

## STAFF AGENDA MEMORANDUM

**DATE OF MEETING:** March 28, 2024

**AGENDA ITEM:** Proposed Amendments to Sports Wagering Regulations

**PRESENTER:** James Nielsen, Deputy Director / COO

**ISSUE SUMMARY:** On December 29, 2023, numerous proposed amendments to Agency regulations, as approved by the Commission, were initially published in the *Maryland Register*. The proposed amendments affected regulations in:

COMAR 36.03 – Gaming  
COMAR 36.04 - VLT Technical Standards  
COMAR 36.07 - Instant Bingo  
COMAR 36.10 – Sports Wagering  
COMAR 36.11 – Sports Wagering Application Review Commission

*Public comment on the proposed amendments.*

During the 30-day public comment period for the proposed amendments, the Agency received one set of public comments, which are published on the Agency's website for the Commission's and the public's review. <https://www.mdgaming.com/maryland-sports-wagering/sports-wagering-regulations/>

The public comment period has concluded, and the proposed regulatory amendments are now before the Commission for approval for their final publication in the *Maryland Register*, after which they will take effect 10 days after publication.

*Staff requests the Commission's approval of the proposed amendments as published for which no public comment was received.*

There were no public comments on the proposed amendments to existing regulations in COMAR 36.03, 36.04, 36.07, and 36.11, and – except for four regulations in COMAR 36.10 that I will discuss next – there were no public comments on COMAR 36.10. Staff recommends that the Commission approve all of those proposed amendments to existing regulations as published for which no public comment was received.

*Four regulations with proposed amendments were the subject of public comment. Staff requests that the Commission approve three of the amendments as published, and one with non-substantive changes:*

### COMAR 36.10.10 Enforcement of Voluntary Exclusion Program

### **.03 Requirements.**

A. (text unchanged)

B. A sports wagering licensee shall:

*(11) Ensure that an advertisement for sports wagering, video lottery terminal, or table game play does not include language that suggests an outcome is guaranteed **or without risk**.*

Draft Kings requested deleting the words “or without risk.” However, this amendment addresses consumer protection-related concerns expressed to Agency staff about Maryland Sports Wagering Licensees that were advertising and offering “risk free” wagers. The amendment also reinforces the Director of Audit and Regulatory Compliance’s 11/21/2022 Directive on that issue (attached).

**Recommendation: approve as published, no changes.**

## **36.10.13 Sports Wagering Licensee Minimum Internal Control Standards**

### **.41 Consumer Protection.**

*C. Promotional Offers — Responsibility of Licensee.*

*(1) A sports wagering licensee is responsible for the terms, conditions, and conduct of promotions it offers, and those that are offered on behalf of the licensee, directly or indirectly, by a sports wagering contractor or marketing affiliate vendor, including:*

*(a) Ensuring that the terms and conditions of all promotions are communicated to bettors by a link posted on the licensee’s home website, and on the home website or any website operated on behalf the licensee by a contractor or vendor;*

*(b) Stating the terms and conditions clearly and in plain language, and displaying them conspicuously so they are readily accessible and available for bettors’ review for the duration of the promotion;*

*(c) Providing a clear and conspicuous method for a bettor to cancel the bettor’s participation in a promotion that utilizes restricted sports wagering credits that a bettor cannot cash out until an applicable wagering requirement, restriction, or condition on using the credits is met;*

*(d) When a bettor requests cancellation, the sports wagering licensee shall inform *[[informing]]* the bettor of the amount of unrestricted funds that will be returned to the bettor’s sports wagering account upon cancellation, and the value of restricted funds that will be removed from the bettor’s sports wagering account; and*

*(e) If a bettor elects to proceed with cancellation, returning unrestricted funds remaining in the bettor’s sports wagering account in accordance with the terms and conditions.*

Draft Kings requested clarification of the proposed amendment and provided suggested language. We agree with the suggested clarification, and rephrased the suggested language to comport with stylistic requirements for Maryland regulations.

**Recommendation: approve with the clarifying non-substantive changes indicated.**

## **36.10.13 Sports Wagering Licensee Minimum Internal Control Standards**

### **.41 Consumer Protection.**

*C. Promotional Offers — Responsibility of Licensee.*

*(2) A sports wagering licensee, directly or through a contractor or vendor on behalf of the licensee, may not:*

*(c) Include in an advertisement language that suggests the outcome is guaranteed **or without risk**; or*

Draft Kings requested deleting the words “or without risk.” This is the same suggested change to 36.10.10 above, with which we disagree for the same reasons.

**Recommendation: approve as published, no changes.**

### **36.10.14 Sports Wagering Requirements and Limitations**

#### **.06 Reserve.**

##### *F. Surety Bonds.*

*(2) A surety bond shall:*

*(a) Be in a form approved by the Agency and:*

*(i) Identify the sports wagering licensee or applicant as the principal of the surety bond;*

*(ii) Indicate what license type and class the sports wagering licensee or applicant offers or intends to offer in the State of Maryland;*

*(iii) Provide that the surety bond is protected against claims by creditors of the principal, including the patrons for whose benefit and protection the reserve account is established;*

*(iv) Allow the Director of the Agency or the Director’s designee to make demand upon the surety for the payment of valid winning amounts not paid by the principal;*

*(v) Require the sports wagering licensee to provide an updated listing of winning wagers that form the basis of the reserve to the Agency within 72 hours;*

*(vi) Includes a statement that within 24 hours of receiving the updated listing of winning wagers that form the basis of the Reserve that the Agency will commence review of the list of outstanding patron accounts;*

Draft Kings requested that sections (v) and (vi) be eliminated. Staff recommends retaining the current language; however, Staff will revisit this issue as part of the annual regulatory review to be conducted later in 2024.

**Recommendation: approve as published, no changes.**

#### **COMMISSION ACTION REQUESTED – MOTIONS FOR:**

- 1) Except for COMAR 36.10.13.41, Commission approval for final publication in the *Maryland Register* all proposed amendments to Agency regulations that were initially published on December 29, 2023.
- 2) Commission approval for final action publication in the *Maryland Register* proposed amendments to COMAR 36.10.13.41 as published on December 29, 2023, as modified with the clarifying non-substantive changes described above and discussed today.
- 3) Commission delegation to Staff the authority to make any non-substantive changes to the approved regulatory amendments that may be necessary to prepare them for publication in the *Maryland Register*.

**STAFF RECOMMENDATIONS:** Staff recommends approval of all motions.



Michael Eaton -MLGCA- &lt;michael.eaton@maryland.gov&gt;

## Marketing Promotions

1 message

**Michael Eaton -MLGCA-** <michael.eaton@maryland.gov>

Mon, Nov 21, 2022 at 4:31 PM

To: Curtis Lane Jr <Curtis.Lane@caesars.com>, Lisa Rankin <lrarkin@caesars.com>, Sarah Brennan <Sarah.Brennan@betmgm.com>, David Trueman <david.trueman@pointsbet.com>, Charles Dwaileebe <Charles.Dwaileebe@livech.com>, Brendan Lum <Brendan.Lum@fanduel.com>, "Pearl, Josh" <Josh.Pearl@pngaming.com>, Timothy Shea <Tim.Shea@pngaming.com>, Kevin Nelson <knelson@draftkings.com>, Laura McAllister Cox <lcox@rushstreetinteractive.com>, Todd Handzo <handzo@rushstreetinteractive.com>, Lorraine Rafferty <l.rafferty@draftkings.com>, Tanya Julius <TJulius@caesars.com>, "Martin, Patrick" <pmartin@mgmresorts.com>

Cc: Sonia Portillo -MLGCA- <sonia.portillo@maryland.gov>, Eric Morgan -MLGCA- <eric.morgan@maryland.gov>, Chester Cadogan -MLGCA- <chester.cadogan@maryland.gov>, Jason Goods -MLGCA- <jason.goods@maryland.gov>, George Macfarlane -MLGCA- <george.macfarlane@maryland.gov>, Michelle Green -MLGCA- <michelle.green3@maryland.gov>

Please share this with your marketing teams.

We have deemed the "Risk Free" language used in sports betting promotions as predatory. Going forward it shall not be allowed to be included in any Maryland specific advertising or promotions.

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**Michael Eaton, CPA, CIA**

Director of Audit and Regulatory

Compliance

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