

## STAFF AGENDA MEMORANDUM

**DATE OF MEETING:** May 22, 2025

**AGENDA ITEM:** Final Action on Proposed Amendments to Agency Regulations

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

**ISSUE SUMMARY:** On August 29, 2024, September 26, 2024, and October 24, 2024 several proposed amendments to Agency regulations were approved by the Commission. These were published in the *Maryland Register* on November 15, 2024, December 2, 2024 and December 13, 2024, respectively. Each is attached to this Agenda Item. Two regulations were withdrawn at the December 19, 2024 Commission Meeting. The Commission approved final action on proposed amendments to the General Provisions and some of the Lottery Provisions regulations at the April meeting; the remainder are being presented today. The proposed amendments affected regulations in:

COMAR 36.02 – Lottery Provisions  
COMAR 36.03 – Gaming Provisions  
COMAR 36.04 – Video Lottery Terminal  
COMAR 36.05 – Table Games  
COMAR 36.08 – Skills-Based Amusement Devices  
COMAR 36.09 – Online Fantasy Competition  
COMAR 36.10 – Sports Wagering Provisions

### *Public comment on the proposed amendments.*

During the various 30-day public comment periods for the proposed amendments, the Agency received comments on certain regulations. These comments are published on the Agency's website for the Commission's and the public's review.

The public comment periods have concluded, and the last of the proposed regulatory amendments are now before the Commission for approval for their final publication in the *Maryland Register*. They will take effect 10 days after publication.

We have grouped the regulations according to those on which no comments were received; those on which comments were received, but Staff is not recommending any changes; those on which comments were received and a change is recommended; and those on which comments were received, and the Agency is recommending that the proposed changes be withdrawn and the regulations not be submitted for final publication.

## **No Comments Received**

### **COMAR 36.02.08 Lottery Provisions – Published in December 13, 2024 *Maryland Register***

#### **.01 Definitions.**

No comments received.

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

#### **.02 General.**

No comments received.

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

#### **.03 [~~Who May Seek~~] Petition for Assignment.**

No comments received.

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

#### **.04 [~~Affidavits~~] Required Submissions.**

No comments received.

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

#### **.05 Submission to Agency. (Repealed)**

No comments received.

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

#### **[.06].05 Fees.**

No comments received.

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

#### **[.07].06 Special Requirements.**

No comments received.

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

#### **[.08].07 Requirements for Court Orders.**

No comments received.

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

#### **.09 Agency Response. (Repealed)**

No comments received.

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

### **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards -**

Published in November 15, 2024 *Maryland Register*

**.07 Annual Audit and Other Regulatory Reports.**

No comments received.

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

**.12 Surveillance Department Operating Procedures.**

No comments received.

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

**.14 Security Department Operating Procedures.**

No comments received.

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

**.28 Counter Check Substitution, Consolidation, and Redemption.**

No comments received.

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

**.38 Jackpot Payout.**

No comments received.

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

**.52 Promotional Offers and Tournaments.**

No comments received.

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

**COMAR 36.08.01 General** - Published in November 15, 2024 *Maryland Register*

**.02 Definitions.**

No comments received.

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

**COMAR 36.08.02 Registration** - Published in November 15, 2024 *Maryland Register*

**.01 Registration.**

No comments received.

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

**COMAR 36.08.03 Amusement Gaming License** - Published in November 15, 2024 *Maryland Register*

**.01 Definition.**

No comments received.

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

**.02 Amusement Gaming License.**

No comments received.

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

**.03 Corrective Action.**

No comments received.

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

**.04 Sanctions.**

No comments received.

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

**.06 Hearings.**

No comments received.

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

**COMAR 36.08.04 General Standards** - Published in November 15, 2024 *Maryland Register*

**.03 Enforcement Action.**

No comments received.

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

**COMAR 36.09.02 Registration and Enforcement** - Published in November 15, 2024  
*Maryland Register*

**.01 Application for Registration.**

No comments received.

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

**[.03].04 [~~Fees.~~] Registration Fee.**

No comments received.

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

**[.04].05 Renewal Requirements.**

No comments received.

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

**COMAR 36.09.03 General Standards and Prohibitions** - Published in November 15, 2024  
*Maryland Register*

**.02 Prohibition on Fantasy Competition Kiosks. (Repealed)**

No comments received.

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

**[.03].02~~[Restriction on Fantasy Competition Play by]~~ Individuals ~~[Associated]~~ Affiliated with Operators Prohibited from Fantasy Competition Play.**

No comments received.

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

**COMAR 36.09.04 Financial Standards** - Published in November 15, 2024 *Maryland Register*

**.01 Financial Account Protections.**

No comments received.

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

**.03 Prohibition on ~~[Extensions]~~ Extension of Credit.**

No comments received.

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

**.05 ~~[Taxation]~~ Proceeds; Tax.**

No comments received.

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

**.06 ~~[Reporting]~~ Reports.**

No comments received.

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

**COMAR 36.09.05 Responsible Gaming-** Published in November 15, 2024 *Maryland Register*

**.03 Fantasy Competition Operator Responsibilities.**

No comments received.

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

**COMAR 36.10.12 Collection of Taxes, Fees, and Penalties** - Published in November 15, 2024 *Maryland Register*

**.03 Obligation to Pay.**

No comments received.

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

**COMAR 36.10.13 Sports Wagering Licensee Minimum Internal Control Standards** - Published in November 15, 2024 *Maryland Register*

**.45 Wind Down and Cessation of Operations.**

The Center of Excellence (COE) supports the proposed changes.

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

**COMAR 36.10.14 Sports Wagering Requirements and Limitations** - Published in November 15, 2024 *Maryland Register*

**.06 Reserve.**

FanDuel supports the proposed changes.

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

**COMAR 36.10.18 Sports Wagering Technical Standards** - Published in November 15, 2024 *Maryland Register*

**.05 Bettor Accounts.**

FanDuel supports the proposed changes.

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

**COMMISSION ACTION REQUESTED – MOTIONS FOR:**

- 1) Commission approval for final publication in the *Maryland Register* of the above proposed amendments to Agency regulations that were initially published on November 15, 2024, December 2, 2024, and December 13, 2024 in the *Maryland Register*.
- 2) 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.

## **Comments Received – No Recommended Changes**

*The proposed amendments to COMAR 36.03, 36.04, 36.08, 36.09 and COMAR 36.10 were the subject of public comment. Below are portions of the proposed changes that are the subject of the comments the Agency received, as well as discussion from Staff.*

### **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards**

**.20 Checks Accepted from a Player.** – Published in the November 15, 2024 *Maryland Register*

A. – J. (text unchanged)

K. On a single gaming day, a facility operator may accept a check or multiple checks which:

(1) In the aggregate do not exceed [~~\$250,000~~] \$500,000; and

(2) (text unchanged)

The COE suggests that the Agency reverse the changes to the existing regulation.

Agency Response: These are gaming checks issued by facilities for jackpots so the facilities should be able to cash them. The check cashing limit for personal checks has not been increased and is limited to \$50,000 during a gaming day.

Recommendation: approve as published, no changes.

### **COMAR 36.04.02 Video Lottery Terminal Machines** - Published in the November 15, 2024 *Maryland Register*

**.02 Authorized Video Lottery Terminals.**

A. – B. (text unchanged)

C. Implementation of Approved Request for Reduction.

(1)- (5) (text unchanged)

(6) [~~For each authorized video lottery terminal on its license, a facility operator shall pay the annual fee of \$425 required by State Government Article, §9-1A-33, Annotated Code of Maryland.~~]

A facility operator shall pay the annual fee of \$425 required by State Government Article, §9-1A-33, Annotated Code of Maryland, for each terminal at the beginning of each calendar year.

(7) The annual fee is based on the highest number of video lottery terminal positions in use on any day during the prior calendar year.

[~~(7)~~](8) (text unchanged)

D. Request to Increase Number of Authorized Video Lottery Terminals on a License.

(1) – (4) (text unchanged)

(5)[~~For each authorized video lottery terminal on its license, a facility operator shall pay the annual fee of \$425 required by State Government Article, §9-1A-33, Annotated Code of Maryland.~~]

A facility operator shall pay the annual fee of \$425 required by State Government Article, §9-1A-33, Annotated Code of Maryland.

(6) The annual fee is based on the highest number of video lottery terminals in use on any day of the calendar year.

[~~(6)~~](7) – [~~(7)~~](8) (text unchanged)

E. (text unchanged)

The COE suggests that the Agency reverse the proposed changes to the regulation because they could reduce funding for responsible gaming programs.

Agency Response: The Agency updated the regulations to comply with the statute and is not able to make the recommended change.

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

## **COMAR 36.09.01 General** - Published in the November 15, 2024 *Maryland Register*

### **.02 Definitions.**

A. (text unchanged)

B. Terms Defined.

(1) "Beginner player" means ~~[any]~~ a fantasy competition player who:

(a) (text unchanged)

(b) ~~[Does not meet the definition of highly]~~ Is not a highly experienced player.

(2) (text unchanged)

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

~~(a) A prize is awarded;~~

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

~~(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.]~~

(3) Fantasy Competition.

(a) "Fantasy competition" means any online fantasy or simulated game or contest such as fantasy sports, in which:

(i) Participants own, manage, or coach imaginary teams;

(ii) All prizes and awards offered to winning participants are established and made known to participants in advance of the game or contest;

(iii) The winning outcome of the game or contest reflects the relative skill of the participants and is determined by statistics generated by actual individuals (players or teams in the case of a professional sport);

(iv) No winning outcome is based solely on the performance of an individual athlete or on the score, point spread, or any performances of any single real-world team or any combination of real-world teams;

(v) Players may pay an entry fee;

(vi) The operator offering the competition receives compensation for organizing the fantasy competition; and

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

(i) Sports wagering under State Government Article, §§ 9- 1E-01 et seq., Annotated Code of Maryland;

(ii) A fantasy competition where a player competes directly or only against another

(iii) A wager in which a player chooses between two or more lineups, athletes, outcomes, or similar statistical groupings, and commonly referred to as pick em;

(iv) A wager in which a fantasy competition operator sets a number for a statistic in a fantasy competition, and a player wagers that the actual result in the competition will be higher or lower than the number set by the operator and commonly referred to as an over-under wager or bet;

(v) A wager the involves two or more wagers combined into one wager an commonly referred to as a parlay; or

(vi) A wager on an individual action, statistic, occurrence, or non-occurrence which is determined during a fantasy competition and commonly referred to as a proposition wager or bet.

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

(5) (text unchanged)

(6) “Fantasy competition player” [~~has the meaning stated in State Government Article, §9-1D-01, Annotated Code of Maryland~~] or “player” means an individual who participates in a fantasy competition offered by an operator.

(7) “Fantasy contractor” means any person or entity who:

(a) Is registered to do business in the State;

(b) Operates in the State;

(c) Manages a fantasy competition platform;

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

~~[(b)]~~ (e) Has regular access to:

(i) (text unchanged)

(ii) Information on ~~[a fantasy competition]~~ an operator’s computer network that is not publicly available; or

(iii) ~~[A fantasy competition]~~ An operator’s proprietary information that may affect ~~[gameplay]~~ the outcome of a competition.

(8) “Highly experienced player” means ~~[any]~~ a fantasy competition player who has:

(a) Entered more than 1,000 fantasy competitions offered by a single ~~[fantasy competition]~~ operator; or

(b) (text unchanged)

(9) – (10) (text unchanged)

(11) “Player funds” means funds deposited by a fantasy competition player into an account to facilitate entry into a fantasy ~~[competitions]~~ competition.

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

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

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

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

(13) – (16) (text unchanged)

(17) “Segregated account” means a financial account that ~~[segregates]~~ separates funds owned by a fantasy player from the operational funds of ~~[a fantasy competition]~~ an operator.

Several entities recommended that the Agency modify the provision to make clear that head-to-head fantasy competitions may be offered by fantasy competition operators.

Agency Response: Under Maryland Law, head-to-head competitions fall within the definition of sports wagering as an "exchange wager" and therefore cannot be offered as a fantasy competition. This modification is to clarify that fantasy competition operators may not offer sports wagering.

PrizePicks recommended the Agency reverse the changes to the statutory definition of "fantasy competition".

Agency Response: The changes proposed clarify that fantasy competitions that fall within the definition of sports wagering may not be offered.

Yahoo and Betr recommended the Agency modify the current definition of a fantasy competition to include only those competitions that require an entry fee.

Agency Response: The proposed amendments were to regulatory style and did not change the existing language. To reiterate, only competitions that require a fee are considered fantasy competitions by virtue of the definition of "entry fee" in statute, and that definition carries over into the regulation in COMAR 36.09.01.02.

Betr recommended the Agency modify this regulation and allow pick 'em style competitions to be offered by fantasy competition Operators in the State of Maryland.

Agency Response: Pick'em style competitions fall within the definition of sports wagering as a "parlay" and therefore cannot be offered as a fantasy competition. This modification is to clarify that fantasy competition operators may not offer sports wagering.

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

## **COMAR 36.09.02 Registration and Enforcement** - Published in the November 15, 2024 Maryland Register

### **.02 Approval of a Fantasy Competition.**

A. For each fantasy competition to be offered by an operator, the competition's rules as required under Regulation .03 of this chapter shall be approved by the Commission.

B. An operator shall ensure that Agency staff may access the fantasy competition platform to:

(1) Test the fantasy competition offering;

(2) Verify that the fantasy competition's terms, instructions, and rules are:

(i) Consistent with applicable laws and Agency regulations

(ii) Consistent with State Government Article, Title 9-1D, Annotated Code of Maryland and this subtitle; and

(iii) Prominently displayed;

(3) Verify that the fantasy competition operates in compliance with State Government Title 9, Subtitle 1D, Annotated Code of Maryland and this subtitle; and

(4) Monitor the fantasy competition to verify ongoing compliance with State Government Article, § 9-1D-01(d), Annotated Code of Maryland and this subtitle.

C. An operator shall provide evidence satisfactory to the Commission that it has established and will implement procedures to:

(1) Restrict fantasy competition play as required under COMAR 36.09.03.03;

(2) Comply with financial standards as required under COMAR 36.09.04;

(3) Comply with its Agency-approved responsible gaming plan as required under COMAR 36.09.05; and

(4) Any additional information required by the Commission.

D. If the Commission determines that an operator's offering is not a fantasy competition then that offering may not be provided in the State by the operator.

E. A determination under this regulation is final and not appealable.

F. The Commission may maintain a publicly available list of approved registered fantasy competition operators.

The COE suggests that the Agency change 36.09.02.02(F) from the Commission "may" maintain a publicly available list of approved registered fantasy competition operators to "shall".

Agency Response: A change is not needed as the list of approved registered fantasy competition operators is maintained on the Agency's website.

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

### **[.02].03 New or Modified 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.]~~ New fantasy competition.

(1) If a registered fantasy competition operator seeks to offer a fantasy competition that the Commission has not yet approved, the operator shall submit to the Commission the information about the offering required under COMAR 36.09.02.

(2) An operator may not offer a fantasy competition until the Commission has approved the offering.

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

(1) As provided in §B(2) of this regulation, a fantasy competition operator may offer a modified fantasy competition without submitting a new set of 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)]~~ (b) The prize value or entry fee of [a] for the fantasy competition;

(c) [and] The 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)]~~ (d) Adjustments to a scoring system related to number of points a player may obtain for a particular event; and

~~[(8)]~~ (e) Adjustments to a salary cap or budget related to the fantasy team a player creates.

DraftKings requested clarification regarding what "the same format" constitutes for an operator seeking approval for a new or modified fantasy competition where only minor modifications have been made.

Agency Response: Ultimately, if something in the contest design changes, it should be provided to the Agency because it is within Staff's discretion to require the rules be submitted to the Agency for approval or resubmitted, if modified.

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

**.06 Enforcement Action.**

A. The Commission may take enforcement action against an operator for noncompliance with State Government Article, § 9-1D-01(d), Annotated Code of Maryland or this subtitle.

B. Enforcement action may include:

(1) Suspension of an operator's registration; or

(2) Termination of an operator's registration;

C. An operator whose registration is suspended or terminated shall:

(1) Cease offering fantasy competitions in the State; and

(2) Take action directed by the Commission.

D. The Commission may consider an enforcement action taken under this Regulation when evaluating the operator's qualification for a license, registration or certification issued by the Commission.

DraftKings requested the Agency modify this provision to include an imposition of a monetary penalty or any other remedial action the MLGCA deems appropriate.

Agency Response: The Agency has no statutory authority to impose a monetary sanction on fantasy competition operators.

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

**COMAR 36.09.03 General Standards and Prohibitions** - Published in the November 15, 2024 Maryland Register

**.01 [~~Prohibition on~~] Individuals Affiliated with the Agency Prohibited from Fantasy Competition Play.**

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

A. [~~A minor, who is an~~] An individual under the age of 18;

B. (text unchanged)

C. An [~~officer or an~~] employee of the Agency;

D. An individual who lives in the same principal residence as a Commission member or an [~~officer or~~] employee of the Agency and is the member's [~~, officer's,~~] or employee's:

(1) Spouse [~~or domestic partner~~];

(2) – (4) (text unchanged)

E. An individual who has [~~asked to be excluded~~] requested direct exclusion under COMAR 36.09.05.

The COE has requested that the Agency reverse the changes to the existing regulation and keep "domestic partner".

Agency Response: The changes were made to this regulation to mirror the statutory requirements for other gaming activities.

The COE has requested that the Agency change the age from 18 to 21 to participate in a fantasy competition.

Agency Response: The Agency restricts access to fantasy completions in accordance with historical implementation of the Fantasy Competition Law. State Gov't § 9-1D-05, Annotated Code of Md. The Agency does not have statutory authority to modify ages that may participate in gaming activities.

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

**[.04].03 [Prohibition on Fantasy Competition Play by Athletes and Others] *Athletes and Affiliates Prohibited from Fantasy Competition Play.***

A. An athlete, sports agent, team employee, handler, referee, or league official, or a member of ~~that~~the individual's immediate family, is prohibited from ~~entering~~participating in a fantasy ~~competitions~~competition that is based on an underlying sporting ~~events~~event in which the individual ~~is a participant~~is affiliated.

B. An athlete, sports agent, team employee, handler, referee, or league official, or a member of that individual's immediate family, may not enter fantasy competitions based on underlying sporting events in which the individual is a participant through another person as a proxy.

DraftKings has requested that the Agency define the term "handler" to ensure compliance with the provision.

Agency Response: The Agency will update regulations during the 2025 review to include a definition of handler.

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

**[.05].04[Ensuring Fair Outcomes in Fantasy Competitions] *Player Protections.***

A. ~~[Fantasy Competition]~~ Scripts.

(1) A fantasy competition operator may not permit the use of ~~[unauthorized scripts]~~ a script on a ~~[fantasy competition]~~ platform ~~[and shall use commercially reasonable efforts to monitor for and prevent use of such scripts.]~~ if the script would allow a player to gain a competitive advantage by:  
~~[(2) For the purpose of 5A(1) of this regulation, scripts shall be treated as offering a competitive advantage if potential uses include:]~~

(a) Facilitating changes in many ~~[line-ups]~~ lineups at one time;

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

(c) (text unchanged)

(d) Gathering information about the performance of others for the purpose of identifying or entering competitions against other less successful fantasy competition players ~~[who are less likely to be successful].~~

~~[(3)](2) [Authorized scripts]~~ Scripts shall be available to all fantasy competition players by incorporation ~~[shall either be incorporated]~~ as a game feature or ~~[be]~~ prominently displayed ~~[and thereby made available to all fantasy competition players].~~

B. Beginner Games and Identification of Highly Experienced Players.

(1) ~~[Fantasy competition operators shall]~~ An operator may offer ~~[some]~~ fantasy competitions that are limited to beginner players and exclude highly experienced players.

(2) ~~[Fantasy competition operators]~~ An operator shall ~~[clearly and]~~ prominently ~~[display]~~ indicate 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) A fantasy competition]~~ An operator shall ~~[disclose]~~ identify the number of entries a fantasy competition player may submit for each fantasy competition.

~~[(2) A fantasy operator shall take reasonable steps to prevent fantasy competition players from submitting more than the allowable number of entries.]~~

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

E. Disputes. ~~[Fantasy competition operators]~~An operator shall provide ~~[an opportunity for fantasy competition]~~ a mechanism for a ~~[players]~~ player to ~~[file a player]~~ raise a dispute with an operator.

F. Data. ~~[Fantasy competition operators]~~An operator shall prominently display the source of the data utilized in determining results.

DraftKings has requested clarification if the provision referenced applies only to unauthorized scripts. If so, does the MLGCA intend to prohibit third-party lineup construction tools or third-party entities that aggregate results?

Agency Response: This clarification is not necessary because the updated regulation describes what is not permitted. A(2) requires that scripts on the platform shall be available to all players.

Betr has requested that the Agency revert these edits to the original language of this section, or at a minimum limit the restrictions on scripts to only those offered by third parties.

Agency Response: This clarification is not necessary because the updated regulation describes what is not permitted. A(2) requires that scripts on the platform shall be available to all players.

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

**[.06] .05 Prohibition on Fantasy Competitions Based on Amateur Sports.**

~~[A fantasy competition]~~An operator may not offer a fantasy competition based on a sporting event featuring amateur athletes who are primarily under 18 years old.

The COE has requested the Agency remove the term "primarily" from the current regulation stating an operator may not offer a fantasy competition based on a sporting event featuring amateur athletes who are primarily under 18 years old.

Agency Response: This regulation only proposed to change the term "The fantasy competition operator" to "An operator" and did not propose a change to the commented language. Further, there are certain competitions in which a limited number of minors participate and the restriction would limit wagers on those events.

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

**[.07].06 Prohibition on Advertising.**

~~[Fantasy competition operator advertisements]~~Except for professional athletes and sports, an operator's advertisement may not depict:

- A. Minors, ~~[except professional athletes who may be minors];~~
- B. Students; or
- C. Schools or colleges ~~[-or]~~
- D. School or college settings].

The COE has requested the Agency modify the regulations to include "School or college settings".

Agency's Response: The proposed regulations were to comply with the Regulation Style Manual and remove a redundant comment. The regulation currently addresses what is requested in the comment.

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

**COMAR 36.09.04 Financial Standards** - Published in the November 15, 2024 *Maryland Register*

**.02 Limits on Deposits.**

- A. This regulation does not apply to a season-long fantasy~~[competitions]~~ competition.
- B. Except as provided in §C of this regulation, a fantasy competition player may not deposit more than \$5,000 in a single calendar month with ~~[a fantasy competition]~~ an operator.
- C. ~~[Exception.]~~ A ~~[fantasy competition]~~ player may request ~~[a fantasy competition]~~ an operator to temporarily or permanently increase ~~[a]~~ the player's deposit limit above \$5,000 per calendar month ~~[only]~~ if:
- (1) ~~[The fantasy competition operator has established and prominently displayed procedures for considering a request from a fantasy competition player to increase the deposit level;~~
- ~~(2)]~~ Procedures for considering a request from a fantasy competition player to increase a deposit level include evaluation of information, including evidence of income or assets, sufficient to confirm the financial ability of a ~~[fantasy competition]~~ player to afford losses which may result from fantasy competition play at the deposit level requested by the ~~[fantasy competition]~~ player; and
- ~~[(3)]~~ (2) After the operator approves a player's temporary or permanent deposit level increase ~~[has been approved]~~, the ~~[fantasy competition]~~ player undergoes an annual evaluation by the ~~[fantasy competition]~~ operator of information sufficient to confirm the continued financial ability of the ~~[fantasy competition]~~ player to afford losses that may result from fantasy competition play at the increased deposit level.

The COE has requested that the Agency modify the current regulation to make this review quarterly or entirely removing the ability to increase the deposit limit.

Agency Response: The change is not recommended at this time, but staff will continue reviewing this matter to determine if changes are appropriate.

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

**.07 Tax Laws and Disclosures.**

- A. (text unchanged)
- B. A fantasy competition operator shall ~~[disclose]~~ provide a player with notice of State and federal tax reporting and withholding requirements ~~[to fantasy competition players before the fantasy competition begins and again at the time of award of any prize in excess of \$600];~~
- (1) Before a fantasy competition begins; and
- (2) When a player receives winnings in excess of \$600.

DraftKings has requested that the Agency modify the regulation to allow for notice of State and Federal tax reporting and withholding requirements to be met by a player's acceptance of a fantasy contest operator's terms and conditions of use on its fantasy competition platform.

Agency Response: The disclosures in the Terms and Conditions of the operator is acceptable and this regulation would not modify that practice.

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

**COMAR 36.09.05 Responsible Gambling** - Published in the November 15, 2024 *Maryland Register*

**.01 Direct Exclusion Through Fantasy Competition Operator.**

A. An individual may request exclusion from ~~[entering a]~~ fantasy competition play 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. ~~[A fantasy competition]~~ An operator shall implement and prominently display procedures for players to self-exclude themselves.

C. Self-excluded persons may not collect ~~[any prizes]~~ a prize or recover ~~[any losses]~~ a loss. ~~[arising as result of any prohibited participation in a fantasy competition operator's fantasy competition].~~

D. A request for self-exclusion from a fantasy competition may result in exclusion from other gaming platforms that the operator offers.

~~[D.]~~ E. A request for exclusion submitted to ~~[a fantasy competition]~~ an operator:

(1) Is not ~~[an application for voluntary exclusion through the Commission under COMAR 36.01.03]~~ a request to be placed on the Commission's Voluntary Exclusion List for participating in fantasy competitions under COMAR 36.01.03;

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

(3) (text unchanged)

The COE has requested that the Agency modify the current regulation to require anyone requesting self-exclusion from an operator (direct exclusion) to be automatically added to the Commission's voluntary exclusion list for fantasy sports competitions.

Agency Response: Players are currently able to submit an application to the MLGCA to request self-exclusion from all registered fantasy competition operators. To make this change would be unilaterally expanding what the players agreed to when they established their direct exclusion.

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

**.02 Responsible Gaming Plan.**

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

(1) – (8) (text unchanged)

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

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

D. ~~[A fantasy competition]~~ An operator shall submit to the Commission an annual report.

The COE has requested that the Agency confirm that the material should be easily visible.

Agency Response: The Agency requires operators to submit a responsible gaming plan with this information on the required materials.

The COE also requests that responsible gaming plans will be made publicly available.

Agency Response: This request may be considered in the future.

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

## COMAR 36.10.13 Sports Wagering Licensee Minimum Internal Control Standards -

Published in the November 15, 2024 *Maryland Register*

### .06 Annual Audit and Other Regulatory Reports.

A. (text unchanged)

B. ~~[The annual financial statements shall be prepared on a comparative basis for the current and prior fiscal year and present financial position and results of operations in conformity with generally accepted accounting principles in the United States.]~~

*The annual financial statements shall be:*

*(1) Prepared on a comparative basis for the current and prior fiscal year and present financial position and results of operations in conformity with generally accepted accounting principles in the United States; and*

*(2) If the revenue and assets of the Maryland sports wagering licensee operations are less than seventy five percent of the combined total of the operator's parent, Maryland specific audited annual financial statements of the sports wagering licensee revenue and assets.*

C. – R. (text unchanged)

BetMGM has requested that the Agency revise this provision to allow operators to submit the audited supplemental schedule of revenue and expenses and consolidated audited financial statements. FanDuel has requested that the Agency remove the added language in 36.10.13.06(B)(2) in its entirety while adding a clarification that a parent company's audited financial statements may be submitted.

Agency Response: This requirement is applicable to a sports wagering facility licensee or mobile sports wagering licensee but not to sports wagering operators.

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

### .37 Bettor Complaints.

A. A sports wagering licensee shall attempt to timely resolve a dispute with a bettor concerning the licensee's sports wagering operation or payment of alleged winnings within 7 days after receiving the complaint.

B. ~~[A sports wagering licensee who is unable to satisfactorily resolve a dispute with a bettor within 3 days of notice of the dispute shall notify the Commission of the dispute.]~~

*A sports wagering licensee shall maintain, in a retrievable format approved by the Commission, a copy of all bettor complaints and all documentation of the licensee's response.*

C. ~~[On receipt of notice by the sports wagering licensee of the dispute, the Commission shall provide the bettor with a Commission bettor complaint form together with instructions for completing and submitting the form]~~

D. ~~The Commission shall investigate a complaint submitted to the Commission and notify the bettor and sports wagering licensee of its determination.~~

E. ~~The Commission may provide a bettor with a complaint form at any time upon request.]~~ *On receipt of a complaint, the Commission shall investigate and notify the bettor and sports wagering licensee of its determination.*

DraftKings has requested that the Agency modify the regulations from "7 days" to "7 business days" and to note that a bettor is the only party who can determine whether a bettor's complaint has been resolved to their satisfaction.

Agency Response: In accordance with COMAR 36.10.01.02, "day" means calendar day and is not otherwise modified in COMAR 36.10.13.37. The number of days to resolve a complaint has just been changed from 3 days to 7 days, so another change at this time is not warranted. The Agency also agrees that only a bettor can determine if a complaint has been resolved to their satisfaction.

BetMGM has requested that the Agency extend the dispute resolution timeframe from 7 days to 10 days.

Agency Response: The number of days to resolve a complaint has just been changed from 3 days to 7 days, so another change at this time is not warranted.

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

#### **.40 Security of Funds and Data.**

A. (text unchanged)

B. [~~A sports wagering~~] Unless a bettor provides documentable consent to the sports wagering licensee, the licensee may not share information that could be used to personally identify a bettor or their gaming habits with any third party other than the Commission, law enforcement with a warrant or subpoena, or a credit-reporting agency when determining whether an individual is credit-worthy.

C. – J. (text unchanged)

DraftKings has requested that the Agency modify the regulations to allow for a sports wagering licensee to meet "documentable consent" through a bettor's consent to the personally identifiable information sharing practices described in a sports wagering licensee's privacy policy.

Agency Response: Notification to players that the terms and conditions with respect to sharing of personally identifiable data have changed and the player's acceptance of the changes is sufficient.

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

### **COMAR 36.10.18 Sports Wagering Technical Standards** - Published in the November 15, 2024 *Maryland Register*

#### **.04 Geolocation Systems.**

A. – D. (text unchanged)

E. [~~The Commission may require additional geolocation requirements.~~]

A sports wagering licensee shall:

(1) Prior to commencing operations, and annually thereafter, ensure its geolocation system is tested by a Commission approved testing laboratory;

(2) Ensure that testing of the geolocation system includes:

(a) Attempts to place wagers at locations from outside of the State from multiple locations within varying distances from the State border;

(b) Attempts to place wagers at locations within the State from multiple locations within varying distances from the State border; and

(c) Attempts to place wagers in which the tester crosses the State border;

(3) For all geolocation testing, ensure that the frequency of geolocation check is documented and tested;

(4) Ensure that testing confirms that a geolocation check occurs immediately upon a change of IP address;

(5) Ensure that testing includes static and mobile connections; and

(6) Ensure that testing is completed on all device types using the most prevalent versions available.

F. A sports wagering licensee shall grant the Commission read only access to its geolocation system as required by the Commission.

G. In addition to the requirements in this regulation, the Commission may require a sports wagering licensee to implement other geolocation features.

BetMGM and DraftKings have requested that the Agency remove the requirement for annual geolocation system testing.

Agency Response: The Agency believes annual testing is necessary and required to maintain the integrity of online sports wagering.

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

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

- 1) Commission approval for final publication in the *Maryland Register* of the above proposed amendments to Agency regulations that were initially published on November 15, 2024.
- 2) 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.

## **Comments Received – Change Recommended**

*The proposed amendments to COMAR 36.09 were the subject of public comment. Below are portions of the proposed changes that are the subject of the comments the Agency received, as well as discussion from Staff.*

### **COMAR 36.09.04 Financial Standards** - Published in the November 15, 2024 *Maryland Register*

#### **.04 Financial Auditing.**

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

B. The certified public ~~[accounting firm]~~ accountant that conducts the financial audit shall:

(1) (text unchanged)

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

~~[C. The financial audit does not preclude any State or federal agency from conducting an audit of a fantasy competition operator.]~~

~~[D.]~~ C. (text unchanged)

~~[E.](D) If the Commission deems it necessary, the Commission may]~~ Nothing in this regulation precludes the Commission's authority to require a fantasy competition operator ~~[that is not otherwise required by 5A of this regulation to have a financial audit performed by a certified public accountant.]~~ to obtain more than one financial audit annually and provide the Commission with the audit report.

Betr has requested that the Agency modify the financial audit requirement to only apply to operators who have fantasy competition "proceeds" of \$250,000 or more in Maryland.

Agency Response: Staff has considered this request and agrees that only revenue generated within Maryland for purposes of determining if audited financial statements are required.

**Recommendation:** retain the reference to Maryland revenues that was removed, and approve the remainder as published.

## **Comments Received – Withdrawal and Possible Future Modification**

### **Recommended**

*The proposed amendments to COMAR 36.03, 36.05, 36.08 and 36.10 were the subject of public comment. Staff recommends that these amendments be withdrawn at this time.*

## **COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards -**

Published in the December 2, 2024 *Maryland Register*

### **.36 Promotional Play.**

Several entities recommend withdrawing the proposed regulation and reverting to the current treatment of promotional play deductions.

**Recommendation: The proposal to eliminate the casino promotional play deduction was withdrawn by the Commission at its December 2024 meeting and requires no further action at this Commission Meeting.**

## **COMAR 36.05.03 Table Game Procedures -**

Published in the December 2, 2024 *Maryland Register*

### **.15 Table Game Taxes and Gross Table Game Revenue.**

Several entities recommend withdrawing the proposed regulation and reverting to the current treatment of promotional play deductions.

**Recommendation: The proposal to eliminate the casino promotional play deduction was withdrawn by the Commission at its December 2024 meeting and requires no further action at this Commission Meeting.**

## **COMAR 36.08.04 General Standards -**

Published in the November 15, 2024 *Maryland Register*

### **.01 General Standards.**

A. A skills-based amusement device is not legally operated if:

(1) Unless authorized under COMAR 36.08.03, the merchandise, prizes, tickets, tokens, or other objects awarded [~~per play~~] exceeds the minimal value;

(2) - (8) (text unchanged)

B. The merchandise, prizes, tickets, tokens or other objects that are awarded by a skills-based amusement device may be accumulated and exchanged for non-cash merchandise or prizes [~~of value that is similar to the cumulative value of the items exchanged.~~] that have a wholesale value of not more than the minimal value.

C. If a registered skills-based device owner offers a device described in §A of this regulation, the Commission may take enforcement action as provided in Regulation .03 of this chapter.

Representatives for Dave & Buster's suggest that the Agency reverse the changes to the existing regulation.

**Recommendation:** Legislation was passed to permit individuals to accumulate credits to redeem prizes up to \$599. Staff will update the regulations to align with the legislation.

**COMAR 36.10.13 Sports Wagering Licensee Minimum Internal Control Standards -**  
Published in the December 2, 2024 *Maryland Register*

**.39 Promotional Play.**

A. – E. (text unchanged)

F. ~~[Limitation on Free-]~~ No Deduction From Proceeds for Promotional Play.

~~[(1) Through the first full fiscal year of a sports wagering licensee's operations, a licensee's proceeds exclude money given away by the licensee as free promotional play and used by bettors to make a sports wager.~~

~~[(2) After the first full fiscal year of a sports wagering licensee's operations, the amount of money given away as free promotional play in a fiscal year may not exceed a percentage of the licensee's proceeds received in the prior fiscal year that equates to 20 percent of total sports wagering proceeds that the sports wagering licensee generated in the prior fiscal year.~~

~~[(3) After the first fiscal year of sports wagering activity, the 20 percent cap specified under §F(2) of his regulation includes all revenues generated by casino sports wagering and gaming activities.~~

~~[(4) An amount of money given away as free promotional play in a fiscal year exceeding the percentage defined in §F(2) of this regulation of the sports wagering licensee's proceeds of the prior fiscal year shall be allocated as proceeds.]~~ No percentage of promotion play may be deducted from proceeds.

G. No later than 90 days after the end of the fiscal year, a sports wagering licensee shall submit to the Commission a written [:

~~(1) Report]~~ report of its use of free promotional play during the prior fiscal year ~~]; and~~

~~(2) Recommendation for any adjustment to the limitation on free promotional play established under §F(2) of this regulation.]~~

H. For purposes of ~~[§§F and G]~~ §G of this regulation, "fiscal year" means the fiscal year of the sports wagering licensee.

DraftKings has requested that the Agency withdraw this proposed regulation and revert their treatment of promotional play deductions back to its current status.

Agency Response: Agency Staff recommend withdrawal of this amended regulation pending further review.

**Recommendation:** Withdraw the proposed amendments to this regulation.

**COMMISSION ACTION REQUESTED – MOTIONS FOR:**

- 1) Commission approval for withdrawal of the regulations that have not already been withdrawn by the Commission prior to final publication in the *Maryland Register*.

**STAFF RECOMMENDATIONS:** Staff recommends approval of the motion.