility;

(2) Each registered fantasy competition operator;

(3) Each sports wagering licensee;

(4) Each licensed instant bingo facility with more than 10 instant bingo machines; and

(5) The Agency.

~~[B-]~~ C. An individual may request to be excluded from ~~[-a video lottery facility or lottery play in the State, or an instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to Commission staff];~~

(1) The places and activities described in Regulation .01 of this chapter by submitting a completed application for placement on the Commission's Voluntary Exclusion List to Commission staff; and

~~[(c)]~~ (2) An ~~[individual may request to be excluded from an]~~ instant bingo facility with more than 10 instant bingo machines by submitting a completed application form to instant bingo facility staff.

D. An application for ~~[voluntary exclusion shall include]~~ placement on the Commission's Voluntary Exclusion List shall include:

(1) ~~[The]~~ ~~[[Shall contain sufficient]]~~ Sufficient information to identify and exclude the individual, including the individual's:

(a) – (d) (text unchanged)

(e) Social Security Number or other government-issued identification number, if applicable;

~~[e]~~ (f) – [g] (h) (text unchanged)

~~[h]~~ (i) Signature, which may include ~~[[the use of a Commission-approved secure electronic means]]~~ and

~~[(i)]~~ (j) Any other information about the individual that the Commission requires;

(2) The length of time requested ~~[period of]~~ for placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List, which shall be for:

(a) At least 2 years; or

(b) Life;

(3) Information pertaining to problem gambling programs; ~~[and]~~

(4) Acknowledgment that certain problem gambling programs may contact the applicant;

~~[(4)]~~ (5) A signed statement by which the individual declares that the individual:

(a) – (b) (text unchanged)

(c) Releases and holds harmless the State of Maryland, the Commission, the Agency, and their members, employees, and ~~[agents]~~ agents, from any liability that may arise from the application or the individual's placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List;

(d) Acknowledges that the Commission is collecting information from the individual that the:

(i) Individual may request to inspect or correct under General Provisions Article, §4-502, Annotated Code of Maryland; ~~[and]~~

(ii) Commission will maintain as sociological information under General Provisions Article, §4-330, Annotated Code of Maryland; and

(iii) Commission or its licensees may share with entities as provided in Regulation .05 of this chapter.

(e) Authorizes the release of information to the persons specified in Regulation [~~06~~] .07 of this chapter;

(f) Acknowledges that the individual will be, for the entire term of the requested period of exclusion:

(i) Prohibited from entering a video lottery facility [~~or~~] and playing table games or a video lottery terminal [~~in the State~~];

(ii) Prohibited from playing a lottery game;

(iii) Prohibited from playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines; [~~or~~]

(iv) Prohibited from participating in a fantasy competition offered by a fantasy competition operator registered under COMAR 36.09;

(v) Prohibited from participating in sports wagering offered by a sports wagering licensee under COMAR 36.10; or

[~~(iv)~~] (vi) Any combination of the [~~three~~] five;

(g) Acknowledges that if the requested period of placement on the [~~voluntary exclusion list~~] Commission's Voluntary Exclusion List was 2 years, the individual will not be removed from the [~~voluntary exclusion list~~] Commission's Voluntary Exclusion List unless the Commission grants the individual's request for removal under Regulation [~~05~~] .06 of this chapter;

(h) Acknowledges that the individual may be subject to criminal charges if, during the period of exclusion, the individual enters a video lottery facility in the State;

(i) Acknowledges that the individual may be, for the entire term of the requested period of exclusion;

(i) Banned by a video lottery facility from any of its affiliated facilities in Maryland or other jurisdictions;

(ii) Removed or precluded from utilizing a video lottery facility's associated sports wagering platform;

(iii) Banned from video lottery facilities that offer sports wagering;

(iv) Even if accessed from a different state, removed or precluded from joining or participating in a fantasy competition operator's online platform;

(v) Banned by a sports wagering facility from any of its affiliated facilities in Maryland or other jurisdictions; or

(vi) Even if accessed from a different state, removed or precluded from joining or participating in a mobile sports wagering licensee's online platform;

~~[(i)]~~ ~~(j)~~ Otherwise acknowledges that the individual understands the individual's responsibilities and possible consequences associated with being placed on the ~~[State's voluntary exclusion list]~~ Commission's Voluntary Exclusion List; and

~~[(j)]~~ ~~(k)~~ Is voluntarily applying.

E. Upon receipt of a completed application for ~~[voluntary exclusion trained]~~ placement on the Commission's Voluntary Exclusion List, assigned Commission staff ~~[shall:]~~ may:

(1) Interview the individual in order to ascertain that the individual:

(a) Is voluntarily applying for exclusion;

~~(b)~~ Is sober and informed;

~~[(b)]~~ ~~(c)~~ Confirms the information provided in the application; and

~~[(c)]~~ ~~(d)~~ Is fully informed of the consequences of being placed on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List.

(2) Decide whether to ~~[grant]~~ accept the request for ~~[voluntary exclusion]~~ placement on the Commission's Voluntary Exclusion List and place the individual on the Commission's Voluntary Exclusion List; and

(3) Deliver to the individual by regular U.S. mail a written notice of:

(a) Placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List; or

(b) Denial of the ~~[request for voluntary exclusion.]~~ application requesting placement on the Commission's Voluntary Exclusion List.

F. Notice to ~~[Excluded]~~ Individual Placed on the Commission's Voluntary Exclusion List.

~~(1)~~ The Agency's notice ~~[of]~~ to an [individual's] individual of placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List for video lottery facilities, shall include:

~~[(1)]~~ ~~(a)~~ A statement from each video lottery facility informing the individual not to enter the video lottery facility; ~~[and]~~

~~[(2)]~~ ~~(b)~~ Notice that, if the individual enters a video lottery facility, the individual ~~[shall]~~ may be subject to ~~[a]~~ criminal ~~[trespass charge]~~ charges;

~~(c)~~ Notice that the individual may be banned by a video lottery facility from any of its affiliated facilities in Maryland or other jurisdictions; and

~~(d)~~ Notice that the individual may be unable to participate in sports wagering offered by a sports wagering facility operator or online sports wagering operator affiliated with a video lottery facility.



(2) The Agency's notice of an individual's placement on the Commission's Voluntary Exclusion List for exclusion from participating in fantasy competitions in the State shall include notice that the individual may be excluded from participating in fantasy competitions offered by fantasy competition operators in another jurisdiction;

(3) The Agency's notice of an individual's placement on the Commission's Voluntary Exclusion List for exclusion from sports wagering in the State shall include:

(a) Notice that the individual is not permitted in the sports wagering-related areas of a sports wagering facility;

(b) Notice that the individual may be excluded from participating in sports wagering offered by a sports wagering licensee in any of its affiliated facilities or platforms in other jurisdictions; and

(c) Notice that, if the individual enters a video lottery facility that offers sports wagering, the individual may be subject to criminal charges.

### **.03 Direct Exclusion**

#### **A. Registered Fantasy Competition Operator.**

(1) A registered fantasy competition operator may, on request of an individual, directly exclude the individual from participating in fantasy competitions through its platform.

(2) A request for direct exclusion from a fantasy competition operator's platform:

(a) Is not an application for placement on the Commission's Voluntary Exclusion List under this chapter;

(b) Will not result in placement on the Commission's Voluntary Exclusion List;

(c) Is not a record that is maintained by the Commission; and

(d) Does not prevent the person from using another fantasy competition platform in Maryland.

#### **B. Mobile Sports Wagering Licensee.**

(1) A mobile sports wagering license through its sports wagering platform or its online sports wagering operator's platform may, on request of an individual, directly exclude the individual from participating in sports wagering on its platform.

(2) A request for direct exclusion from a mobile sports wagering licensee's platform operated by its online sports wagering operator:

(a) Is not an application for placement on the Commission's Voluntary Exclusion List;

(b) Will not result in inclusion on the Commission's Voluntary Exclusion List;

(c) Is not a record that is maintained by the Commission; and

(d) Does not prevent the person from using another ~~[[fantasy competition]] mobile platform in Maryland.~~

**[-03] .04 Voluntary Surrender.**

A. In this regulation, the following term has the meaning indicated.

B. Term Defined. “Unredeemed item”:

(1) Means a token, voucher, check, ticket, chip, coupon, or similar item that has monetary value, and that a player has:

(a) – (d) (text unchanged)

(e) Won by participating in a fantasy competition offered by a fantasy competition operator registered under COMAR 36.09;

(f) Received by converting cash, check, wire transfer, points, tickets, coupons, or similar item or monetary equivalent through a registered fantasy competition operator’s system;

(g) Won by participating in sports wagering;

(h) Inserted into sports wagering equipment;

(i) Received by converting cash, check, wire transfer, or points through sports wagers placed with a sports wagering licensee;

~~[(e)]~~ (j) Obtained while ~~trying to play~~ playing a lottery game in the State; or

~~[(f)]~~ (k) Won by playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines.

(2) Does not ~~mean~~ include cash.

C. An individual who applies to be placed on the ~~[voluntary exclusion list may]~~ Commission’s Voluntary Exclusion List contractually ~~[agree]~~ agrees to:

(1) Redeem or liquidate an unredeemed item with monetary value that the individual has:

(a) ~~[[received since]]~~ In their possession since being placed on the ~~[voluntary exclusion list ~~and~~]]~~ Commission’s Voluntary Exclusion List; or

(b) Received from a fantasy competition, if the individual entered the fantasy competition after placement on the Commission’s Voluntary Exclusion List; and

(2) Designate that the proceeds of the ~~[[redeemed]]~~ item be redeemed and contributed to the Problem Gambling Fund established under State Government Article, §9-1A-33(b), Annotated Code of Maryland.

**[-04] .05 The Commission’s Voluntary Exclusion List.**

The Commission shall:

A. Establish and maintain a list of individuals;

(1) ~~from~~ From whom it has received a completed application ~~[for voluntary exclusion]~~ requesting to be excluded as provided in Regulation .01B of this chapter;

(2) Whose request for placement on the Commission's Voluntary Exclusion List has been accepted under Regulation .02 of this chapter.

B. Provide the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List for video lottery facilities to a video lottery facility, with periodic updates, to assist the video lottery facility in identifying ~~[an individual to be excluded]~~ excluded individuals;

C. Enter the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List for lottery play into the Agency's control system to ensure that an excluded individual's ~~[winnings]~~ prizes over \$600 on a ticket will be surrendered under Regulation ~~[-03]~~ .04 of this chapter; ~~[and]~~

D. Provide the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List for individuals who have self-excluded from instant bingo to an instant bingo facility with more than 10 instant bingo machines, with periodic updates, to assist the facility in identifying excluded individuals[-];

E. Provide the Commission's Voluntary Exclusion List for individuals who have self-excluded from participating in fantasy competitions in the State to a registered fantasy competition operator, with periodic updates, to assist the fantasy competition operator in identifying excluded individuals; and

F. Provide the Commission's Voluntary Exclusion List for individuals who have self-excluded from participating in sports wagering in the State to sports wagering facility licensees and mobile sports wagering licensees, with periodic updates, to assist ~~[[he]]~~ them in identifying excluded individuals.

**[-05] .06 Removal from the Commission's Voluntary Exclusion List.**

A. After an individual has been on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List for at least 2 years, the individual may request that the Commission remove the individual from the list.

B. An ~~[individual's request]~~ individual shall submit their request under §A of this regulation ~~[shall be submitted to the Commission in writing and shall be]~~ in writing to the Commission accompanied by documentation that the individual has:

(1) Completed:

~~[(a) A problem gambling assessment with a professional who is licensed by the State to conduct problem gambling assessments or who is otherwise approved by the Commission and fulfilled any recommended treatment;]~~

~~[(b)]~~ (a) A problem gambling treatment and or prevention program approved by the Commission;  
or

~~[(e)]~~ (b) A healthy decision-making program that is sponsored or approved by the Commission, with a licensed professional counselor or other person approved by the Commission;

(2) Executed an authorization and release to be removed from the voluntary exclusion list; and

(3) Complied with any ~~other~~ requirements deemed necessary by the Commission.

C. (text unchanged)

D. If the Commission:

(1) Grants the request, it shall:

(a) Deliver to the individual by email or regular mail a notice of removal from the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List; and

(b) Notify the State's video lottery facilities, instant bingo facilities with more than 10 instant bingo machines, registered fantasy competition operators, sports wagering facility licensees, and mobile sports wagering licensees, or update the Agency's central system ~~[[e]]~~ with the individual's removal from the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List; or

(2) Denies the request, it shall deliver to the individual by email or regular mail a notice that the:

(a) Request was denied; and

(b) Individual shall remain on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List.

**~~[-06]~~ .07 Access to the Commission's Voluntary Exclusion List.**

A. All records pertaining to an individual's placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List are sociological information under General Provisions Article, §4-330, Annotated Code of Maryland.

B. Access to records pertaining to an individual's placement on the ~~[voluntary exclusion list]~~ Commission's Voluntary Exclusion List shall be limited to disclosures authorized under General Provisions Article, Title 4, Annotated Code of Maryland, COMAR 36.03.06, and Regulation ~~[-04]~~ .05 of this chapter.

**~~[-07]~~ .08 Responsible Gaming Program.**

A. (text unchanged)

B. (text unchanged)

**Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**Chapter 01 [~~Fantasy Competition~~] General**

Authority: State Government Article, [§] §§ 9-1D-01, ~~9-1D-02, 9-1D-03, and 9-1D-05~~ Annotated Code of Maryland; and Ch. 853, Acts of 2018.

**.01 Scope.**

*A. This subtitle applies to fantasy competitions regulated by the Commission under State Government Article, §§ 9-1D-01 – 9-1D-05, Annotated Code of Maryland.*

*B. This subtitle applies to fantasy competitions that are offered to individuals by means of a fantasy competition platform.*

**[.01] .02 Definitions.**

A. *In addition to the terms defined in COMAR 36.01.01 [~~In this chapter,~~] the following terms have the meanings indicated.*

B. Terms Defined.

(1) (text unchanged).

(2) *“Entry fee” [~~means cash or cash equivalents that may be required to be paid by a fantasy competition player to a fantasy competition operator in order to participate in a fantasy competition.] has the meaning stated in State Government Article, § 9-1D-01, Annotated Code of Maryland.~~*

(3) *“Fantasy competition” has the meaning stated in State Government Article, [~~§9-1D-01(a)] § 9-1D-01, Annotated Code of [Maryland] Maryland, and includes a competition in which:~~*

(a) A prize is awarded;

(b) ~~[[One]] Two~~ or more players are subject to and may pay an entry fee; ~~[and]~~

(c) The fantasy competition operator offering the competition receives compensation in connection with the competition regardless of the outcome[-];

*(d) The winning outcome is not based on:*

*(i) The score, point spread, or any performance of any single actual team;*

*(ii) The score, point spread, or any performance of any combination of teams; or*

*(iii) Any single performance of an individual athlete or player in any single actual event; and*

*(e) Fantasy competition players compete against other fantasy competition players and not the fantasy competition operator.*

*(4) “Fantasy competition operator” has the meaning stated in State Government Article, § 9-1D-01,*

Annotated Code of Maryland.

~~[(4)] (5) “Fantasy competition platform” [means any website, program, application, or other portal providing access to a fantasy competition.] means:~~

~~(a) Hardware and software used for a website, application, or other platform which is accessible via the internet or mobile, wireless, or similar communications technology that allows players to participate in fantasy competitions; or~~

~~(b) Hardware, software, firmware, communications technology, or other equipment that a registered fantasy competition operator uses to:~~

~~(i) Allow a player to participate in fantasy competitions;~~

~~(ii) Display the fantasy competition outcomes and other similar information necessary to facilitate fantasy competitions;~~

~~(iii) Review player accounts and generate financial reports;~~

~~(iv) Suspend a fantasy competition;~~

~~(v) Input outcomes for fantasy competitions; and~~

~~(vi) Set any configurable parameters.~~

~~(6) “Fantasy competition player” has the meaning stated in State Government Article, § 9-1D-01, Annotated Code of Maryland.~~

~~[(5)] (7) “Fantasy contractor” means any person or [~~corporate~~] entity who:~~

~~(a) Works under an independent contract with a fantasy competition operator; and~~

~~(b) Has regular access to:~~

~~(i) Nonpublic portions of a fantasy competition operator’s [~~office~~] system;~~

~~(ii) – (iii) (text unchanged)~~

~~[(6) Fantasy Competition Operator.~~

~~(a) “Fantasy competition operator” means any person that offers services in connection with fantasy competitions to individuals by means of:~~

~~(i) The Internet;~~

~~(ii) A smart phone application; or~~

~~(iii) Any other electronic, digital media, communication technology, or device.~~

~~(b) “Fantasy competition operator” does not include an individual who:~~

~~(i) Organizes a fantasy competition in which the individual also participates;~~

~~(ii) Receives no compensation for organizing the fantasy competition; and~~

~~(iii) Is not affiliated with any fantasy competition operator as defined under §B(7)(a) of this regulation.~~

~~(7) “Fantasy competition player” means an individual who participates in a fantasy competition offered by a fantasy competition operator.]~~

(8) (text unchanged)

(9) “Location percentage” has the meaning stated in State Government Article § 9-1D-01, Annotated Code of Maryland.

~~(9)~~ (10) - ~~(10)~~ (11) (text unchanged)

(12) “Private fantasy sports competition” means a fantasy sports competition that is only open to:

(a) Employees of a fantasy competition operator; ~~[[~~and~~]]~~

(b) Immediate family members of an employee of a fantasy competition operator ~~[[~~and~~]]~~

(c) Friends of an employee of a fantasy competition operator.

~~(11)~~ (13) “Prize” means anything of monetary value, including:

(a) ~~[[~~Money;~~]]~~ Cash;

(b) Competition credits;

(c) Merchandise; ~~[~~or~~]~~

(d) monetary equivalents, subject to the approval of the Commission; or

~~[[~~d~~]]~~ (e) Admission to another competition in which a prize may be awarded.

(14) “Proceeds” has the meaning stated in State Government Article § 9-1D-01, Annotated Code of Maryland.

~~(12)~~ (15) “Scripts” means commands that a computer program can execute to automate processes on a fantasy competition platform created by:

(a) – (b) (text unchanged)

~~(13)~~ (16) (text unchanged)

(17) “Prominently display” or “prominently displayed” means information or material that is placed directly, or via link, on one or more of the pages or dashboards or on similar conspicuously visual tools that are properly labeled and clearly accessible as approved by the Commission.

## **Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

### **Subtitle 09 ONLINE FANTASY COMPETITION**

#### **Chapter 02 Registration**

Authority: State Government Article, §§ 9-1D-01, 9-1D-03, 9-1D-04, and 9-1D-05 Annotated Code of Maryland; and Ch. 853, Acts of 2018

#### **[.12 Notification.] .01 Registration**

A. Before offering services in connection with a fantasy competition to players physically located in Maryland, a fantasy competition operator shall ~~[notify]~~ register with the Commission, ~~[that the fantasy competition operator is qualified to do business in the State.]~~

B. A fantasy competition operator may not conduct an online fantasy competition unless registered to do so by the Commission.

C. A fantasy competition operator shall register with the Commission every year not more than 365 days from the date of its previous registration, if it is offering services in connection with a fantasy competition in Maryland.

~~[B. The notification to the Commission shall include:]~~

D. A person required to register shall provide, in the manner specified by the Commission:

(1) – (4) (text unchanged)

(5) The name and address of the fantasy competition operator’s resident agent in the State; ~~[and]~~

(6) The place where and the date when the fantasy competition operator was legally established and the form of its organization~~[-]~~;

(7) Information concerning each fantasy competition offered by the fantasy competition operator as described in Regulation .02 of this chapter;

(8) Evidence satisfactory to the Commission that the fantasy competition operator has established and will implement procedures that prevent those individuals identified in COMAR 36.09.03.03 from participating in fantasy competitions;

(9) A plan that describes how the fantasy competition operator will maintain compliance with COMAR 36.09.04;

(10) A responsible gaming plan required under COMAR 36.09.05; and



(11) Any additional information required by the Commission.

E. For each fantasy competition operator registered under this chapter, the Commission shall issue a registration certificate.

F. A fantasy competition operator registered under this chapter may operate fantasy competitions in accordance with this subtitle.

[~~C.~~] G. – [~~D.~~] H (text unchanged)

### **.02 Fantasy Competition Rules.**

A. Prior to conducting a new type of fantasy competition, a fantasy competition operator shall submit proposed fantasy competition rules to the Commission.

B. A fantasy competition operator may offer minor variations of a fantasy competition without having to submit ~~[[#]]~~ new fantasy competition rules to the Commission.

C. Minor variations of a fantasy competition include:

(1) Offering a contest format for any sport, league, association or organization previously offered for any fantasy competition;

(2) Offering a fantasy competition only to employees of a fantasy competition operator;

(3) The value of a fantasy competition and number of entries permitted;

(4) Nonmaterial changes to entry fee and prize structure;

(5) The number of athletes that a player selects to fill a roster when completing an entry;

(6) The fields that a player must fill in when completing an entry;

(7) Adjustments to a scoring system; and

(8) Adjustments to a salary cap.

### **.03 Fees**

A. A registration fee of \$100 shall be paid to the Commission to process a registration application of a fantasy competition operator.

B. The fees paid under this regulation are nonrefundable.

### **.04 Renewal Requirements**

A. Unless a registration is renewed, a fantasy competition operator's registration expires 1 year from the last date of registration.

B. The Commission may renew a fantasy competition operator's registration if, before the term of the registration expires, the fantasy competition operator:

(1) Applies for renewal no later than 45 days prior to the expiration of its current registration;

(2) Submits updated and current copies of all of the documents and information required under Regulation .01 of this chapter; and

(3) Pays a renewal registration fee in the amount of \$100 to the Commission.

## **Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

### **Subtitle 09 ONLINE FANTASY COMPETITION**

#### **Chapter 03 General Standards and Prohibitions**

Authority: State Government Article, §§ 9-1D-01, 9-1D-03, 9-1D-04, and 9-1D-05 Annotated Code of Maryland; and Ch. 853, Acts of 2018

#### **[.02] .01 Prohibition on Fantasy Competition Play.**

Participation in a fantasy competition for which there is an entry fee is prohibited for:

A. A minor, which is an individual under the age of 18;

B. – D. (text unchanged)

E. An individual who has asked to be excluded under [~~Regulation .06 of this chapter.~~] Chapter .05 of this subtitle.

#### **[.03] .02 Prohibition on Fantasy Competition Kiosks.**

[~~A. Fantasy competition operators may not permit players to enter a competition using a kiosk or machine physically located within a retail business location.~~]

Fantasy competitions may not be offered through a kiosk or machine physically located in the State.

#### **[.04] .03 Restrictions on Fantasy Competition Play by Individuals Associated with Operators.**

A. (text unchanged)

B. Exception. An individual associated with a fantasy competition operator may participate in a fantasy competition only if:

(1) Participation is for testing purposes and:

[4] (a) The individual uses a clearly marked test account for testing purposes including evaluating a fantasy competition platform;

[2] (b) The individual fully discloses affiliation with a fantasy competition operator to each fantasy competition player in the fantasy competition;

[3] (c) The individual is not eligible to win a prize; and

[4] (d) The individual awards any prize won in a fantasy competition to the participant who would have won the prize if the individual associated with a fantasy competition operator had not ~~participated.~~ participated; or

*(2) The fantasy competition is a private fantasy competition that is:*

*(a) Clearly marked as a private fantasy competition; ~~and~~*

*(b) Limited by the fantasy competition operator to:*

*(i) Employees of the fantasy competition operator; ~~and~~*

*(ii) Immediate family members of an employee of the fantasy competition operator ~~and~~*

*(iii) Friends of an employee of a fantasy competition operator; and*

*(c) Contains a prominently displayed statement informing players that the fantasy competition may include players with specialized knowledge and expertise that could affect their odds of winning.*

**[05] .04 Prohibition on Fantasy Competition Play by Athletes and Others.**

A. – B. (text unchanged)

**[10] .05 Ensuring Fair Outcomes in Fantasy Competitions.**

A. Fantasy Competition Scripts.

(1) (text unchanged)

(2) For the purpose of §A(1) of this regulation, scripts shall be treated as offering a competitive advantage if potential uses include:

(a) (text unchanged)

(b) Facilitating use of commercial products designed and distributed by third parties to identify advantageous game strategies; ~~and~~

*(c) Submitting entry fees or adjusting the athletes selected by a fantasy competition player; or*

~~(d)~~ (d) (text unchanged)

(3) Authorized scripts shall either be incorporated as a game feature or be prominently ~~published~~ displayed and thereby made available to all fantasy competition players.

B. Beginner Games and Identification of Highly Experienced Players.

(1) (text unchanged)

(2) Fantasy competition operators shall clearly and ~~conspicuously identify~~ prominently display that a highly experienced player is participating in a fantasy competition by attaching a symbol to the username of a highly experienced player, or by other easily visible means.

C. Fantasy Competition Entries.

(1) – (2) (text unchanged)

D. Limit on Number of Accounts. A fantasy competition operator may not permit a player to establish more than one ~~username~~ account with a fantasy competition operator.

E. Disputes. Fantasy competition operators shall provide an opportunity for fantasy competition players to file a player dispute.

F. Data. Fantasy competition operators shall ~~conspicuously disclose~~ prominently display the source of the data utilized in determining results.

**[:09].06 Prohibition on Fantasy Competitions Based on Amateur Sports.**

(text unchanged)

**[:15].07 Advertising.**

(text unchanged)

**Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**Chapter 04 Financial Standards**

Authority: State Government Article, §§ 9-1D-01, 9-1D-02, 9-1D-03, and 9-1D-05 Annotated Code of Maryland; and Ch. 853, Acts of 2018; Ch. 853, Acts of 2018

**[:11].01 Financial Account Protections.**

A. A fantasy competition operator shall hold a fantasy competition player's funds:

(1) (text unchanged)

(2) In a special-purpose, segregated account that is maintained and controlled by a properly constituted corporate entity that:

(a) – (c) (text unchanged)

(d) Has articles of incorporation that prohibit commingling of fantasy competition player funds with those of the fantasy competition operator, except as necessary to reconcile the accounts of fantasy competition players with sums owed to the fantasy competition operator by those fantasy competition players;

(e) Is restricted from incurring debt other than to fantasy competition players pursuant to the fantasy competition operator's rules governing the accounts of its fantasy competition players;

(f) Is restricted from taking on obligations of the fantasy competition operator other than obligations to its fantasy competition players pursuant to the fantasy competition operator's rules governing the accounts of its fantasy competition players; and

(g) Other than a special purpose corporate entity established by another fantasy competition operator that meets the requirements of this subtitle, may not dissolve, merge, or consolidate with another company while there are unsatisfied obligations to fantasy competition players.

B. (text unchanged)

**-.07] .02 Limits on Deposits.**

A. – B. (text unchanged)

C. Exception. A fantasy competition player may request a fantasy competition operator to temporarily or permanently increase a deposit limit above \$5,000 per calendar month only if:

(1) The fantasy competition operator has established and prominently ~~[[published]]~~ displayed procedures for considering a request from a fantasy competition player to increase the deposit level;

(2) – (3) (text unchanged)

**-.08] .03 Prohibition on Extensions of Credit.**

(text unchanged)

**-.13] .04 Financial Auditing.**

A. A fantasy competition operator that conducts competitions that require an entry fee and that generates gross annual revenues of \$250,000 or more in Maryland shall ~~have~~ ensure that a financial audit is performed annually by a certified public accountant.

B. The certified public accounting firm that conducts the financial audit shall:

(1) Comply with generally accepted accounting principles; and

(2) Submit the financial audit report to the Commission within 180 days of the *fantasy competition* operator's fiscal year end.

C. (text unchanged)

D. Auditor Exception.

(1) The same certified public accountant may not perform more than ~~[[three]]~~ five consecutive financial audits for a fantasy competition operator unless:

(a) The *fantasy competition* operator requests and obtains preapproval of the Commission; and

(b) A different audit partner manages the audit after ~~[[3]]~~ 5 years.

(2) If a different audit partner cannot be assigned, a fantasy competition operator shall advise the Agency prior to *the* beginning of the audit.

E. (text unchanged)

#### **.05 Taxation**

A. A fantasy competition operator shall retain 85% of its proceeds from players in Maryland.

B. A fantasy competition operator shall pay 15% of its Maryland player proceeds to the Commission.

#### **.06 Reporting**

A. Fantasy competition operators shall report fantasy competition prize payouts larger than \$600 to the Comptroller of Maryland and the Internal Revenue Service in accordance with applicable tax laws.

B. A fantasy competition operator shall provide a 1099 Misc. tax form to players that receive a prize payout larger than \$600.

### **Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

#### **Subtitle 09 ONLINE FANTASY COMPETITION**

##### **Chapter 05 Responsible Gaming**

Authority: State Government Article, §§ 9-1D-01, 9-1D-02, 9-1D-03, and 9-1D-05 Annotated Code of Maryland; Ch. 853, Acts of 2018; and Ch. 853, Acts of 2018

**[:06] .01 [Self] Direct Exclusion Through Fantasy Competition Operator.**

A. An individual may request exclusion from entering a fantasy competition by submitting to the fantasy competition operator a self-exclusion request using a self-exclusion tool provided by *the fantasy competition* operator on its website.

~~[B. If an individual requests exclusion, the fantasy competition operator shall take reasonable measures to prevent that individual from entering a fantasy competition.]~~

B. A fantasy competition operator shall implement and prominently ~~[[publish]]~~ display procedures for players to self-exclude themselves.

C. Self-excluded persons shall not collect any prizes or recover any losses arising as result of any prohibited participation in a fantasy competition operator's fantasy competition.

D. A request for exclusion submitted to a fantasy competition operator:

(1) Is not an application for voluntary exclusion through the Commission under COMAR 36.01.03;

(2) Will not result in inclusion on the Commission's Voluntary Exclusion List; and

(3) Is not administered or maintained by the Commission.

**.02 Responsible Gaming Plan.**

A. A fantasy competition operator shall establish a responsible gaming plan that includes at least the following elements:

(1) Goals;

(2) Procedures and deadlines for implementation;

(3) Identification of personnel responsible for implementation;

(4) Responsibilities of personnel identified as responsible for implementation;

(5) Training for personnel on problem gambling and identifying compulsive play;

(6) Means of educating fantasy competition players about:

(a) Problem gambling including compulsive play; and

(b) Problem gambling treatment resources, including treatment and prevention programs;

(7) Placement of responsible gambling awareness materials on the fantasy competition platform; and

(8) Any other element required by the Commission.

B. A fantasy competition operator shall submit to the Commission the responsible gaming plan required under §A of this regulation for review and approval.

C. A fantasy competition operator shall submit any amendments to a responsible gaming plan to the Commission prior to implementation.

D. A fantasy competition operator shall submit to the Commission an annual report describing the operation of the responsible gaming plan.

**.03 Fantasy Competition Operator Responsibilities**

A. A fantasy competition operator shall:

(1) Prevent the participation in fantasy competitions by individuals who have self-excluded themselves from entering fantasy competitions: **and**

~~[(2) Prevent fantasy competition players from entering more than the maximum number of allowed fantasy competitions: and]~~

~~[(3)] (2) Train employees on compulsive play.~~

B. A fantasy competition operator shall not market a contest by phone, text, email, or by knowingly directing any form of individually targeted advertisement or marketing material to an individual if the individual is self-excluded or otherwise barred from playing in that fantasy competition.