April 5, 2021

Mr. Orlando Rivera
Executive Director
Puerto Rico Gaming Commission
San Juan, Puerto Rico

Sent via email:
infocjpr@comjuegos.pr.gov

RE: Puerto Rico Sports Betting, Betting on E-Sports, And Fantasy Contests Regulations

Dear Mr. Rivera:

The Puerto Rico Hotel and Tourism Association is the non-profit organization that represents the private tourism sector in Puerto Rico. Founded in 1950, the PRHTA has over 400 corporate members, including large, medium, and small hotels; casinos, restaurants, airlines and other companies that serve the tourism activity in Puerto Rico. Our mission is to be the forward-thinking tourism leader that serves, supports and advocates on behalf of Puerto Rico's Hospitality industry. We are the partner and voice of our members in supporting awareness, advocacy, educational platforms and tools to grow B2B relations and business results for the Puerto Rico Tourism sector.

During recent days, the Puerto Rico Gaming Commission (the "Commission"), published proposed revised regulations on sports betting and fantasy contests. On behalf of our membership, the PRHTA would like to submit the following concerns and recommendations, although for purposes of reference we followed the sports betting regulations, most of the concepts apply also to the fantasy contests as well:

1. The definition of "Hosting Center," must include at the end "…and affiliated to an operator." See page 6.

2. The term "Involuntary Exclusion List," shall also exclude persons and entities included in the Specially Designated Nationals and Blocked Persons List issued by OFAC, as provided by Section 6.2. See page 7.

3. The term "Kiosk," shall be specifically limited to those in Authorized Locations only. See page 7.

4. The term "Special Events" provides an extremely broad flexibility for the Commission to approve events, not generally contemplated. Additional restrictions to limit the concept to bonafide sports leagues shall be included. The Commission shall remove the reference to "Virtual Events and Fantasy Contests," since such activities were regulated separately. Also, the wording "even if they are not sports," shall be substituted with "related to sports." See page 10.

5. The term "Suspicious Activity," has a very narrow definition. The regulation shall adopt the definition, obligations and protections used by FinCen, in order to be consistent, since there seems to be two different tests for such concept, as discussed below. See page 11. See also the definition of "Unusual Activity," at page 12.

6. Section 2.1 B(3) shall include at the end "...provided, however, that duly licensed casino employees will be deemed in compliance with the licensing requirements automatically." See page 14.

7. Section 2.2 (A)(1)(a) shall be replaced to read "...Casinos and racetracks may be licensed as Principal Operators or as otherwise provided herein." See page 19. The ability of casinos to have various options to participate in sports betting, was recently discussed with representatives of the Commission, who agreed that there should not be a limitation for hotels with casinos to have other types of licenses, such as Point of Sale or Satellite Operators, among others. Therefore, it is imperative to make the change proposed herein, in order to implement the intention of the Commission and provide a non-discriminatory treatment to applicants.

8. Section 2.2 (A)(1)(b) must read "Hotels (with or without casinos), inns, horse betting agencies and cockpits may be licensed as Point of Sale or Satellite Operators." See page 19. See also comment under item 7 of this letter, which is hereby incorporated.

9. The Multijurisdictional Personal History Disclosure Form, the Supplemental Form to Multijurisdictional Personal History Disclosure Form (both referenced under Section 2.6(A) at page 21) and the Business Entity License Application Form (See section 2.10 (C) at page 23), shall be the same used for Casino licensing purposes. Accordingly, it must be clarified that they refer to the same forms, in order to avoid confusion and to allow for a deficient scrutiny that may contribute to forbidden practices under local and federal law, including, without limitation, money laundering.

10. Section 5.1 (A)(5)(c) at page 33, shall include provisions to regulate the peer-to-peer wagering, in order to maintain and promote the integrity of the game.

11. Section 5.1 at page 33, regarding Special Events, provides broad flexibility for the Commission to approve events, not generally contemplated. Additional restrictions to limit the concept to bonafide sports leagues shall be included.

12. Section 5.4 at page 38, regarding placement of wagers, shall require that other windows locations approved by the Commission shall be within Authorized Locations.

13. Section 7.6 at page 53, provides that abandoned accounts must stay with operators for five years during which time the operator must advertise the names of such accounts. If they are not claimed after five years, the balances are then transferred to the Financial Institutions Commissioner's Office, pursuant to Act No. 36-1989. Operators should be able to deduct the advertising costs from the balances of the accounts but turning the money over to the commission is a bit of a departure from how this situation is handled elsewhere in the United States. As an example, New Jersey regulators split the balances with operators. Therefore, after deducting the costs of for advertisement, only 50% of the balance should be sent to the Commission and the remainder 50% of the net amount, shall be kept by the operator, as revenue generated in the sports betting activity.

14. Section 6.6(G)(2) and 6.7(A) at pages 49-50, shall be modified to be consistent with the Suspicious Activity Reports required under federal law and regulations regarding benefits, obligations and protections. This section imposes a different standard, while later on the Regulation adopts the federal SAR Report. Note that the confidentiality of submission of the report is essential. At federal level it is a criminal offense for a person or entity to disclose the mere existence of such Report to anyone and its dissemination is very limited and restricted, not even with a Court order in a civil case. This will expose those required to fill the form to liability and inconsistencies by following two different standards. See other comments to suspicious activity reports included herein. This is of particular importance to Casinos that as financial institutions are required to comply with the federal standard.

15. Section 8.6 at pages 58-59, includes limits for deposits, withdrawals and payouts on kiosks: maximum deposits and withdrawals are capped at $10,000; tickets with a potential payout of more than $10,000 cannot be processed at kiosks; vouchers worth more than $3,000 cannot be issued or redeemed at kiosks; and tickets worth more than $3,000 cannot be redeemed at kiosks. There is no clear definition on the difference between a ticket and a voucher. In addition, the subparagraph B, still makes reference to form W-2G, that was eliminated since it does not apply to Puerto Rico, and subparagraph C shall limit the kiosks at Authorized Locations only.

16. Section 9.3 at pages 62-63, regarding Limitations and Exclusions, shall also exclude persons and entities included in the Specially Designated Nationals and Blocked Persons List issued by OFAC.

The PRHTA is committed to promoting a responsible betting system, not only from the operators' perspective but also an environment that protects the consumer. In addition, we would like to have a conference call at your earliest convenience to discuss the concerns and recommendations mentioned above, and any other matter in which we may be helpful.

Sincerely,

Miguel Vega
Chairman
PRTHA Casino Committee

April 5, 2021

Via Email to infocjpr@comjuegos.pr.gov
Puerto Rico Gaming Commission
P.O. Box 29156
San Juan, Puerto Rico 00929
Attn: Orlando Rivera Carrion, Executive Director

Re: Proposed Fantasy Contest Regulations and Sports Betting Regulations

Dear Executive Director Rivera Carrion:

In response to the proposed Fantasy Contest Regulations and Sports Betting Regulations put forth by the Puerto Rico Gaming Commission ("Commission"), DraftKings Inc. ("DraftKings") submits the following comments. As a leading fantasy contest operator and sports betting operator in the United States, DraftKings has first-hand experience with the topics addressed in the proposed regulations and submits these comments based on its operational knowledge and its consumers' experience in multiple regulated markets.

DraftKings would like to thank the Commission for its willingness to engage with stakeholders and consider previously provided feedback. DraftKings appreciates that the Commission has created two separate regulatory frameworks for fantasy contests and sports betting, a key modification from the previously issued draft regulations. While this recognition was a critical modification and a step in the right direction, DraftKings continues to have significant concerns with the proposed regulations for both fantasy contests and sports wagering, as detailed below.

Fantasy Contest Regulations

Statement of Motives

DraftKings believes that it is important to specifically address language that is included in the *Statement of Motives* which serves as the preamble for the proposed fantasy contest regulations. There is language included within this preamble that DraftKings believes demonstrates that standards used throughout the proposed fantasy contest regulations are inappropriately applied to fantasy contests. As previously mentioned – and acknowledged by the Commission in its separating out the regulations – fantasy contests are not the same as sports betting. Yet, language used throughout the *Statement of Motives* continues to conflate the two verticals.

For example, subsections (e) and (k) of the *Statement of Motives* read as follows:

> *e)* *Establish the way in which entry fees are received for authorized Fantasy Contests;* ***how payouts and spreads are reported, lines and odds determined for each available type****;*
>
> …

k) Establish requirements around controls and/or technical solutions to ensure the person participating in Fantasy Contests is associated with a player account, is at least eighteen (18) years of age and is ***located within Puerto Rico****;*

The concept of *spreads, lines, and odds* are not applicable to fantasy contests and are issues that fall squarely within the scope of the sports betting industry. Further, the idea of players having to be located within Puerto Rico to participate in fantasy contests would appear to be further conflation of the two verticals. For sports betting it is typical that an individual must be located within the jurisdiction where the licensee holds its license to participate in the market. However, with fantasy contests, no such restrictions are applied and the contests are conducted on a nationwide basis. This is a critical component of how fantasy contests operate and there are no jurisdictions that limits fantasy contests to one specific location/jurisdiction.

While these are two examples, DraftKings respectfully submits that the requirements throughout the proposed fantasy contest regulations appear to create a scenario where standards typically found in the sports betting realm are sought to be applied to the fantasy contest industry. Simply put, this just is not viable if Puerto Rico wishes to have a successful fantasy contest industry. DraftKings believes it is critical that the Commission look to other jurisdictions that have successfully implemented regulatory frameworks specifically for fantasy contests. DraftKings remains willing to engage with the Commission to ensure that the Puerto Rico fantasy contest industry is best positioned for success.

Article 1: General Provisions

Section 1.3 Definitions

~~*Adjusted Gross Revenue: The Total Revenue Received by the operator from players in Puerto Rico minus the total sums paid to winning players in Puerto Rico. This includes the cash equivalent of any merchandise or object of value awarded as a prize, the free play offered and payments of the tax on the consumption of specific goods to the Federal Government of the United States of America.*~~

DraftKings respectfully requests that the definition for *Adjusted Gross Revenue* included in the fantasy contest regulations be stricken in its entirety as it is inapplicable to fantasy contests and not what the applicable tax should be based upon. While DraftKings will have more comprehensive comments on the applicable tax later in this document, it is important to recognize that taxes from fantasy contests are to be based upon *Gross Revenue from Fantasy Contests* as defined in Gaming Commission Act of the Government of Puerto Rico.[1]

Days: Calendar days unless otherwise specified. Whenever any provision of these Regulations requires that an act or event take place on a specific day or date, and said day or date falls on a Saturday, Sunday, or official holiday, it shall be understood that said provision refers to the next business day following said day

[1] Article 4.1(6): "Gross Revenue from Fantasy Contests" is the sum equivalent to the total of all entry fees a Fantasy Contest Operator collects from all fantasy contest players Nationwide, less the total sums paid to winning players of the fantasy contests, multiplied by the localization percentage for Puerto Rico.

or date. When the term granted is less than 7 days, Saturdays, Sundays or intermediate legal holidays will be excluded from the calculation. A half day holiday will be considered a full holiday.

DraftKings respectfully requests clarification as to what constitutes an *official holiday* and if there is any distinction between an *official holiday* and a *legal holiday* as both terms are used in the aforementioned definition.

*Dormant Account: A Player Account ~~which~~ **that** has had no player-initiated activity for a period of ~~one (1)~~ **three (3)** year**s**.*

DraftKings respectfully requests the aforementioned modification be made to the definition of *dormant account* in order to conform to other regulated jurisdictions. DraftKings submits that applying a standard of one year to dormant accounts is without precedence and ignores operational realities of the fantasy contest industry.

*Fantasy Contest or Contest: A Special Event **with an entry fee** involving any game or contest or simulation in which: (a) One or more players compete against each other by grouping virtual rosters of real athletes or participants belonging to professional Sports Events or Special Events**;** ~~:~~ (b) These teams compete against each other based on cumulative statistical results of the performance of athletes or participants in real Sports Events or Special Events for a specific period**; and** ~~.~~ (c) The winning outcomes reflect the skills and relative knowledge of the players and are mostly determined by the cumulative statistical results of the performance of athletes or participants in real Sports Events or other Special Events.*

DraftKings respectfully requests the above modification in recognition that regulations are intended to apply to paid fantasy contest offerings and not those that do not include an entry fee. Free fantasy contests fall outside the scope of the applicable statute and the above clarification is necessary in order to avoid confusion on this point.

File: All documents that have not been declared as subject to disclosure by a legal provision and other materials related to a specific matter that is or has been before the Commission's consideration.

DraftKings respectfully requests clarification as to what constitutes a *legal provision* as the phrase is used in the foregoing definition.

Personally Identifiable information (PII): Sensitive information that could potentially be used to identify a particular player. Examples include a ~~legal name,~~ date of birth, place of birth, social security number (or equivalent government identification number), driver's license number, passport number, voter's Identification or other official identification, residential address, ~~phone number, email address,~~ debit instrument number, credit card number, bank or financial account numbers of any type with or without passwords or access code that may

have been assigned, names of users and passwords or access codes to public or private information systems, tax information, or other personal information if defined by the Commission.

DraftKings respectfully requests the above modification as legal name, phone number, and email address are items that rarely fall within the scope of personally identifiable information. While the other criteria used in the definition are appropriate, including these aforementioned categories will make an extremely broad definition and is unnecessary.

Article 2: Licensing Requirements

DraftKings has grave concerns with the licensing requirements contemplated in the proposed regulations. The proposed licensing framework goes far beyond what any other state has implemented for fantasy contests and is likely to create a scenario where it is impossible for fantasy contest operators to enter the Puerto Rico market. DraftKings believes it is critical for the Commission to further examine this proposed article and take steps to conform to other regulated jurisdictions so that the fantasy contest market is able to operate. DraftKings respectfully requests the following modifications:

~~**Section 2.1 Employee License**~~

DraftKings respectfully requests that Section 2.1 be deleted in its entirety. It is important to understand that there are currently ***no states*** where DraftKings offers its fantasy contest product that require employees to be licensed. The proposed employee licensing framework would be a drastic departure from how the fantasy contest industry is conducted and has the potential to sink the industry before it is even operational. Employee licensing – while common in the sports betting industry – is not something that takes place in the fantasy contest industry. That is because sports betting and fantasy contests are completely different industries. The Commission has acknowledged this by separating out the regulatory frameworks and DraftKings respectfully requests that the Commission continue to acknowledge the distinctions by treating the fantasy contest industry in the same manner it is across the United States.

Section 2.2 Enterprise License Types

B. Service Provider License

1) A legal person who supplies services directly necessary for the operation of the Fantasy Contests activity ***in Puerto Rico*** ~~*or who receives payment or compensation tied to player activity or in excess of 5% of the handle of any Licensee; who shares in a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or who provides any similar services that are material to conducting these activity as determined by the Commission*~~ *shall be considered a Service Provider and shall be required to obtain a license as a Service Provider. These services may include, but are not limited to:*

a) Identity Verification services
b) Information Technology (IT) services
c) Location services;

d) software,
e) Systems, or platform; data;
f) ~~Global Risk Management services,~~
g) Player accounts management systems;
h) payment services or processors
i) Technology Platform Provider
j) Hosting Center
k) Third-Party service providers with direct interface or interaction with player accounts or the Fantasy Contest System;

DraftKings respectfully requests the above modifications to the foregoing section of the proposed regulations. DraftKings is concerned that the specific language addressing a revenue share arrangement could encompass affiliate marketers that many fantasy contest operators work with in the industry. This group has not been required to be licensed in other fantasy contest jurisdictions and DraftKings submits that it would be inappropriate to require these entities to be licensed in Puerto Rico.

Further, DraftKings respectfully requests that section (B)(1)(f) be stricken as it is inapplicable to fantasy contests. *Global Risk Management services* is a concept found in the sports wagering industry and not the fantasy contests industry.

...

~~3) Companies that provide goods or services not directly related to Fantasy Contests will pay $ 2,000, such as cleaning companies, players' representatives ("junket") and their respective companies, restaurants, sale of articles, and provide consulting services on regulations. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto.~~ The Service provider license shall be valid for three (3) years.

DraftKings respectfully requests the above deletion as it is inappropriate to consider licensing of those companies that provide goods and services that are not directly related to the fantasy contest operation. To require the licensing of cleaning companies – as is suggested in the regulatory language – serves no public policy purpose and does nothing to further the integrity of the fantasy contest industry.

~~Section 2.3 Vendor Registration~~

DraftKings respectfully requests that section 2.3 be stricken in its entirety. Vendor registration is again something that no other state that regulates fantasy contest requires. To broaden the scope of required registration to encompass such a large swath of individuals that are not in any way directly involved in the fantasy contest operation is inappropriate and without any policy rationale. DraftKings submits that the broad classification contemplated in the service provider license section is more than sufficient to cover any entity that is directly involved in the fantasy contest operation and appropriately licensed.

Section 2.10 Qualification Requirements Before Granting a License

A. The Commission shall not issue a License to any legal person unless the applicant has established in advance the individual qualifications of each one of the following persons:

1) The enterprise;

2) The holding company (ies) of the enterprise;

3) Every owner of the enterprise who has, directly or indirectly, any interest in or is the owner of more than five percent (5%) of the enterprise;

4) Every owner of a holding company of the enterprise that the Commission deems necessary to promote the purposes of the Law and the Regulations;

5) Any director of the enterprise, except such director who, in the opinion of the Commission, is not significantly involved in or connected with the administration of the enterprise;

6) Every officer of the enterprise who is significantly involved in or who has authority over the manner in which the business dealing with the activities of the operator is conducted and any officer who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;

7) Any officer of the holding company of the enterprise who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;

~~*8) Any employee who supervises the regional or local office that employs the sales representatives who shall solicit business from or negotiate directly with the operator;*~~

~~*9) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any operator in Puerto Rico or any technological employee who has access to the facilities of the operator in the performance of his job duties;*~~

10) Any other person who the Commission considers should be qualified.

DraftKings respectfully requests that subsections 8 and 9 be stricken from the foregoing provision. DraftKings is concerned that the scope of individuals that would be included within these two sections would be hundreds of employees that should not be subject to this type of background check. As previously indicated, in the fantasy contest industry these individuals are not subject to employee licensing in any state and to subject this group to this type of background check is without a reasonable basis.

*A. To establish the individual qualifications, the persons specified in subparagraphs (A)(3) through (A)(~~10~~**8**) of this section shall complete Multijurisdictional Personal History Disclosure Form.*

DraftKings respectfully requests the above modification to conform to the previously submitted requested change.

Section 2.16 Records

A. All licensees authorized by the Commission shall maintain in a place secure against robbery, loss or destruction the records corresponding to the business operations, which shall be available to, and be produced for the Commission should the Commission request them. Said records shall include:

1) Any correspondence with the Commission and other governmental agencies at a local, state and federal level;

~~2) Any correspondence related to the business with the operator whether proposed or existing;~~

3) Copies of any publicity and promotional materials;

~~4) The personnel files for every employee of the authorized, including those for the sales representatives;~~

5) The financial records for all the transactions related to the business, whether proposed or existing.

B. The records listed in subparagraph (A) above shall be kept at least for a period of five (5) years.

C. ***Any records collected by the Commission or any other governmental agency in accordance with this section shall not be subject to public disclosure and shall be kept confidential.***

DraftKings respectfully requests that subsection A(2) and A(4) be deleted as the criteria identified is overly broad. Specifically, as to subsection A(2), DraftKings believes this creates a standard that will make compliance impossible given its abstract nature. Further, subsection A(4) is inappropriate as it ignores the manner in which the fantasy contest industry operates across the country. Should the commission deem that subsection A(4) is appropriate – something DraftKings believes would be unwarranted – DraftKings respectfully submits that the subsection should be limited to personnel files for those employees directly involved in the Puerto Rico fantasy contest operation. As an example, DraftKings has a multitude of other verticals that have no overlap with fantasy contests but this subsection would allow the Commission to obtain the personnel files for those individuals that have nothing to do with fantasy contests.

Additionally, DraftKings requests that a new subsection be added to this section to ensure that any documents collected by the Commission or other governmental agency in accordance with this section are kept confidential and not publicly disclosed.

Section 2.17 License Application Form

A. License Application Form shall be completed in the format provided by the Commission and may require the following information:

…

9) ~~The name, address, date of birth (if applicable), number and percent of shares owned by each person or entity with a beneficiary interest in any non-voting shares;~~

DraftKings respectfully submits that subsection A(9) should be deleted in its entirety as it does not accomplish any public policy goal as this group of identified individuals do not exercise any level of control over the fantasy contest operation as they are holders of non-voting shares.

10) The name, address, date of birth, title or position, and, if applicable, the percent of ownership in the enterprise of the following persons:

a) Every officer, director or trustee;

b) Every owner, or partner, including all the partners, whether general, limited or any other type; ***and***

c) Every beneficial owner who owns more than five percent (5%) of the voting shares;

~~*d) Every sales representative or other person who shall regularly solicit business from the operator;*~~

~~*e) Every manager who supervises a local or regional office which employs sales representatives or other persons who solicit business from the operator; and*~~

~~*f) Any other person not specified in subparagraphs (A)(10)(a), (b), (c), (d) and I above and who has signed or will sign service agreements with the operator;*~~

DraftKings respectfully requests the above subsections be deleted in their entirety. These provisions again ignore how the fantasy contest industry operates and applies a standard that is overly burdensome with no corresponding benefit to the public. If these sections were to remain it would encompass large swaths of employees that have no control over the Puerto Rico fantasy contests operation.

~~*11) A diagram that illustrates the ownership interest of any other person who has an interest in the applying enterprise;*~~

DraftKings respectfully submits that the above subsection be deleted in its entirety. DraftKings believes that this provision is overly burdensome and, for publicly traded companies, creates an impossible standard to comply with. As information for those individuals that control the fantasy contests operation will otherwise be disclosed, DraftKings respectfully submits that this subsection is unnecessary.

~~*12) The name, last known address, date of birth, position occupied in the enterprise, dates in said position, and the reason for leaving of any former officer or director who occupied any position during the preceding ten (10) years;*~~

~~*13) The annual compensation of each one of the partners, officers, directors and trustees;*~~

DraftKings respectfully requests that the above subsections be deleted in their entirety. DraftKings believes that these sections seek information that goes far beyond what can reasonably be expected for purposes of obtaining a license in the instant case. Further, DraftKings is concerned that much

of the information is not only irrelevant to the instant analysis, but also could very well be confidential in nature and inappropriate to be disclosed.

~~*14) The name, home address, date of birth, position, length of employment, and the amount of compensation for every person, who is not one of those identified in subparagraph (A)(13) above and who is expected to receive an annual compensation of more than fifty thousand dollars ($50,000.00);*~~

~~*15) A description of any bonus, profit sharing, pension, retirement, deferred compensation or similar plans;*~~

DraftKings respectfully requests that the preceding subsections be deleted in their entirety as the scope of individuals contemplated by these sections is extremely broad and does not serve any legitimate purposes in evaluating the credentials of an applicant for a fantasy contest operator license.

~~*20) A description of all the contracts for twenty-five thousand dollars ($25,000.00) or more or those worth more than that amount, including employment contracts with a duration of more than one (1) year, and contracts in which the enterprise has received twenty-five thousand dollars ($25,000.00) or more in goods or services in the last six (6) months;*~~

DraftKings respectfully requests that the above subsection be deleted in its entirety. This subsection again is overly broad and goes far beyond what any other state has sought to obtain in connection with a fantasy contest operation.

27) A copy, if applicable, of each one of the following:

…

c) Audited financial statements from an independent certified public accountant, registered or licensed in Puerto Rico ***or another United States jurisdiction*** *in good standing, prepared in accordance with the attestation standards established by the American Institute of Certified Public Accountants for the last fiscal year, including, but not limited to, income and expense statements, balance sheets, cash flow statements and the notes corresponding to said financial statements;*

DraftKings respectfully requests the above modification in recognition that there is a likelihood that prior audited financials may not have been conducted by a certified public accountant registered in Puerto Rico.

30) Certificate issued by the Treasury Department of Puerto Rico certifying that the enterprise has filed its income tax returns;

31) Negative Debt Certificate issued by the Treasury Department of Puerto Rico; and

32) Negative Debt Certificate issued by the Municipal Revenue Collection Center ("CRIM," by its Spanish acronym).

33) Subsections 30 – 33 shall only be required of applicants if applicable.

DraftKings respectfully submits that subsections 30 – 32 would only be applicable for entities that are either existing Puerto Rico entities or entities that have conducted business in Puerto Rico previously. Given DraftKings has yet to conduct business in Puerto Rico it respectfully requests that it – along with any other similarly situated applicants – be exempt from these subsections for purposes of the application.

~~Section 2.21 Master Vendor's List~~

DraftKings respectfully requests that section 2.21 be deleted in its entirety to conform with DraftKings' prior request that the vendor classification be deleted in its entirety as it is overly broad and goes far beyond what any other jurisdiction regulating fantasy contests requires.

Article 3 Standards for Internal Controls

Section 3.1 Internal Controls

A. *Each Fantasy Contest Operator shall formulate in writing a complete set of internal controls that adheres to these Regulations. ~~The internal controls will include a written statement signed by the operator's financial director attesting that the system meets the requirements of these Regulations. In the internal controls formulated in writing, there will be an organization chart showing the separation of responsibilities, duties and functions within the operator's organization.~~ The internal controls shall be designed to ensure that:*
    1) *Public confidence in the safety, accuracy, integrity and fairness of the Fantasy Contests are maintained;*
    2) *The assets of the operation are safeguarded;*
    3) *~~The financial records of the operation are accurate and complete;~~*
    4) *The operator's accounting complies with generally accepted accounting principles;*
    5) *Transactions are carried out only in accordance with the general or specific authorization of management;*
    6) *Transactions are appropriately recorded to allow for proper accounting of Fantasy Contest income and rights and accountability for assets;*
    7) *Access to assets is permitted only with specific authorization from management;*
    8) *Asset accountability records are compared with existing assets at reasonable periods and appropriate action is taken in the event of any discrepancies; and*
    9) *Functions, duties and responsibilities are appropriately separated, always maintaining competent and qualified personnel, in accordance with integrity practices.*

DraftKings respectfully requests the foregoing modifications. It is important to note that currently, only two jurisdictions where DraftKings offers fantasy contests require submission of internal controls. Neither of these jurisdictions require the information that DraftKings has requested be stricken in the above regulation. Internal controls appropriately ensure that the fantasy contests are offered with integrity and in a safe manner for participants and DraftKings submits that is

accomplished with the above proposed modification, which will put Puerto Rico in line with the limited number of jurisdictions that choose to require the submission of internal controls in connection with fantasy contests.

*B. Every operator must submit to the Commission any change to its internal controls at least ~~thirty (30)~~ **ten (10)** days before the change takes effect, unless the Commission instructs it in writing to do otherwise. The Commission will determine whether or not to approve the changes and will notify the operator of its decision in writing. No operator will modify its internal controls if the changes have not been approved before, unless the Commission orders it in writing to do otherwise. However, the determination of the Commission regarding any change presented to it will be made no later than ~~sixty (60)~~ **thirty (30)** days after receiving notification of said change.*

DraftKings respectfully requests the foregoing modification in order to align the Puerto Rico fantasy contest market with the only other jurisdiction that regulates fantasy contests that requires notice prior to a change taking effect. This modification will ensure that the manner in which the fantasy contest industry operates is not being reimagined without a corresponding benefit to the public participating in the fantasy contests.

*C. Notwithstanding what is described in paragraph (D) above, the operators may implement any internal control measure, prior to requiring the authorization of the Commission, when due to extraordinary situations it is necessary to guarantee compliance with paragraph (A) above and will notify the Commission of the measure taken immediately, along with the reasons that required its immediate implementation prior to the Commission's authorization. The Commission will determine, within a term of ~~sixty (60)~~ **thirty (30)** days from notification, if the measure should be modified in any way and will notify the operator of its decision in writing.*

DraftKings respectfully submits the foregoing modification in order to conform this subsection with the modifications requested by DraftKings in its immediately preceding comment.

Section 3.2. Content of Internal Controls

The operator's set of internal controls must:

*A. Establish and maintain a list of Sports Events~~,~~ **and** Special Events~~, and types of~~ **on which** Fantasy Contests ~~to be allowed using these events~~ **may be offered.***

DraftKings respectfully requests the foregoing modification in recognition that variants of fantasy contest types are constantly evolving. While the underlying events upon which the fantasy contests are offered may be somewhat consistent, it is important that fantasy contest operators have the ability to offer new types of fantasy contests to engage customers.

~~*B. Provide for reliable records, accounts and reports of any financial event that occurs in the conduct of Fantasy Contests, including reports to the Commission related to Fantasy Contests.*~~

~~*C. Provide for accurate and reliable financial records related to the conduct of Fantasy Contests, including by or through players located in this Commonwealth.*~~

DraftKings respectfully requests the foregoing sections be deleted in their entirety. DraftKings believes this is appropriate as no other jurisdictions that require internal controls requires similar information and in removing these requirements the internal controls will still ensure that fantasy contests are offered in a safe and equitable manner.

~~*E. Establish procedures and rules to govern the conduct of Fantasy Contests, including an organizational chart depicting*~~
~~*1) Appropriate functions and responsibilities of employees involved in Fantasy Contests.*~~
~~*2) A description of the duties and responsibilities of each position shown.*~~

DraftKings respectfully requests the above deletion in the proposed regulations. As previously indicated, no jurisdiction requires a submission of an organizational chart as part of its internal controls and DraftKings believes it is not necessary in order to accomplish the intended purpose of internal controls.

~~*F. Establish procedures for the collection, recording and deposit of revenue from the conduct of Fantasy Contests by or through players located in this Commonwealth.*~~
~~*G. Establish reporting procedures and records required to ensure that all money generated from Fantasy Contests by or through players located in this Commonwealth is accounted for.*~~
~~*H. Ensure that all functions, duties and responsibilities related to Fantasy Contests are performed in accordance with sound financial practices by qualified employees.*~~

DraftKings respectfully requests the foregoing subsections be deleted in their entirety to more appropriately align the internal controls requirements with the very limited number of jurisdictions that choose to require the submission of internal controls in connection the offering of fantasy contests.

~~*I. Ensure the confidentiality of player's Personally identifiable information (PII) and financial information. The Citizen Information about Information Banks' Security Act (Law 111/2005) and the Citizen Information about Information Banks' Security Regulation from the Department of Consumer Affairs (Regulation 7376) establish the procedures which must be met when a breach of information has occurred.*~~
~~*J. Describe the administrative and accounting procedures used to satisfy the requirements of these Regulations.*~~

DraftKings respectfully submits that the foregoing subsections should be deleted in their entirety. DraftKings believes – consistent with prior comments – that the scope of the above subsections is inappropriate for fantasy contests internal controls. As previously mentioned, very few jurisdictions even choose to require internal controls and those that do, and the few that do, do not

require this type of information. DraftKings respectfully submits that expanding the scope of internal controls requirements beyond what has been accepted in other successful jurisdiction is not warranted.

~~*L. Establish procedures to be utilized to ensure that*~~

~~*1) Money generated from the conduct of Fantasy Contests is safeguarded, including mandatory counting and recording procedures.*~~

~~*2) Recorded accountability for assets is compared with actual assets at intervals required by the Commission and appropriate action is taken with respect to discrepancies.*~~

DraftKings respectfully submits, that for the reasons provided in its immediately preceding comment, that subsection L be deleted in its entirety.

R. Include reasonable processes to:

…

6) Control contest locking.

DraftKings respectfully requests clarification as to what the Commission's expectation is in connection with the foregoing requirement. It is unclear what the scope of this language would require from an operational perspective.

Section 3.3 Financial and Compliance Auditing

A. Financial Audit

The operator shall submit a financial audit of the operator's financial operations and handling of player accounts and funds, prepared by an independent certified public accountant, registered or licensed in Puerto Rico ***or another United States jurisdiction*** *in good standing, consistent with the attestation standards established by the American Institute of Certified Public Accountants or the rules of the Securities and Exchange Commission, or both, to the extent applicable, pursuant to the Law and meet the following conditions:*

DraftKings respectfully requests the above modification. As DraftKings is a publicly traded company with different product offerings throughout the company, the audit is typically conducted at the enterprise level and not a specific vertical within the company by a company that may or may not have a specific license for each and every jurisdiction where DraftKings products may be offered. DraftKings believes that the above modification will ensure that the audit is being conducted by a reputable certified public accountant while recognizing the operational realities of large companies that offer multiple product verticals across the country.

Section 3.4. Maintenance and Preservation of Books, Records and Documents

A. The operator shall keep its books, records and documents of Fantasy Contest operations so as to clearly show the revenues for Fantasy Contests subject to tax. For purposes of this Section, "books, records and documents" shall:

…

2) *Include, but not be limited to, any form, report, record accounting, general ledger, auxiliary ledger, computer-created information, ~~internal audit log~~, correspondence and personnel log.*

DraftKings requests the foregoing modifications as in many circumstances the audits conducted are external audits and not internal, therefore it would be inappropriate to require an internal audit log. Conversely, if the Commission does not feel it is appropriate to remove the language completely, DraftKings respectfully requests that a qualifier be added to denote it will only apply *if applicable.*

D. *~~Except as provided in subsection E, t~~ **T**he books, records and documents kept by the operator as provided by this section are **presumed to be confidential and not subject to public disclosure unless otherwise ordered by a court of competent jurisdiction.** ~~Public records and the examination, publication, and dissemination of the books, records and documents are governed by the provisions of the examination of public records~~.*

DraftKings respectfully requests the above modification to ensure that records provided to the commission are treated as confidential. While DraftKings understands that some information, such as revenue generation for tax purposes are ultimately subject to public disclosure, this section goes beyond what may be viewed as typically subject to disclosure and DraftKings feels it is inappropriate to presume this information should be released to the public.

~~*G. Whenever duplicate or triplicate copies of a form, record or document are required by these rules*~~

~~*1) The original, duplicate and triplicate copies shall be color-coded and have the destination of the original copy identified on the duplicate and triplicate copies; and*~~

~~*2) Whenever forms or serial numbers are required to be accounted for or copies of forms are required to be compared for agreement and exceptions are noted, these exceptions shall be reported immediately and in writing to the Commission.*~~

DraftKings respectfully requests the foregoing be deleted in its entirety. DraftKings believes that its current record retention policies – which do not necessarily align with the above – are established and proven to be sufficient. DraftKings feels it is important that the Commission provide operators flexibility to work with the Commission to ensure that the goals of the regulations are achieved without creating standards that are unduly burdensome to comply with without a corresponding public benefit.

Article 4 Advertising

Section 4.2. Direct Marketing and Promotional Messages

Direct marketing and promotional messages will respect user privacy and comply with all applicable legal privacy requirements including those governing consent. ~~All direct marketing and promotional messages to players may only be sent to players who provide or have previously provided their express consent to receive~~

~~this material or other material from the operator.~~ The operator shall provide "unsubscribe" functionality for players to opt out of future direct marketing and promotional messages.

DraftKings respectfully requests the foregoing modification in order to clarify the applicable standard. It appears that the language as drafted is proposing both an opt-in and opt-out feature but to date no other jurisdictions that regulate fantasy contests have chosen to implement an opt-in feature. However, ensuring that customers have the ability to opt-out from messaging is appropriate given the industry standard practice. DraftKings proposed modification recognizes this fact.

ARTICLE 5 FANTASY CONTEST OPERATIONS

Section 5.1. Authorized Fantasy Contests

*A. Fantasy Contests are authorized using Sports Events from any professional sport or, any college or university sports event, any Olympic or international event, or any part thereof, from any sports team that plays in a championship, tournament, cup, league or season. In addition, Fantasy Contests are authorized using Special Events, such as those from electronic game leagues such as Esports **and simulations**.*

DraftKings respectfully requests the above modifications so that popular fantasy contest offerings are permitted to be offered to customers located within Puerto Rico. As an example, DraftKings offers fantasy contests that are based upon Madden football simulations.[2] This has proven to be a wildly popular offering and should be something that fantasy contest operators such as DraftKings have the ability to offer.

B. Entries may not be accepted or paid by the operator in contests based on:

1) Any Sports Events or Special Events which are:

*a) ~~Are designed for~~ **Events where the majority of** athletes or participants **are** under eighteen (18) years of age (minors).*

DraftKings respectfully requests the above modification in order to remove any ambiguity that could be created by the currently proposed language. DraftKings believes that the above modification accomplishes the Commission's goals.

2) Any Sports Events or Special Events in which.

…

d) The outcome of the event is ~~un~~likely to be affected by any Fantasy Contest;

DraftKings respectfully requests the above clarification as fantasy contests do not impact the results of events. As this section is identifying issues that would prevent fantasy contest operators

[2] DraftKings Fantasy Madden Stream

from being able to offer fantasy contests, DraftKings believes the above modification serves as an appropriate clarification.

~~*5) Any virtual event.*~~

DraftKings respectfully submits that the above section be stricken as virtual sports should be a permitted offering on which fantasy contests may be based. As DraftKings previously explained, it currently offers fantasy contests based upon simulations in multiple jurisdictions and these offerings have proven to be very popular. These offerings are conducted in a safe and transparent manner and also serve as a protection against a scenario when other events are shut down, as we have unfortunately experienced over the past year.

C. The Authorized Sports Events and Special Events, Leagues and Contests list shall be made publicly available. For items not on this list, the operator shall not accept any entries on a type of contest unless it ~~*has received prior approval from*~~ ***notifies*** *the Commission. The operator may offer minor variations of an approved contest type without seeking administrator approval. Minor variations include:*

1) Offering the contest format for any sport, league, association or organization previously approved by the Commission for any contest type;
2) The size of the contest and number of entries permitted;
3) Nonmaterial changes to entry fee and prize structure;
4) The number of athletes or participants that a player selects to fill a roster when completing an entry;
5) The positions that must be filled when completing an entry;
6) Adjustments to the scoring system; and
7) Adjustments to a salary cap.

DraftKings respectfully requests the foregoing modification to the proposed regulation. It is important to recognize that the fantasy contest industry is always evolving. To implement a process which requires affirmative approval prior to any new offering will serve to frustrate the fantasy contest industry evolution as well as create unnecessary administrative burdens for the Commission. By changing the standard to a notification standard the Commission will still have the ability to review what is being offered but avoids an arduous approval process that puts unnecessary pressure on both the fantasy contest operators and Commission staff.

Section 5.2. Systems and Components used for Fantasy Contests

A. System Evaluation

The Fantasy Contest Operator and/or Technology Platform Provider shall obtain an initial, technical review for the Fantasy Contest System and its components from an independent test laboratory. The independent testing laboratory shall attest that the Fantasy Contest System and its components are in compliance with these Regulations, as well as to the Law and any other requirements provided by the Commission in the form of MICS. ***Nothing in this section shall prevent a fantasy contest operator from using results from a technical review in another United***

States jurisdiction for purposes of satisfying this section if the regulatory framework from the other United States jurisdiction is deemed to be similar to that contemplated in these regulations.

DraftKings respectfully requests that above language be added to the proposed regulation in acknowledgement that testing requirements of the fantasy contest platforms are extremely rare. This has not been something required in nearly every jurisdiction where fantasy contests are offered and creates a significant burden for the companies that operate in the fantasy contest industry. To the extent possible, fantasy contest operators should be permitted to leverage certification from any other United States jurisdiction for purposes of satisfying this requirement, should the regulatory requirements be deemed similar. This will ensure an efficient testing process that avoids unnecessary duplication and costs.

~~*E. Change Management Program (CMP)*~~

~~*The Operator and/or Provider shall submit Change Management Program (CMP) policies and procedures that detail evaluation procedures for all updates and changes to equipment and systems to the administrator for approval. These processes shall include details for identifying criticality of updates and determining of submission of updates to an independent test laboratory for evaluation. The Commission may issue additional specifications for CMP policies and procedures and any specific requirements related to changes and may also issue such requirements in the form of MICS.*~~

DraftKings respectfully requests that the above section be deleted in its entirety. DraftKings believes it is inappropriate to require a *Change Management Program (CMP)* for fantasy contests. CMPs are commonplace in the sports betting and iGaming industries but are not in the fantasy contest industry. DraftKings submits that this is another example of how the Commission would benefit from leveraging the experience of other regulated jurisdictions to implement a regulatory framework that is safe and best positions Puerto Rico for success.

Section 5.3. Information Posting

F. Contest Rules

...

2) The operator shall adopt and adhere to comprehensive contest rules which shall be approved by the Commission before the commencement of operations and shall contain the following:

i) Warnings about how scripts can affect play, so that players can make an informed decision whether to participate and provide steps to report suspected unauthorized script usage

j) A statement that the operator reserves the right to:

i. Refuse any roster or part of a roster or reject or limit selections prior to the acceptance of an entry for reasons indicated to the player in these rules;

ii. Accept an entry at other than posted terms; and

iii. Lock contests at their discretion;

DraftKings respectfully requests clarification that the information contemplated in this section of the proposed regulations could be included in the fantasy contest operator's terms of use. DraftKings feels that this is the appropriate location for all of the information enumerated in this section and seeks clarification from the Commission as to whether it envisions requiring some other medium for this information to be shared.

o) Where the point calculations depend on statistical performance, information on the way in which the points are calculated ~~and the number of decimal places to be used, (for example, if players receive a tenth of a point for each yard gained by a running back, or a fraction of a point for each reception). In addition, the cases where statistical calculations, like a pitcher's ERA are rounded or truncated at a certain decimal place must be also be disclosed~~.

DraftKings respectfully requests the foregoing modification. DraftKings believes that the level of specificity included in the above language is not necessary and goes beyond what any other jurisdiction requires. Clearly communicating the relevant rules and scoring system used in connection with the fantasy contest the patron is entering is critically important and DraftKings takes great pride in its transparency. DraftKings feels the intended purpose of the proposed regulation is accomplished without specifically calling out required decimal disclosures.

G. Fantasy Contests Guide

No Fantasy Contests Guide shall be issued, displayed or distributed by the operator unless and until a sample thereof has been submitted to and approved by the Commission.

DraftKings respectfully requests clarification as to what the Commission deems to be a fantasy contest guide. DraftKings believes it is important to specifically identify the materials that fall within the scope of this provision in order to have a firm understanding of the requirement.

H. Free Play Mode

The operator may offer free play mode, which allow players to participate in Fantasy Contests without paying. Free play must not be available to the player without first signing into an account. ~~Free play shall have the same payout as paid contests.~~ Free play shall have the same ~~restrictions and requirements as paid contests including the~~ prohibition of participation by minors. Free play shall provide the same responsible play information as the paid contests. Entries, which may be paid with credits received from a bonus or promotional offer are not considered free play.

DraftKings respectfully requests the above modification to the proposed regulation. DraftKings believes it is important to clarify that free to play contests are not within the intended scope of the regulations, as the purpose is to regulate paid fantasy contests. This is commonplace across

jurisdictions. While having minimum safeguards in place around account registration and prevention of underage participation are logical, DraftKings does have concerns when specificity around payout structures and similar facets are addressed as it has potential to unnecessarily complicate an offering that is not meant to be within the scope of the contemplated regulations.

~~*F. Bonus or Promotional Offers*~~

~~*The operator shall fully and accurately disclose the material terms of all bonus or promotional offers at the time such offers are advertised and provide full disclosures of the terms of and limitations on the offer before the player provides anything of value in exchange for the offer. If the material terms of a bonus or promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium (e.g., on a billboard), the promotional offer may not be advertised in that medium. Bonus or promotional offers require Commission approval and must include the following:*~~

~~*1) The rules of play;*~~

~~*2) The nature and value of the associated prize(s) or award(s);*~~

~~*3) Any restrictions or limitations on eligibility;*~~

~~*4) The date(s), time(s), and location(s) the associated bonus or promotional activity or activities are presented, is active, and expires;*~~

~~*5) Participation requirements and limitations by type of entry, or by type of contest, or when other specific conditions apply.*~~

~~*6) Any other restrictions or limitations, including any related to the claim of prizes, cash awards, or withdrawal of funds;*~~

~~*7) How the player is notified when they have won*~~

~~*8) The announcement date(s), time(s), and location(s) for the winnings;*~~

~~*9) The order in which funds are used for entry fees;*~~

~~*10) Rules regarding cancellation; and*~~

~~*11) Rules governing bonus or promotional offers offered across multiple operators, third-party sponsored offers, and joint offers involving third-parties.*~~

DraftKings respectfully requests the above section be deleted in its entirety. DraftKings submits that this is once again an area that is commonplace in the sports betting and iGaming industries but is not something that is commonplace in the fantasy contest industry. DraftKings believes that it is imperative for the Commission to review the regulations adopted by other jurisdictions that are actively regulating fantasy contests and conform to models implemented elsewhere in the country to ensure that Puerto Rico implements a safe market that is positioned for success without burdening fantasy contest operators to a point where viability of the operation is thrown into question.

Section 5.4. Entry Buy-ins

Any entries submitted through electronic communication are considered purchased at the physical location ***<u>of the patron entering the fantasy contest.</u>*** ~~*Of the server or other equipment used by the operator. The intermediate route between servers, of electronic data related to Fantasy Contests,*~~

~~*will not determine the location or locations where it starts, receive or otherwise purchases an entry.*~~

DraftKings respectfully requests the foregoing modification in recognition of how fantasy contests are offered. The proposed language looks to apply a sports betting standard to fantasy contests, which is inappropriate. The manner in which the tax is applied to fantasy contests is based upon the location of the individual entering a contest. If someone is to enter a fantasy contest while within Puerto Rico, Puerto Rico will be entitled to collect tax in connection with that entry. The language as proposed in the draft regulations would not allow Puerto Rico to collect any tax in connection with fantasy contests as servers in connection with fantasy contests are not located in each jurisdiction where players are entering the contest. DraftKings respectfully submits that the regulation as drafted inappropriately conflates fantasy contests with sports betting.

I. At the time of buy-in, the player must pay an entry fee for participation, this entry fee shall have a fixed value, will be pre-determined for each contest and will be established by the operator ***, or in the case of a private contest, the entry fee can be established by the player****.*

DraftKings respectfully requests the above modification which accounts for the fact that fantasy contest operators allow players to create private contests on the platforms and the players will have the ability to establish entry fees in connection with those contests.

J. Players group virtual rosters of real athletes or participants belonging to ~~*professional*~~ *Sports Events or Special Events. No roster may be based on the current membership of an actual real-world team that is a member of an amateur or professional sports organization.* ~~*Athlete or participant selection is conducted through a bidding process.*~~

DraftKings respectfully requests the foregoing modifications. DraftKings believes that *professional* was included in error as in other areas of the proposed regulations it is clear that the scope of contemplated events upon which fantasy contests may be offered expands beyond professional sports. Additionally, DraftKings requests the last sentence be stricken as fantasy contests are not typically conducted via a bidding process, but rather the fantasy contest players select athletes and participants based upon a preassigned value.

~~*J. After the initial teams are selected, interim replacement of athletes or participants may occur by trade or purchase. A specific fee, which may not exceed the total entry fee, is charged for each transaction.*~~

DraftKings respectfully requests the above subsection be deleted in its entirety as it fails to recognize how fantasy contests are conducted. Players have the ability to swap athletes or participants in and out of roster spots prior to line up lock – even after an initial roster may have been submitted – so long as they stay within the pre-assigned salary structure.

Section 5.7. Winning Entry Payment

~~*C. The operator shall receive information from the Administration for Child Support Enforcement ("ASUME") concerning persons who are delinquent in child support. The following will occur prior to the operator disbursing a prize of six hundred dollars ($600) or more, in winnings to a person who is delinquent in child support,*~~

~~*1) The operator shall make a reasonable effort to:*~~

~~*a) Withhold the amount of delinquent child support owed from winnings;*~~

~~*b) Transmit to the Commission:*~~

~~*i. The amount withheld for delinquent child support; and*~~

~~*ii. Identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the operator; and*~~

~~*c) Issue the obligor a receipt in a form prescribed by ASUME with the total amount withheld for delinquent child support and the administrative fee mentioned under subsection (3).*~~

~~*2) The operator may also deduct and retain an administrative fee in the amount of the lesser of one hundred dollars ($100) or three percent (3%) of the amount of delinquent child support withheld.*~~

DraftKings respectfully requests that section C be deleted in its entirety. These types of checks are not required in any other regulated jurisdiction for fantasy contests. DraftKings once again submits that this is an example of a process that may be typical in something like casino gaming, but just does not have the same application to the fantasy contest industry. The procedure contemplated in this proposed section of the regulations would require fantasy contest operators to completely modify how business is conducted and be a significant impediment to entering the Puerto Rico market. As this check is not contemplated in the Gaming Commission Act of the Government of Puerto Rico, is not a common procedure in the fantasy contest industry, and is likely to result in very little money being recovered, DraftKings feels strongly that this process should be abandoned in its entirety.

Section 5.8 Fairness of Fantasy Contests

F. Cheating and Scripts

1) The operator shall use commercially reasonable efforts to monitor for and to deter, detect, and prevent cheating to the extent reasonably possible, including collusion and the use of cheating devices, such as the use of software programs, unauthorized scripts, or scripting programs ***that provide a player with a competitive advantage over another player.*** ~~*That submit entry fees or adjust the athletes or participants selected by a player*~~

…

4) The operator shall not ~~*authorize*~~ ***permit the use of unauthorized*** *scripts that provide a player with a competitive advantage over another player. A script will be treated as offering a competitive advantage for reasons including, but not limited to, its potential use to:*

~~*a) Auto draft athletes or participants;*~~
~~*b) Choose between pre-selected teams of athletes or participants;*~~
c) Facilitate entry of multiple contests with a single roster;
d) Facilitate changes in many rosters at one time; ***or***
e) Facilitate use of commercial products designed and distributed by third-parties to Identify advantageous strategies; or
~~*f) Gather information about the performance of others for the purpose of identifying or entering contests against players who are less likely to be successful.*~~

DraftKings respectfully requests the foregoing modifications in recognition that there is a clear distinction between unauthorized scripts that provide an advantage to a certain player compared to scripts that can be utilized and are accessible to players that want to utilize these features. DraftKings believes the above modification recognizes how the fantasy contest industry operates while still accomplishing the goal of the proposed regulation.

Section 5.9 Geolocation Requirements
The operator must use technologically and commercially reasonable measures ***to determine the physical location of players when entering into*** ~~*to make participating in*~~ *Fantasy Contests* ~~*possible through computers or mobile devices that allow participation through the Fantasy Contest System only for people who are within the territorial limits of Puerto Rico, provided that measures are established to guarantee safety for all parties involved in the industry, avoid tax evasion, and the laundering of money and / or any other criminal conduct. To reasonably ensure that participation occurs within the territorial limits of Puerto Rico, the Commission will require the use of border control technology to reasonably detect the physical location of a player attempting to access their account and to monitor for simultaneous logins to a single account from geographically inconsistent locations*~~*. An Operator may use a third-party Location Service Provider (LSP) to provide the border control technology.*

DraftKings respectfully requests the above modification in recognition that fantasy contests will not be limited to only those individuals located within Puerto Rico. As previously explained, this is a critical distinction from what is commonplace in the sports betting industry. With fantasy contests, the entries are made up from individuals located in multiple jurisdictions and the location of the player when entering the contest determines the manner in which the tax will be allocated. The above change is critical in recognizing how the fantasy contest industry operates. Additionally, DraftKings respectfully requests that the remaining portion of section 5.9 be stricken in its entirety and replaced with the following:

A. The border control technology must incorporate a mechanism to detect methods used to circumvent location detection, following best practice security measures to:
1) Detect and block location data fraud prior to entering a contest;
2) Examine the IP address upon each device connection to a network to ensure a known Virtual Private Network (VPN) proxy service is not in use; and
3) Monitor and flag for investigation any entry into a fantasy sports contest by a single player account from geographically inconsistent locations (e.g., entry

placement locations were identified that would be impossible to travel between in the time reported).

Section 5.10 Data and Reporting

K. Data Retention

Upon request and at a location designated by the Commission, the operator shall provide the Commission with the data required to be maintained by this section. The operator shall retain all such data for a minimum of five (5) years in a location approved by the Commission. In the event of a change of ownership, data of prior owners shall be retained in a location approved by the Commission for a period of five (5) years unless a different period is authorized by the Commission. Data may be maintained in other locations if access to the data is available on computers located at the principal place of business or other location approved by the Commission.

…

~~*L. The Fantasy Contest System shall provide a mechanism for the Commission to query and to export, in a format required by the Commission (e.g., CSV, XLS), all transactional data for the purposes of data analysis and auditing/verification.*~~

DraftKings respectfully requests the foregoing modification to the proposed regulation. DraftKings feels this is unnecessary as this information will already be made available by the fantasy contest operator upon request of the Commission. Providing the type of mechanism contemplated in subsection 3 above is not something typical for the fantasy contest industry and would create work that is unnecessary to accomplish the Commission goal.

Article 6 Operator Procedures and Practices

Section 6.1 Authorized Players

Section 6.1. Authorized Players

The Fantasy Contest Operator will be required to have strict controls to prevent access by minors under eighteen (18) years of age. Only people eighteen (18) years of age or older may participate in Fantasy Contests. To corroborate that the player is not a minor, the Commission will oblige the operator to take the necessary measures to guarantee the identity of the player and that they are a person eighteen (18) years of age or older. For this exercise, the Commission will consider the most advanced technological tools and will establish suitable parameters to guarantee player authentication~~, including, but not limited to, identification verification and social security*~~.

DraftKings respectfully requests the above modification in recognition of the common practices of the fantasy contests industry. Fantasy contest operators should be permitted to work with the Commission in making sure that the Commission is comfortable with the verification processes adopted by fantasy contest operators while at the same time not being unnecessarily restricted to certain processes in regulation. DraftKings and other fantasy contest operators have been successfully operating fantasy contests in many jurisdictions for years and the processes in place should be permitted for identity verification within Puerto Rico.

Section 6.2 Participation Prevention and Restriction

M. Prevent Participation by Prohibited Players

Fantasy Contests may not be directed at minors or other Prohibited Players excluded by the Law.

1) The operator's internal controls shall describe the method to prevent Prohibited Players from participating in Fantasy Contests, defined as:

…

e) The operator, a director, officer, owner, contractor, or employee of the operator, or any relative living in the same household, ***except that all of these individuals would not be prohibited from participating in a fantasy contest that is not offered to the public at large.***

DraftKings respectfully requests the foregoing modification in recognition that employees and family members of employees are regularly permitted to participate in private fantasy contests that are not offered to the general public. Many fantasy contest operators, including DraftKings, host private fantasy contests which are subject to strict controls that allow employees to enjoy and familiarize themselves with the product, and for employee morale, without posing any fairness or consumer protection concerns to players in the general public. Nearly every jurisdiction allows employees to participate in fantasy contests in this manner and DraftKings respectfully submits that allowing this type of participation in no way compromises the Puerto Rico fantasy contest industry.

N. Restrict Participation by Athletes, Participants, and Associates

DraftKings respectfully requests that restrictions as to athletes participation in fantasy contests should be explicitly limited to those contests that are based upon the sport in which they participate. By way of example, a baseball player may be prohibited from participating in fantasy contests that are based upon baseball games but it does not serve any purpose to restrict these same individuals from participating in fantasy contests that are based upon basketball or football games.

…

2) The following may not participate in Fantasy Contests that they may benefit from, may have confidential information, or any other insider information identified by the Commission.

a) A person who occupies a position of authority or influence sufficient to exercise it over the athletes and participants in a Sports Event or Special Event, including, but not limited to, coaches, managers, handlers, athletic trainers or sports trainers in general;

b) A person with access to certain types of confidential information about any Sports Event, Special Event, or Fantasy Contest;

DraftKings respectfully submits that in order to successfully enforce the above regulation the Commission must supply fantasy contest operators with a list of these individuals. Without being provided a definitive list that identifies a cohort of individuals that fall into the above categories,

there is no way for fantasy contest operators to reasonably track this group of individuals and the regulations would create an impossible standard for operators to comply with.

Section 6.3 Responsible Play

A. The provisions of Articles 1 through 4 of Law No. 96 of May 16, 2006, as amended, shall apply to Fantasy Contests.

B. The Mobile App or Site shall not induce players to continue participation ~~when the player is in session,~~ when the player attempts to end a session~~, or when a player wins or loses a contest~~. Communications with players shall not intentionally encourage players to increase the amount of time spent or funds in player accounts beyond pre- determined limits, participate continuously, re-play winnings, and chase losses.

DraftKings respectfully requests further clarification from the Commission as to the intended scope of subsection A. Reviewing the Gaming Commission Act of the Government of Puerto Rico it does not appear that Law No. 96 of May 16, 2006 is incorporated at any point and DraftKings would like to ensure that it fully understands the scope of its intended applicability. Further, DraftKings requests the above amendments to avoid a situation where all push notifications are unintentionally restricted due to the language being overly broad. DraftKings believes its proposed modification will still accomplish the Commission's goal while not unreasonably restricting push notifications to players.

Section 6.4 Operator Reserves

*O. The operator shall calculate their reserve requirements **on a monthly basis** ~~each day~~. In the event the operator determines that their reserve is not sufficient to cover the calculated requirement, the operator must, within 24 hours, notify the Commission of this fact and must also indicate the steps the operator has taken to remedy the deficiency.*

DraftKings respectfully requests that the above modification be made to the proposed regulations based upon its experience in other regulated jurisdictions. It is DraftKings experience that in the fantasy contest industry these certifications are typically done on a monthly basis as regulators find daily certifications have proven to be unnecessarily burdensome.

Section 6.6 Risks and Controls

~~A. Risk Management Procedures~~

~~B. Statistics Service Provider~~

DraftKings respectfully requests that sections A and B be deleted as both sections have no application to the fantasy contest industry. The concepts of risk management procedures and data provider approvals are sports betting industry concepts and not appropriately applied to the fantasy contest industry.

C. *Suspension of Entry Buy-Ins*

1) There shall be established procedures for manually suspending entry buy-ins on that Fantasy Contest. These procedures must be documented in the internal controls and involve several levels of authority for manual

controls. Logs and other audit trails must exist to prevent possible misuse of authority.

2) *When entry buy-ins are manually suspended for an active contest, an entry shall be made in an audit log that includes the date and time of suspension and its reason.*

DraftKings respectfully requests further information as to the intention of the Commission with the inclusion of the above requirement. DraftKings is unclear in what circumstances this would apply and what the expectation would be for fantasy contest operators to comply with said provision.

P. Taxation Reporting

…

~~*Q. The operator shall disclose potential tax liabilities to players in the on-boarding process and again at the time of award of any prize in excess of any taxation limits required by local or federal law. Such disclosures will include a statement that the obligation to pay applicable taxes on winnings is the responsibility of the player and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability.*~~

DraftKings respectfully requests that the aforementioned provision be stricken in its entirety. In connection with fantasy contests 1099s are issues to players as required by federal law and no jurisdictions require specific disclosures along the lines of what is contemplated in the foregoing regulation. This requirement would create new work for fantasy contest operators with no corresponding benefit to the Commission in ensuring that policy goals are achieved, as that is already accomplished through existing procedures.

G. Identifying and Reporting Fraud and Suspicious Conduct

…

R. The operator shall promptly~~, but no longer than 24 hours,~~ report to the Commission any facts or circumstances which the operator has reasonable grounds to believe indicate a violation of law or Commission rule committed by the operator, their key persons, or their employees, including without limitation the performance of licensed activities different from those permitted under their license. The operator is also required to provide a detailed written report ~~within 72 hours~~ from the discovery for any of the following:

DraftKings respectfully requests the foregoing modification to allow fantasy contest operators an appropriate amount of time to investigate irregularities and balance this investigation with the fact that the Commission must be informed in a timely manner. By not including explicit time frames that are either impractical or increase the likelihood of mistakes being made, ultimately both fantasy contest operators and the Commission are in a better position to address any issues that may be uncovered.

~~**Section 6.7. Suspicious Activity Report (SAR)**~~

DraftKings respectfully requests that section 6.7 be deleted in its entirety. Suspicious Activity Report jurisdiction level regulatory filings are once again something that may be common in other areas that the Commission regulates but are not commonplace in the fantasy contest industry.

Article 7 Player Account Management

Section 7.1 Player Account Registration

C. The account registration process shall also include:

…

S. Availability and acceptance of a set of terms and conditions that are also readily accessible to the player before and after registration and noticed when materially updated (i.e. beyond any grammatical or other minor changes) that include, at a minimum, the following:

…

*g) Statement that an account is declared dormant after it has had no player-initiated activity for a period of ~~one (1)~~ **three (3)** year**s**, and explain what actions will be undertaken on the account once this declaration is made*

DraftKings respectfully requests the above modification to more appropriately align the dormant account period with that which is applied in other regulated fantasy contest jurisdictions. As fantasy contests are conducted across jurisdictions it is important that uniformity be embraced whenever is reasonably possible.

Section 7.4 Player Funds Maintenance

C. The player shall have fee-free methods to deposit funds to or withdraw funds from their player account

1) The deposit methods available to players to fund accounts may include:

…

*d) Transfers from another account verified to be controlled by the player through the Automated Clearing House (ACH deposit) **or another mechanism designed to facilitate electronic commerce transactions**;*

…

2) The withdrawal methods available to players to cash out accounts may include:

…

*e) Transfers to another account verified to be controlled by the player through the automated clearing house (ACH withdrawal) **or another mechanism designed to facilitate electronic commerce transactions**;*

DraftKings respectfully seeks clarification as to what payment methods are meant to be covered by the bold language above. DraftKings interpretation is that this would capture payment methods such as PayPal but respectfully requests confirmation of same. PayPal and similar electronic wallet payment methods are critical forms of deposit/withdrawal used in the fantasy contest industry and it will be important that these tools are available to fantasy contest operators.

~~*D. When a player's lifetime deposits reaches/exceed the lifetime deposit threshold of $2,500 or another value specified by the Commission, the system shall immediately prevent any additional transactions until the player acknowledges:*~~

~~*1) The player has met the lifetime deposit threshold as established by the Commission;*~~

~~*2) The player has the capability to establish responsible play limits or close their account; and*~~

~~*3) The availability of the Addiction and Mental Health Services Administration (ASSMCA) helpline number.*~~

~~*E. The acknowledgement prescribed in subsection (D) above shall be required on an annual basis thereafter.*~~

DraftKings respectfully requests that the above sections be deleted in their entirety. This feature again is something that is more typically required in the sports betting industry as opposed to the fantasy contests industry. Further, this information is readily accessible with the player's account just not in this particular format. Incorporating this process into the fantasy contest industry will only serve to create additional burdens on the fantasy contest operators with no increased benefit to the players.

Section 7.5. Dormant and Closed Accounts

A. A Player Account is considered to be dormant after it has had no player-initiated activity, such as ***logging into the player's account,*** *entering a contest, making an account deposit, or withdrawing funds for a period of* ~~*one (1)*~~ ***three (3)*** *year**s** as specified in the terms and conditions. Procedures shall be in place to:*

1) Protect dormant accounts that contain funds from unauthorized access, changes or removal.

2) Deal with unclaimed funds from dormant accounts, including returning any remaining funds to the player where possible.

3) Close a Player Account if the player has not logged into the account for ~~*eighteen (18) consecutive months*~~ ***three (3) years****; and*

DraftKings respectfully requests the above modifications to more appropriately align the regulations with requirements from other jurisdictions. It is important to note that only one other jurisdiction requires the closure of a dormant player account and that requires that the account be dormant for three (3) years. It is inappropriate to implement a timeframe as short as one (1) year as it contemplated in the proposed regulation given the cyclical nature of some player engagement with fantasy contests.

Section 7.7 Limitations and Exclusions

3) Monthly Deposit Limits and other Imposed Limitations

The Operator must be capable of imposing responsible play limits including, but not limited to, deposit limits~~*,*~~ ***and*** *spending limits*~~*, and time-based limits*~~ *as established by the Commission through regulations to that effect. Where required by the Commission, it is the operator's responsibility is to discuss with the Commission any procedures implemented to assess the financial capacity of the players so that it can set and update these limits correlatively to their income where required by the commission.*

DraftKings respectfully requests the above modification as time limits are not commonplace in the fantasy contests industry and would require significant work by the fantasy contests operators when the goals of this provision are otherwise accomplished by the other safeguards identified.

4) Self-Exclusions

Self-exclusion shall be offered as a player-initiated restriction on their ability to participate in Fantasy Contests.

1) *Players must be provided with a process available on the Mobile App or Site or via direct communications with the operator to self-exclude from participating in Fantasy Contests ~~indefinitely or~~ for specified period of at least 1 hour.*
2) *Immediately upon receiving the self-exclusion order and until such time as the order has been removed, the player shall be prevented from participating in Fantasy Contests and depositing funds into their account. In addition, the player shall ~~receive clearly worded~~ **have access to the following** information:*

DraftKings respectfully requests the above modifications in recognition of the current processes implemented in connection with the self-exclusion process for players participating in fantasy contests. DraftKings takes responsible gaming measures seriously and is proud of the tools it makes available to its players. DraftKings respectfully requests that the Commission work with fantasy contest operators in identifying useful tools that have been implemented in many other jurisdictions without requiring modifications that otherwise would not increase the effectiveness of the available tools.

Article 9 Commission's Lists for Involuntary and Voluntary Self-Exclusion
Section 9.2 Voluntary Exclusion List

O. As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:

*1) **Three (3) months;***
*2) **Six (6) months;***
3) One (1) year;
4) Eighteen (18) months;
5) Three (3) years;
6) Five (5) years; ~~or~~
*7) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Voluntary Exclusion List for at least six (6) months)~~.~~**; or***
8) Any combination of time periods as may be established by fantasy contest operators and approved by the Commission.

DraftKings respectfully requests the foregoing modifications in acknowledgement of how the fantasy contest industry has been conducted. For instance, DraftKings currently allows players to self-exclude from participation for three months, six months, one year, or five years. DraftKings has found that these options have been effective in catering to our players needs and feels that

arbitrarily assigning other timeframes is not necessary to accomplish the intended goal of the regulation.

Article 13 Taxes

Section 13.1. Tax Rates

A. The Fantasy Contest Operator which has in force a license issued by the Commission under the Law shall, in lieu of any other revenue contribution provided for in the Code or any other law, be subject to the fixed fee set forth in this Article with respect to fantasy contests conducted under the Law. Unless other values are given under the Law, the tax shall be calculated in accordance to twelve percent (12%) of the ***Gross Revenue from Fantasy Contests*** ~~*Adjusted Gross Revenue from the entry fees*~~*.*

B. It is provided that the Operator's income that does not come from the ~~*wagers*~~ ***entry fees*** *placed in accordance with the Law shall* ***not*** *be subject to the provisions of the Code or the applicable tax statute.*

DraftKings respectfully requests the above modifications in recognition of the fact that fantasy contests are taxed based upon the gross revenue from fantasy contests as defined in the Gaming Commission Act of the Government of Puerto Rico. Adjusted gross revenue is a term used in the sports betting industry and is inappropriately applied to fantasy contests. Further, subsection B should be clarified to remove the term *wagers* as fantasy contests do not include wagers but rather the submission of entry fees to participate. Additionally, DraftKings respectfully submits that the inclusion of *not* in subsection B is necessary to capture the intent of the language.

Sports Betting Regulations

Article 1 General Provisions

Section 1.3 Definitions

Esports Competition: A Special Event involving the competitive playing of video games between ***teams or*** *individual competitors.*

DraftKings respectfully requests the above modification to the definition of Esports Competition in recognition of the fact that not all events are on an individual basis and it is very common that Esports Competitions are conducted between teams competing against one another.

Personally Identifiable Information (PII): Sensitive information that could potentially be used to identify a particular player. Examples include a ~~*legal name,*~~ *date of birth, place of birth, social security number (or equivalent government identification number), driver's license number, passport number, voter's Identification or other official identification, residential address,* ~~*phone number, email address,*~~ *debit instrument number, credit card number, bank or financial account numbers of any type with or without passwords or access code that may have been assigned, names of users and passwords or access codes to public or private information systems, tax information, or other personal information if defined by the Commission.*

DraftKings respectfully requests the above modification as legal name, phone number, and email address are items that rarely fall within the scope of personally identifiable information. While the other criteria used in the definition are appropriate, including these aforementioned categories will make this definition the broadest definition of Personally Identifiable Information that DraftKings is aware of.

Article 2 Licensing Requirements

Section 2.1 Employee License

DraftKings respectfully submits that it has grave concerns with the scope of the employee licensing contemplated in the proposed regulations. While employee licensing in the sports betting industry is commonplace, the scope of those that would be subject to licensure under the proposed regulations extends well beyond what any other jurisdictions has contemplated. One could reasonably interpret the proposed regulations as requiring **every single employee** of a sports betting operation to obtain an employee license. This is simply an untenable standard. Further, as proposed, certain sections of the regulations seem to ignore the global nature of the sports betting industry:

> *D. General Parameters for Granting an Employee License*
>
> *1) Each Employee License applicant shall provide the Commission with the necessary information, documentation and guarantees which establish through clear and convincing evidence that he/she:*
>
> *…*
>
> ***b) Is a citizen of the United States of America or is authorized in accordance with the applicable federal laws or regulations to work in the United States of America, or is a legal resident of Puerto Rico before granting of the Employee License;***
>
> *E. Personal Information Required for Applying for an Employee License*
>
> *1) As part of the initial application for an Employee License provided in section 2.1(F) of these Regulations, any applicant shall submit the following information which shall be provided by the Commission for such purposes:*
>
> *…*
>
> ***d) Social security number, which information is voluntarily provided in accordance with Section 7 of the Privacy Act", 5 U.S.C.A.552a, or country identification card number if the applicant is a foreign national;***
>
> ***e) Citizenship or immigration or residency status in the United States or in Puerto Rico;***

Many sports betting operators, including DraftKings, have employees located throughout the world. These employees play a critical role in the sports betting operation – and would fall within the scope of those intended to be licensed – but would be disqualified because they work internationally and are not United States citizens. This completely ignores how the sports betting industry operates and its 24/7, global nature. This is just one example of the ways in which the proposed scope of employee licensing is wholly inappropriate for the sports betting industry.

The goal with employee licensing should be to capture those individuals that have direct or ultimate control over the sports betting operation in Puerto Rico. To extend the scope beyond that – especially to the extent contemplated in the proposed regulations – is without justification. DraftKings suggests that the Commission implement an employee licensing standard that recognizes the appropriate scope for employee licensure by limiting licensing to the following employees:

1) An individual must have an employee license if his or her duties directly impact the integrity of sports betting. An Operator may provide an explanation, such as a job description, to support an allegation that a position should not require an employee license.

2) Individuals in the following positions are deemed by the Commission to directly impact the integrity of sports betting:

- ***a) An individual who has the capability of affecting the outcome of sports betting through deployment of code to production for any critical components of a sports betting platform.***
- ***b) An individual who can deploy code to production and directly supervises individuals who have the capability of affecting the outcome of internet sports betting through deployment of code to production for other than read-only or the equivalent access to any critical components of a sports betting platform.***
- ***c) An individual who directly manages a sports betting operation or who directly supervises an individual who directly manages a sports betting operation.***
- ***d) Any other individual who directly impacts the integrity of sports betting as determined by the Commission.***

(3) The critical components of a sports betting platform shall be:

- ***a) Components which record, store, process, share, transmit or retrieve sensitive information (e.g., validation numbers, personal identification number (PIN), individual and authorized participant data).***
- ***b) Components which store results or the current state of an authorized participant's internet sports betting wager.***

Section 2.2 Enterprise License Types

B. Service Provider License

1) A legal person who supplies services directly necessary for the operation of the Sports Betting activity ***in Puerto Rico*** *or who receives payment or compensation tied to player activity or in excess of 5% of the handle of*

any Licensee; who shares in a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or who provides any similar services that are material to conducting these activity as determined by the Commission shall be considered a Service Provider and shall be required to obtain a license as a Service Provider. These services may include, but are not limited to:

- *a) Identity Verification services*
- *b) Information Technology (IT) services*
- *c) Location services;*
- *d) software,*
- *e) Systems, or platform; data;*
- *f) Global Risk Management services,*
- *g) Player accounts management systems;*
- *h) payment services or processors*
- *i) Technology Platform Provider*
- *j) Hosting Center*
- *k) Third-Party service providers with direct interface or interaction with player accounts or the Sports Betting System;*
- *l) Wagering Equipment*

~~*2) Companies that provide goods or services directly related to Sports Betting will pay $ 5,000, such as manufacturers, Providers, service providers, laboratories, vendors or distributors of devices, equipment, accessories, objects or items that are used for Sports Betting. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto.*~~

~~*3) Companies that provide goods or services not directly related to Sports Betting will pay $ 2,000, such as cleaning companies, players' representatives ("junket") and their respective companies, restaurants, sale of articles, and provide consulting services on regulations, administration and opening of an Authorized Location, provide security services, transportation services and storage of Wagering Equipment. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto. The Service provider license shall be valid for three (3) years.*~~

DraftKings respectfully requests that subsections (2) and (3) above be deleted in their entirety. As proposed, the regulation already encompasses one of the broadest groups of companies that would be classified as suppliers under subsection (1). DraftKings respectfully submits that to layer on those companies that fit within the scope of subsections (2) and (3) would be without justification and do nothing to help ensure the integrity of the Puerto Rico sports betting market. Further, DraftKings respectfully requests limiting the scope of subsection (1) to those sports wagering activities that take place in Puerto Rico.

Section 2.3 Vendor Registration

*A. Any legal person who provides goods or services that are material and ancillary to conducting Sports Betting **in Puerto Rico**, and who are not otherwise classified as a Licensee, shall be considered a Vendor and shall be required to obtain approval from the Commission for Registration as a Vendor. These services may include, but are not limited to:*

1) payment services or processors that do not qualify as Supplier Registrants,
*2) contractors for goods or services **directly** relating to Sports Betting **in Puerto Rico**,*
3) lobbyists,
4) brand developers, and
5) affiliated marketers.

B. Any legal person who provides non-material or general goods or services indirect to the conduct of Sports Betting shall not be required to obtain Registration as a Vendor, unless the Person receives payment or compensation:

~~1) tied to player activity;~~
*~~2~~**1)** in excess of 1% of the **annual** handle of any Licensee; **or***
~~3) that is a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or~~
*~~4~~**2)** that exceeds $250,000 in a one-year period for goods and services **directly** relating to **the operation of** Sports Betting **in Puerto Rico** ~~activity~~.*

DraftKings respectfully requests the above modifications to the vendor registration requirements. The above modifications are consistent with previously provided feedback that the activities reviewed by the Commission should be related to those activities directly connected to the Puerto Rico sports betting operation. The proposed modifications will also ensure that the scope of the vendor registration is not overly broad and encompass individuals that are not appropriately registered as vendors of a sports betting operation.

Section 2.10 Qualification Requirements Before Granting a License

A. The Commission shall not issue a License to any legal person unless the applicant has established in advance the individual qualifications of each one of the following persons:

…

~~8) Any employee who supervises the regional or local office that employs the sales representatives who shall solicit business from or negotiate directly with the operator;~~
~~9) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any operator in Puerto Rico or any technological employee who has access to the facilities of the operator in the performance of his job duties;~~

DraftKings respectfully submits, for all of the reasons previously identified in its comments in connection with the proposed employee licensing requirements, that subsections (8) and (9) should be deleted in their entirety.

Section 2.16 Records

A. All licensees authorized by the Commission shall maintain in a place secure against robbery, loss or destruction the records corresponding to the business operations, which shall be available to, and be produced for the Commission should the Commission request them. Said records shall include:

1) Any correspondence with the Commission and other governmental agencies at a local, state and federal level;

~~*2) Any correspondence related to the business with the operator whether proposed or existing;*~~

3) Copies of any publicity and promotional materials;

~~*4) The personnel files for every employee of the authorized, including those for the sales representatives;*~~

5) The financial records for all the transactions related to the business, whether proposed or existing.

B. The records listed in subparagraph (A) above shall be kept at least for a period of five (5) years.

C. Any records collected by the Commission in accordance with this section shall not be subject to public disclosure and shall be kept confidential.

DraftKings respectfully requests that subsection A(2) and A(4) be deleted as the criteria identified is overly broad. Specifically, as to subsection A(2), DraftKings believes this creates a standard that will make compliance impossible given its abstract nature. Further, subsection A(4) is inappropriate as it has no direct nexus to the sports betting operation in Puerto Rico. Should the commission deem that subsection A(4) is appropriate – something DraftKings believes would be unwarranted – DraftKings respectfully submits that the subsection should be limited to personnel files for those employees directly involved in the Puerto Rico sports betting operation. As an example, DraftKings has a multitude of other verticals that have no overlap with sports betting but this subsection would allow the Commission to obtain the personnel files for those individuals that have nothing to do with sports betting.

Additionally, DraftKings requests that a new subsection be added to this section to ensure that any documents collected by the Commission in accordance with this section are kept confidential and not publicly disclosed.

Section 2.17 License Application Form

A. License Application Form shall be completed in the format provided by the Commission and may require the following information:

…

10) The name, address, date of birth, title or position, and, if applicable, the percent of ownership in the enterprise of the following persons:

…

~~*e) Every manager who supervises a local or regional office which employs sales representatives or other persons who solicit business from the operator; and*~~

~~*f) Any other person not specified in subparagraphs (A)(10)(a), (b), (c), (d) and (e) above and who has signed or will sign service agreements with the operator;*~~

~~*11) A diagram that illustrates the ownership interest of any other person who has an interest in the applying enterprise;*~~

DraftKings respectfully requests the above subsections be deleted in their entirety. These provisions ignore how the sports betting industry operates and applies a standard that is overly burdensome with no corresponding benefit to the public. If these sections were to remain it would encompass large swaths of employees that have no control over the Puerto Rico sports betting operation. Further, DraftKings respectfully submits that subsection (11) be deleted in its entirety. DraftKings believes that this provision is overly burdensome and, for publicly traded companies, creates an impossible standard to comply with. As information for those individuals that control the sports betting operation will otherwise be disclosed, DraftKings respectfully submits that this subsection is unnecessary.

~~*12) The name, last known address, date of birth, position occupied in the enterprise, dates in said position, and the reason for leaving of any former officer or director who occupied any position during the preceding ten (10) years;*~~

~~*13) The annual compensation of each one of the partners, officers, directors and trustees;*~~

DraftKings respectfully requests that the above subsections be deleted in their entirety. DraftKings believes that these sections seek information that goes far beyond what can reasonably be expected for purposes of obtaining a license in the instant case. Further, DraftKings is concerned that much of the information is not only irrelevant to the instant analysis, but also could very well be confidential in nature and inappropriate to be disclosed.

~~*14) The name, home address, date of birth, position, length of employment, and the amount of compensation for every person, who is not one of those identified in subparagraph (A)(13) above and who is expected to receive an annual compensation of more than fifty thousand dollars ($50,000.00);*~~

~~*15) A description of any bonus, profit sharing, pension, retirement, deferred compensation or similar plans;*~~

DraftKings respectfully requests that the preceding subsections be deleted in their entirety as the scope of individuals contemplated by these sections is extremely broad and does not serve any legitimate purposes in evaluating the credentials of an applicant for a sports betting operator license.

~~*20) A description of all the contracts for twenty-five thousand dollars ($25,000.00) or more or those worth more than that amount, including employment contracts with a duration of more than one (1) year, and contracts in which the enterprise has received twenty-five thousand dollars ($25,000.00) or more in goods or services in the last six (6) months;*~~

DraftKings respectfully requests that the above subsection be deleted in its entirety. This subsection again is overly broad and goes far beyond what would be reasonable in determining an applicant's credentials in connection with the sought license.

~~*28) An organizational chart of the enterprise, including descriptions of the positions and the names of the persons holding said positions*~~;

DraftKings respectfully requests that the above section be deleted as it is overly broad. DraftKings currently has thousands of employees located across the globe which would make supplying a complete organizational chart extremely difficult. On the contrary, if there were specific levels of the organizational chart that the Commission deemed critical that could be something that DraftKings could generate for the Commission's review.

30) Certificate issued by the Treasury Department of Puerto Rico certifying that the enterprise has filed its income tax returns;
31) Negative Debt Certificate issued by the Treasury Department of Puerto Rico; and
32) Negative Debt Certificate issued by the Municipal Revenue Collection Center ("CRIM," by its Spanish acronym).
33) Subsections 30 – 33 shall only be required of applicants if applicable.

DraftKings respectfully submits that subsections 30 – 32 would only be applicable for entities that are either Puerto Rico entities or that have conducted business in Puerto Rico previously. Given DraftKings has yet to conduct business in Puerto Rico it respectfully requests that it – along with any other similarly situated applicants – be exempt from these subsections for purposes of the application.

Section 2.21 Master Vendor's List

…

~~*C. It shall be the responsibility of each operator to provide to the Commission at the end of every month, a list of vendors doing business with operators to determine vendors who shall file for licensure as a service provider. This listing shall provide the name of the Commission and amount paid to vendors during the monthly period. This information will be used by the Commission to determine companies who will be required to file for licensure as a service provider. The Commission shall conduct the required service provider license investigations on the vendors who meet the criteria outlined in this Regulation and who are required to qualify pursuant to the qualifications for licensure contained this Regulation.*~~

DraftKings respectfully requests the above subsection be deleted in its entirety. The above requirement is not necessary given the parameters established in the applicable vendor section of the proposed regulations. Requiring sports betting operators to submit the list contemplated in the above proposed regulation on a monthly basis creates a massive amount of work for both the sports betting operator and Commission with no benefit to the public at large. The processes established elsewhere in the proposed regulations already provide an appropriate framework for vendor registration and this process therefore is unnecessary.

Article 3 Standards for Internal Controls

Section 3.1 Internal Controls

*A. Each Sports Betting Operator shall formulate in writing a complete set of internal controls that adheres to these Regulations. ~~The internal controls will include a written statement signed by the operator's financial director attesting that the system meets the requirements of these Regulations.~~ In the internal controls formulated in writing, there will be an organization chart showing the separation of responsibilities, duties and functions within **the relevant departments of** the operator's organization. The internal controls shall be designed to ensure that:*

DraftKings respectfully requests the foregoing modifications. DraftKings currently has thousands of employees located throughout the globe and requiring an organizational chart across the complete organization would be unnecessarily burdensome in connection with the submission of the internal controls. Alternatively, DraftKings suggests limiting the scope of the organizational chart to those departments and roles that directly impact its Puerto Rico sports betting operation.

*D. Every operator must submit to the Commission any change to its internal controls at least ~~thirty (30)~~ **ten (10)** days before the change takes effect, unless the Commission instructs it in writing to do otherwise. The Commission will determine whether or not to approve the changes and will notify the operator of its decision in writing. No operator will modify its internal controls if the changes have not been approved before, unless the Commission orders it in writing to do otherwise. However, the determination of the Commission regarding any change presented to it will be made no later than ~~sixty (60)~~ **thirty (30)** days after receiving notification of said change.*

DraftKings respectfully requests the foregoing modification in recognition of how the sports betting industry operates. This modification will ensure that the manner in which the sports betting industry operates is not being reimagined without a corresponding benefit to the public participating in sports betting.

E. Notwithstanding what is described in paragraph (D) above, the operators may implement any internal control measure, prior to requiring the authorization of the Commission, when due to extraordinary situations it is necessary to guarantee compliance with paragraph (A) above and will notify the Commission of the measure taken immediately, along with the reasons that required its immediate implementation prior to the Commission's authorization. The Commission will determine, within a term

*of ~~sixty (60)~~ **thirty (30)** days from notification, if the measure should be modified in any way and will notify the operator of its decision in writing.*

DraftKings respectfully submits the foregoing modification in order to conform this subsection with the modifications requested by DraftKings in its immediately preceding comment.

Section 3.3 Financial and Compliance Auditing

A. Financial Audit

*The operator shall submit a financial audit of the operator's financial operations and handling of player accounts and funds, prepared by an independent certified public accountant, registered or licensed in Puerto Rico **or another United States jurisdiction** in good standing, consistent with the attestation standards established by the American Institute of Certified Public Accountants or the rules of the Securities and Exchange Commission, or both, to the extent applicable, pursuant to the Law and meet the following conditions:*

DraftKings respectfully requests the above modification. As DraftKings is a publicly traded company with different product offerings throughout the company, the audit is typically conducted for the enterprise as a whole and not a specific vertical within the company by a company that may or may not have a specific license for each and every jurisdiction where DraftKings products are offered. DraftKings believes that the above modification will ensure that the audit is being conducted by a reputable certified public accountant while recognizing the operational realities of large companies that offer multiple product verticals across the country.

Article 4 Advertising

Section 4.2. Direct Marketing and Promotional Messages

Direct marketing and promotional messages will respect user privacy and comply with all applicable legal privacy requirements including those governing consent. ~~All direct marketing and promotional messages to players may only be sent to players who provide or have previously provided their express consent to receive this material or other material from the operator.~~ The operator shall provide "unsubscribe" functionality for players to opt out of future direct marketing and promotional messages.

DraftKings respectfully requests the foregoing modification in order to clarify the applicable standard. It appears that the language as drafted is proposing both an opt-in and opt-out feature which DraftKings respectfully submits is inappropriate. However, ensuring that customers have the ability to opt-out from receiving messaging is appropriate and in line with what is done in other jurisdictions. DraftKings' proposed modification recognizes this fact.

Section 4.5. Advertisements to Include Information to Promote Responsible Play

*Advertisements shall, where feasible, clearly and conspicuously disclose information concerning assistance available to problem gamers, including information directing problem gamers to reputable resources containing further information. Such information shall be available free of charge and shall include Addiction and Mental Health Services Administration (ASSMCA) helpline number **or 1-800-GAMBLER** that persons may use to seek assistance. In addition:*

DraftKings respectfully requests the above addition in order to align the disclosure requirement with what has been adopted in numerous other regulated jurisdictions.

Section 4.8 No Advertising or Promotions at Prohibited Locations

~~*Advertising and marketing will not be placed with such intensity and frequency that they represent saturation of that medium or become excessive.*~~ *The operator shall take all reasonable steps to ensure that Sports Betting shall not be promoted or advertised:*

…

~~*C. At a venue where most of the audience at many of the Sports Events or Special Events at the venue is reasonably expected to be Minors.*~~

D. In published media or through news assets (e.g., print, radio or television broadcasts, Internet and mobile applications) in Puerto Rico that are aimed exclusively ~~*or primarily*~~ *at minors or are owned by educational institutions of primary, intermediate and secondary levels or advertised on educational institutions of primary, intermediate and secondary levels.*

DraftKings respectfully requests the above modifications to the proposed regulation. DraftKings feels it is incredibly important that sports betting operators have the ability to advertise in a manner that draws customers away from the existing illegal market. While advertising must always be done in a responsible manner, the application of subjective standards such as those contemplated in the above section only create uncertainty and lead to a stifling of the regulated sports betting market.

Article 5 Sports Betting Operations

Section 5.1. Authorized Sports Betting

…

C. The Executive Director shall post on the Commission's website the Authorized Sports Events and Special Events, Leagues and Wagers list. For items not on this list, the operator shall not accept any wager on a type of Sports Betting unless it has received prior approval from the Commission. The operators may offer ***minor variations*** *of an approved wager type without seeking Commission approval.*

DraftKings respects further clarification as to what the Commission deems *minor variations* in the context of this provision.

Section 5.2. Systems and Components used for Sports Betting

…

2) The Operator and/or Provider must provide the Commission with information on the hosting center(s) or other secure location(s) of the Sports Betting System and its components (servers and other equipment) other involved in the Sports Betting Operation, with each hosting center or secure location selected authorized by the Commission. The hosting centers or secure locations must:

~~*a) Unless otherwise authorized by the Commission, be located in the United States:*~~

DraftKings respectfully requests the above be deleted from the proposed regulations. DraftKings believes that there is no legitimate reason that hosting centers or secure locations must be located in the United States so long as the components with functionality capable of receiving wagers is located within the Commonwealth of Puerto Rico, as is required by the following subsection. For this reason, DraftKings respectfully requests that the Commission remove the above restriction.

> ~~*i.*~~ *Components with functionality capable of receiving wagers must* ***located within the Commonwealth of Puerto Rico****. Components that perform functions capable of receiving wagers generally include primary or backup components that facilitate the placement or acceptance of wagers.* ~~*These include, but are not limited to:*~~
>
> ~~*1. Components that house random number generators (if applicable);*~~
> ~~*2. Components that facilitate event or odds/payouts and prices posting and selection;*~~
> ~~*3. Other sports betting layer components; and*~~
> ~~*4. Any other components that facilitate the placement or acceptance of wagers.*~~

DraftKings requests the above be deleted from the proposed regulation. The stricken language goes beyond components that are *capable of receiving wagers* and may very well encompass components of the sports betting platform that are otherwise not required to be located within the local jurisdiction under federal law. It is absolutely critical that jurisdiction level law not attempt to supersede requirements established in federal law that could otherwise require sports betting operators to completely modify existing operations in order to operate in the Puerto Rico market.

Additionally, DraftKings respectfully requests that the Commission provide sports betting operators with a list of datacenters that the Commission feels are appropriate sites to locate the above contemplated components of the sports betting platform.

> *ii. Components with no functionality capable of receiving wagers may be located outside of the Commonwealth of Puerto Rico*~~*; however, the location selected must still be in the United States*~~*. Unless otherwise provided in any applicable local or federal law or regulation, the following are not generally functions that are capable of receiving a wager:*

DraftKings respectfully submits, for the reasons provided in its immediately preceding comments, that the above language is inappropriate and should be stricken from the proposed regulations.

Section 5.3. Information Posting

A. Multiple Language Information

The following principles must be followed where information available to the player (wagering rules, terms and conditions, privacy policy, etc.) is provided in different language versions:

DraftKings respectfully requests further clarification as to the Commission's intention with the above regulation. Are sports betting operators expected to make this information available in multiple languages, or is the Commission's intention only for these requirements to apply should sports betting operators choose to make their offering available in multiple languages?

D. Sports Betting Guide
No Sports Betting Guide shall be issued, displayed or distributed by the Operator unless and until a sample thereof has been submitted to and approved by the Commission. No Authorized Location shall issue, display or distribute any Sports Betting Guide that is materially different from the approved sample thereof.

DraftKings respectfully requests clarification as to what the Commission deems to be a *sports betting guide*. DraftKings believes it is important to specifically identify the materials that fall within the scope of this provision in order to have a firm understanding of the requirement. For instance, DraftKings currently offers a 'How to Bet' page on its website.[3] Would this fall within the scope of what the Commission is contemplating needing to approve prior to being made available to the general public?

E. Free Play Mode
The operator may offer free play mode, which allow players to participate in Sports Betting without paying. Free play must not be available to the player without first signing into an account. ~~Free play shall have the same payout as paid wagering.~~ Free play shall have the same ~~restrictions and requirements as paid wagering including the~~ prohibition of participation by minors. Free play shall provide the same responsible play information as paid wagering. Wagers, which may be paid with credits received from a bonus or promotional offer are not considered free play.

DraftKings respectfully requests the above modification to the proposed regulation. DraftKings believes it is important to clarify that free to play offerings are not within the intended scope of the regulations, as the purpose is to regulate sports betting. This is commonplace across jurisdictions. While having minimum safeguards in place around account registration and prevention of underage participation are logical, DraftKings does have concerns when specificity around payout requirements and similar facets are addressed as it has potential to unnecessarily complicate an offering that is not meant to be within the scope of the contemplated regulations.

[3] https://sportsbook.draftkings.com/how-to-bet?wpscn=how-to-bet/football-betting-guide).&wpcn=help&wpaffn=https://sportsbook.draftkings.com/help/how-to-bet/football-betting-guide).&utm_source=Google&wpsrc=Organic%20Search

Section 5.7 Winning Wager Payment

~~*C. The operator shall receive information from the Administration for Child Support Enforcement ("ASUME") concerning persons who are delinquent in child support. The following will occur prior to the operator disbursing a prize of six hundred dollars ($600) or more, in winnings to a person who is delinquent in child support,*~~

~~*1) The operator shall make a reasonable effort to:*~~

~~*a) Withhold the amount of delinquent child support owed from winnings;*~~

~~*b) Transmit to the Commission:*~~

~~*i. The amount withheld for delinquent child support; and*~~

~~*ii. Identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the operator; and*~~

~~*c) Issue the obligor a receipt in a form prescribed by ASUME with the total amount withheld for delinquent child support and the administrative fee mentioned under subsection (3).*~~

~~*2) The operator may also deduct and retain an administrative fee in the amount of the lesser of one hundred dollars ($100) or three percent (3%) of the amount of delinquent child support withheld.*~~

DraftKings respectfully requests that section C be deleted in its entirety. No other jurisdiction in the United States requires such a provision for online sports betting. The procedure contemplated in this proposed section of the regulations would require sports betting operators to completely rework how business is conducted and be a significant impediment to entering the Puerto Rico market. As this check is not contemplated in the Gaming Commission Act of the Government of Puerto Rico, is not a common procedure in the sports betting industry, and is likely to result in very little money being recovered, DraftKings feels strongly that this process should be abandoned in its entirety.

Section 6.2. Participation Prevention and Restriction

…

B. Restrict Participation by Athletes, Participants, and Associates

…

6) The operator will not be held liable for a violation of these regulations if:

a) The operator makes commercially reasonable efforts to ***<u>prevent prohibited persons from participating in sports betting</u>*** ~~*obtain lists of such persons for the purpose of implementing this provision by monitoring for and excluding accounts of such persons;*~~

DraftKings respectfully requests the foregoing modification to the proposed regulations. DraftKings believes that requiring sports betting operators to obtain lists of persons from an infinite, abstract list of entities creates an impractical standard that makes compliance impossible. Conversely, any lists provided to the Commission by any group of entities that the

Commission deems credible can be used by sports betting operators to help ensure that none of the individuals that fall within the scope of this provision will be participating in sports betting.

Section 6.3 Responsible Play

…

D. The Mobile App or Site shall display a responsible play logo or information to direct players to the operator's player protection page, which shall include, at a minimum:

…

2) A statement of potential risks associated with excessive play and where to seek help if the player develops a problem (e.g. "The games can create addiction. If playing causes you financial, family and occupational problems, call the ASSMCA PAS line at 1-800-981-0023." **"Los juegos pueden crear adicción. Si jugar le causa problemas económicos, familiares y ocupacionales, llame a la línea PAS de ASSMCA 1-800-981-0023."**~~).~~ ***or "If you or someone you know has a gambling problem and wants help, call 1-800-GAMBLER"***.

3) A statement that no underage persons are permitted to play (e.g. "Only for players over the age of eighteen (18) years." **"Solo para jugadores Mayores de dieciocho (18) Años.");**

DraftKings respectfully requests the above addition to subsection (2) to align the disclosure requirement with what has been adopted in numerous other regulated jurisdictions. Further, as DraftKings has similarly sought clarification in other sections of the proposed regulations, DraftKings respectfully requests that the Commission provide clarity as to the expectation of what segments of the sports betting operation will be required to be available in Spanish.

Section 6.4 Operator Reserves

D. The operator shall calculate their reserve requirements **on a monthly basis** ~~each day~~. In the event the operator determines that their reserve is not sufficient to cover the calculated requirement, the operator must, within 24 hours, notify the Commission of this fact and must also indicate the steps the operator has taken to remedy the deficiency.

DraftKings respectfully requests that the above modification be made to the proposed regulations based upon its experience in other regulated jurisdictions. It is DraftKings experience that in the sports betting industry these certifications are typically done on a monthly basis as regulators find daily certifications have proven to be unnecessarily burdensome.

Section 6.6 Risks and Controls

…

~~*E. Taxation Reporting*~~

~~*The operator shall disclose potential tax liabilities to players in the on-boarding process and again at the time of award of any prize in excess of any taxation limits required by local or federal law. Such disclosures will include a statement that the obligation to pay applicable taxes on winnings is the responsibility of the player and that failure to pay applicable tax liabilities may result in civil penalties or criminal liability.*~~

DraftKings respectfully requests that the aforementioned provision be stricken in its entirety. The contemplated requirement is not required in any other sports betting jurisdiction and is unnecessary. This requirement would create new work for sports betting operators with no corresponding benefit to the Commission in ensuring that policy goals are achieved, as that is already accomplished through existing procedures.

Section 6.7. Suspicious Activity Report (SAR)

A. ~~Within 2 business days of learning of the transaction~~ ***As soon as is practicable following the actual discovery of the transaction****, the operator shall submit to the Commission a Suspicious Activity Report (SAR) for any transaction between an operator or an employee of an operator and an individual that involves the acceptance or redemption by a player of cash or cash equivalent involving or aggregating $5,000 or more which an operator or employee of an operator knows, suspects or has reason to believe:*

DraftKings respectfully requests the above modification to the proposed regulation in order to allow sports betting operators sufficient time to prepare and file all necessary notices with the various agencies that require notification.

Article 7 Player Account Management

Section 7.4 Player Funds Maintenance

…

C. The player shall have fee-free methods to deposit funds to or withdraw funds from their player account

1) The deposit methods available to players to fund accounts may include:

…

d) Transfers from another account verified to be controlled by the player through the Automated Clearing House (ACH deposit) or ***another mechanism designed to facilitate electronic commerce transactions****;*

…

2) The withdrawal methods available to players to cash out accounts may include:

…

e) Transfers to another account verified to be controlled by the player through the automated clearing house (ACH withdrawal) or ***another mechanism designed to facilitate electronic commerce transactions****;*

DraftKings respectfully seeks clarification as to what payment methods are meant to be covered by the bold language above. DraftKings interpretation is that this would capture payment methods such as PayPal but respectfully requests confirmation of same. PayPal and similar electronic wallet payment methods are critical forms of deposit/withdrawal used in the sports betting industry and it will be important that these tools are available to sports betting operators.

Section 7.5. Dormant and Closed Accounts

A. A Player Account is considered to be dormant after it has had no player-initiated activity, such as ***logging into their account,*** *placing a wager, making an account deposit,*

or withdrawing funds for a period of one (1) year as specified in the terms and conditions. Procedures shall be in place to:

DraftKings respectfully requests the above modification. Player accounts should not be considered dormant if the player has logged into their account at some point within the given time period. By logging in – even if the player does not place a wager or engage in some other way – the player is engaging with the sports betting operator and should not be designated as a dormant account.

Section 7.7. Limitations and Exclusions

B. Monthly Deposit Limits and other Imposed Limitations

The Operator must be capable of imposing responsible play limits including, but not limited to, deposit limits, spending limits, and time-based limits as established by the Commission through regulations to that effect. Where required by the Commission, it is the operator's responsibility is to discuss with the Commission any procedures implemented to assess the financial capacity of the players so that it can set and update these limits correlatively to their income where required by the commission.

…

~~*2) Where required by the Commission, no player shall be permitted to deposit more than two thousand five hundred dollars ($2,500) per calendar month with the operator. The operator may establish procedures for temporarily or permanently increasing a player's deposit limit, at the request of the player.*~~

~~*a) If established by the operator, such procedures shall include evaluation of income or asset information, sufficient to establish that the player can afford losses that might result from participation at the deposit limit level requested.*~~

~~*b) The player must provide reasonable certification or proof, including the types of certifications used to qualify accredited investors, to the operator that the player's monthly deposit limit should be increased in accordance with these rules and the published rules of the operator.*~~

~~*c) In order to be eligible for a deposit limit increase, a player must demonstrate, to the operator's reasonable satisfaction, that they qualify for an increase under policies and procedures established by the operator, based on the player's annual income or net worth.*~~

~~*d) When a temporary or permanent deposit level limit increase is approved, the operator's procedures shall provide for annual evaluation of information, including income or asset information, sufficient to establish a player's financial ability to afford losses at the deposit limit level in place. Absent such evaluation, the temporary or permanent deposit level increase shall not be extended.*~~

~~*e) No player shall be granted an increase in his or her deposit limit prior to verification of their identity in accordance with these rules.*~~

DraftKings respectfully requests the above section be deleted. DraftKings believes it is inappropriate to apply a blanket deposit limit to all players. In arbitrarily setting a limit the Commission is inadvertently incentivizing individuals to remain in the illegal market. A goal of the regulated market is to convert individuals away from the illegal market and putting artificial barriers such as an arbitrary deposit limit in place will only result in individuals deciding to remain in the illegal market.

Section 7.8. Account Information Access

…

B. The player must have the ability to receive updates during play about time and money spent on wagers for confirmed events and account balances in currency as well as the amount available (if any) of pending bonus or promotional offer. In addition, the player must have the ability to receive updates during play about wagers for future events.

DraftKings respectfully requests further clarification as to the intended scope of the proposed regulation. This information is readily available within the application or website, but if the Commission is envisioning something beyond the information that is available to players as a default within the application, DraftKings respectfully requests further clarification.

Article 9 Commission's Lists for Involuntary and Voluntary Self-Exclusion
Section 9.2. Voluntary Exclusion List

…

O. As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:

1) ***Three (3) months;***
2) ***Six (6) months;***
3) One (1) year;
4) Eighteen (18) months;
5) Three (3) years;
6) Five (5) years; or
7) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Voluntary Exclusion List for at least six (6) months). ***; or***
8) Any combination of time periods as may be established by fantasy contest operators and approved by the Commission.

DraftKings respectfully requests the foregoing modifications in acknowledgement of how the sports betting industry has been conducted. DraftKings has found that various options as to the period for which players are permitted to self-exclude have proven effective in catering to our

players needs and feels that arbitrarily assigning other timeframes is not necessary to accomplish the intended goal of the regulation.

***

Thank you for your consideration of DraftKings' comments in connection with the proposed fantasy contest regulations and sports betting regulations. DraftKings hopes to have the opportunity to continue a dialogue with the Commission in order to ensure that the Puerto Rico fantasy contests and sports betting industries are able to launch in a safe, efficient manner and are best positioned to succeed.

Sincerely,

DraftKings Inc.

Cory Fox
cory.fox@fanduel.com

April 4, 2021

Via Email to infocjpr@comjuegos.pr.gov
Puerto Rico Gaming Commission
P.O. Box 9023960
San Juan, PR 00902

Re: FanDuel Comments on Proposed "Regulations for Fantasy Contests of the Puerto Rico Gaming Commission"

Dear Commissioners:

I write to provide comments on behalf of FanDuel Group, Inc. ("FanDuel") regarding the proposed "Regulations for Fantasy Contests of the Puerto Rico Gaming Commission" ("Proposed Regulations"). Based on our extensive experience as an operator in the fantasy sports industry and collaborator with regulators of fantasy contests in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Regulations can be improved for effectiveness and consistency with other state regulations.

FanDuel has been a leading operator of daily fantasy sports for over a decade, and currently offers paid entry fantasy sports contest in 43 states. As a skill-based, peer-to peer activity, fantasy contests have been subject to less onerous regulation than traditional gaming activities by every US state that has regulated them. We appreciate the opportunity to share our perspective on fantasy contest regulation with you and have arranged our comments in four parts. Part I is focused on issues in the Proposed Regulations related to the licensing of fantasy contest operators, service providers, vendors, and employees. Part II is focused on major issues in the Proposed Regulations related to the operations of fantasy contests. Part III is focused on additional issues in the Proposed Regulations related to the operations of fantasy contests, including requests for clarification and adjustments to comply with statutory provisions. Finally, Part IV is focused on grammatical clarifications and other minor errata.

Part I - Issues with licensing of fantasy contest operators.

Article 2 of the Proposed Regulations provides for the licensing process of fantasy contest operators, service providers, vendors, and employees. These regulations lay out significantly burdensome and unnecessary requirements that are far beyond the requirements imposed by other jurisdictions on the fantasy contest industry and frequently are beyond the requirements imposed by other jurisdictions on sports wagering or other gaming operators. We have arranged our issues within this part into three subparts: Subpart A – General issues with licensing; Subpart B – Specific issues with business entity licensing; and Subpart C – Specific issues with employee licensing.

FANDUEL

Subpart A – General issues with licensing:

- ***Issue 1 – Prohibition on electronic submission of application documents.***

Throughout Article 2 of the Proposed Regulations, there are numerous instances where applications or supporting documents must be either mailed or hand delivered to the Commission. This, in effect, creates a prohibition on the electronic submission of application documents, a process that is utilized by regulators in other jurisdictions. To improve the ease of use and reduce unnecessary burdens on both applicants and the Commission, the Commission should have the authority to accept and process applications electronically, if it chooses to do so. We suggest the following changes to the Proposed Regulations to remove any specific requirements that would prevent the electronic submission of application documents:

Article 2, Section 2.1(F)(1)(c):
"1) Every initial application for an Employee License shall include:
…
c) **[~~One (1) passport type photographs, provided by the applicant, taken within the three (3) months preceding the date of the filing of the Employee License application, which shall be stapled to the initial request~~]**;"

Article 2, Section 2.1(F)(2):
"2) Each initial application shall be **[~~filed at or mailed~~]** **submitted** to the Commission **[~~at the address indicated~~]** **in a format approved** by the Commission."

Article 2, Section 2.1(J)(1)(c):
"1) The Employee License renewal application shall include:
…
c) **[~~One (1) Passport type photographs, provided by the applicant, taken within the three (3) months preceding the date of the filing of the Employee License renewal application, which shall be stapled to the in the renewal request~~]**;"

Article 2, Section 2.1(J)(2):
"2) All renewal applications shall be **[~~filed with or mailed~~]** **submitted** to the **[~~address provided~~]** **Commission in a format approved** by the Commission.

Article 2, Section 2.6(A)(1):
"A. The initial application for a License shall consist in:
1) **[~~An original and a digital copy of t~~]****T**he following documents:"

Article 2, Section 2.6(B):
"B. Every initial application shall be **[~~filed at or mailed at~~]** **submitted to** the **[~~address provided~~]** **Commission in a format approved** by the Commission."

Article 2, Section 2.7(A):
"A. A duly completed **[~~original and a photocopy of~~]**:"

Article 2, Section 2.18(C):
"C. All Multijurisdictional Personal History Disclosure Form shall be filed **[~~in original and digital copy~~]** together with the corresponding Service Provider License Application Form and shall also include:
1) The documents similar to those required in section 2.1 (M) of these Regulations for identifying the person; **and**
2) **[~~A photograph of the applicant taken within the twelve (12) months prior to the date of filing of Multijurisdictional Personal History Disclosure Form, which shall be stapled to said Form; and~~**
~~3)~~] A Puerto Rico Supplemental Form to Multijurisdictional Personal History Disclosure Form, completed in all its parts."

- ***Issue 2 – Requirement for notarized statements.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that require applicants to submit notarized statements attesting to the veracity of the information provided. We have seen over the last year the problems that arise due to requirements for in-person notarization and suggest the Proposed Regulations clearly authorize the submission of documents that have been electronically notarized. To address this concern, we suggest the following changes:

Article 2, Section 2.1(E)(1)(m):
"1) As part of the initial application for an Employee License provided in section 2.1(F) of these Regulations, any applicant shall submit the following information which shall be provided by the Commission for such purposes:
…
m) Notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** in which the applicant declares that all the information provided in the application is true;"

Article 2, Section 2.1(J)(1)(f):
"1) The Employee License renewal application shall include:
…
f) A notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby the applicant declares that all the information contained in the application is true."

Article 2, Section 2.17(B):

"B. In addition to the information in paragraph (A) above, License Application Form shall include a Release Authorization authorizing governmental and private **[~~organisms~~]** **organizations** to release any information pertaining to the applicant which may be requested by the Commission and a notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby applicant declares that all the information supplied in the application is true."

Article 2, Section 2.18(B)(2):
"B. In addition to the information in (A) above, the Multijurisdictional Personal History Disclosure Form completed shall include the following:
…
2) A Release Authorization authorizing governmental and private **[~~organisms~~]** **organizations** to take and offer any pertinent information relating to the person that may be requested by the Commission and a notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby applicant declares that all the information supplied in the application is true."

- ***Issue 3 - Licensing restrictions related to "moral turpitude."***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that prohibit licensure of individuals or entities based on whether the individual, or associated individuals in the case of a business entity, have been convicted of (or charged with) committing a crime involving "moral turpitude" or "moral depravity." This is a potentially subjective standard that may not directly relate to an individual's suitability for licensure. Additionally, the Gambling Commission Act of the Government of Puerto Rico provides this standard of review only in relation to sports wagering and not in relation to fantasy contest licensure (Article 3.6(3)). The Gaming Commission, and the public, would be best served by a clear standard, which prevents individuals who have been convicted of crimes specifically related to fantasy contests or gambling from being licensed. To address this concern, we suggest the following changes:

Article 2, Section 2.1(D)(1)(d)(iv):
"d) The Commission shall deny an employee license to any applicant that meets any of the following restrictions:
…
iv. The applicant has been convicted, pursuant to the laws of the Commonwealth of Puerto Rico, the laws of any other jurisdiction, or federal law, for any serious or less serious crime involving **[~~moral depravity~~]** **fantasy contests or gambling**."

Article 2, Section 2.9(A)(5):
"A. The Commission may deny a License to any applicant which, in the opinion of the Commission:
…

5) Has been convicted of any felony or misdemeanor involving **[~~moral turpitude~~]** **fantasy contests or gambling**, in Puerto Rico or any other jurisdiction, providing that this disqualifying criterion shall not automatically apply in case of convictions that have been expunged from the applicant's criminal record upon a court order;"

Article 2, Section 2.11(A)(4)(a):
"A. Any natural person who is required to qualify, because of his relationship with a License applicant, shall provide to the Commission the information, documentation and assurances necessary to establish through clear and convincing evidence:
…
4) That he has not been convicted by a state or federal court of justice or a court of justice of any other jurisdiction of:
a) Committing, intending to commit or conspiring to commit a crime **[~~of moral turpitude~~]** **involving fantasy contests or gambling**, illegal appropriation of funds or robbery, or any violation of a law related to Gaming Commission of the Government of Puerto Rico, or a crime which is contrary to the declared policy of Puerto Rico with respect to the gaming industry;"

Subpart B – Specific issues with business entity licensing and registration:

- ***Issue 1 – Compliance with the Americans with Disabilities Act.***

Article 2, section 2.2(A)(8) provides a requirement that an applicant for a fantasy contest operator license must certify that their operations will comply with the requirements of Title III of the Americans with Disabilities Act ("ADA"). The first concern about this requirement is that this requirement does not reflect any specific requirement in the Gambling Commission Act of the Government of Puerto Rico as it relates to fantasy contest operators. The Act has a provision addressing accessibility, however that provision is limited in scope to only applying to sports wagering, not fantasy contests.

Second, and more importantly, the language in this section is not specific as to what, if any, limit is placed on the definition of the fantasy contest operators "operations." This term could be interpreted to include offices and locations of the operator outside of Puerto Rico. Fantasy contest operators may have offices and locations outside of Puerto Rico or even outside of the United States (where the provisions of the ADA would not apply) as well. As such, we suggest removal of this provision. However, if not removed, we suggest it is limited in scope to ensure that authorized locations in Puerto Rico comply with the requirements associated with places of public accommodation under Title III of the ADA. To address these concerns, we suggest the following changes:

Article 2, Section 2.2(A)(8):
"**[~~8) Applicants must certify that their operations will comply with the requirements of title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 ("ADA"), and~~**

~~**its implementing regulations, which are found at 28 C.F.R. part 36.]**~~"

Or

Article 2, Section 2.2(A)(8):
"8) Applicants must certify that their **[~~operations~~]** **authorized locations in Puerto Rico** will comply with the requirements of title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 ("ADA"), and its implementing regulations, which are found at 28 C.F.R. part 36."

- ***Issue 2 – Licensure of Global Risk Management service providers.***

Article 2, section 2.2(B)(1)(f) requires that any entity which provides "Global Risk Management" services to a fantasy contest operator must be licensed as a service provider. The term "Global Risk Management" generally relates to sports wagering and the management of risk for sports betting operators to ensure they do not have an outsized risk for any particular outcome of a sports event. Fantasy contests, however, have pre-determined prize pools for the participants in the contest and thus an operator is not subject to the same risks that a sports betting operator is subject to. As such, there is no need for fantasy contest operators to contract with "Global Risk Management service providers and they should be removed from this section. To address this concern, we suggest the following change:

Article 2, Section 2.2(B)(1)(f):
"1) A legal person who supplies services directly necessary for the operation of the Fantasy Contests activity or who receives payment or compensation tied to player activity or in excess of 5% of the handle of any Licensee; who shares in a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or who provides any similar services that are material to conducting these activity as determined by the Commission shall be considered a Service Provider and shall be required to obtain a license as a Service Provider. These services may include, but are not limited to:…

~~**[f) Global Risk Management services,]**~~"

- ***Issue 3 – Limiting licensure and registration to operations in Puerto Rico.***

Article 2, sections 2.2, 2.3 and 2.4 provide for service provider licensure, vendor registration, and restrictions on doing business without the proper license or registration. However, these provisions are inconsistent on the applicability of the provisions to only the operation of fantasy contests in Puerto Rico. We believe for the sake of consistency all these provisions should be clarified to apply only to the operation of fantasy contests in Puerto Rico. To address this concern, we suggest the following changes:

Article 2, Section 2.2(B)(1):
"1) A legal person who supplies services directly necessary for the operation of the Fantasy Contests activity **in Puerto Rico** or who receives payment or compensation tied to player activity or in excess of 5% of the handle of any Licensee; who shares in a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or who provides any similar services that are material to conducting these activity as determined by the Commission shall be considered a Service Provider and shall be required to obtain a license as a Service Provider…"

Article 2, Section 2.2(B)(2):
"2) Companies that provide goods or services directly related to Fantasy Contests **in Puerto Rico** will pay $ 5,000, such as manufacturers, Providers, service providers, laboratories, suppliers or distributors of devices, equipment, accessories, objects or items that are used for Fantasy Contests…"

Article 2, Section 2.3(A):
"A) Any legal person who provides goods or services that are material and ancillary to conducting Fantasy Contests **in Puerto Rico**, and who are not otherwise classified as a Licensee, shall be considered a Vendor and shall be required to obtain approval from the Commission for Registration as a Vendor. These services may include, but are not limited to:

1) payment services or processors that do not qualify as Supplier Registrants,
2) contractors for goods or services relating to **the operation of** Fantasy Contests **in Puerto Rico**,
3) lobbyists,
4) brand developers, and
5) affiliated marketers."

Article 2, Section 2.3(B)(4) :
"B) Any legal person who provides non-material or general goods or services indirect to the conduct of Fantasy Contests shall not be required to obtain Registration as a Vendor, unless the Person receives payment or compensation:

4) that exceeds $250,000 in a one-year period for goods and services **directly** relating to **the operation of** Fantasy Contests **[~~activity~~] in Puerto Rico**."

Article 2, Section 2.4(A):
"A) No enterprise shall operate, provide equipment or services related with the activity of Fantasy Contests **in Puerto Rico**, or in another manner shall carry on business related with activities of Fantasy Contests with the operator, its employees or agents, unless it holds a current License validly issued by the Commission"

- ***Issue 4 – Requirement for licensure of companies that provide goods or services not directly related to fantasy contests.***

Article 2, section 2.2(B)(3) provides a requirement that companies which provide goods or services that are not directly related to fantasy contests should still be required to be licensed as service providers, just at a lower fee. Many of these companies (including those specifically mentioned – cleaning companies, restaurants, etc.) should not be subject to service provider licensure or vendor registration at all, with the only exception of firms providing consulting services on regulations. Such firms, however, would be better being included in the vendor registration provision along with lobbyists. To address these concerns, we suggest the following changes:

Article 2, Section 2.2(B)(3):
"3) **[~~Companies that provide goods or services not directly related to Fantasy Contests will pay $ 2,000, such as cleaning companies, players' representatives ("junket") and their respective companies, restaurants, sale of articles, and provide consulting services on regulations. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto.~~]** The Service provider license shall be valid for three (3) years."

Article 2, Section 2.3(A)(3):
"A) Any legal person who provides goods or services that are material and ancillary to conducting Fantasy Contests, and who are not otherwise classified as a Licensee, shall be considered a Vendor and shall be required to obtain approval from the Commission for Registration as a Vendor. These services may include, but are not limited to:

1) payment services or processors that do not qualify as Supplier Registrants,
2) contractors for goods or services relating to Fantasy Contests,
3) lobbyists **and consultants on regulations**,…"

- ***Issue 5 – Requirement for administrative and supervisory personnel, principal employees and sales representatives to provide information for business entity licensure.***

Article 2, section 2.5(C) requires that business entity license applicants must submit information and documentation to establish that the "…owners, administrative and supervisory personnel, principal employees and sales representatives of the applicant comply with the parameters of this section." Our concern is that these categories of individuals are not clearly defined, and they go beyond the categories provided in other sections for business entity licensure. We suggest the following changes to bring this section in line with the requirements elsewhere:

Article 2, Section 2.5(C):
"All License applicants shall submit to the Commission the information, documentation and guarantees necessary to establish through clear and convincing evidence:…
C. That the **direct or indirect** owners **of 5% or more of the voting interests of the applicant and the key employees[~~, administrative and supervisory personnel, principal employees and sales representatives~~]** of the applicant comply with the parameters provided in this section;"

- ***Issue 6 – Requirement to provide information on sales representatives and all technological employees including completion of the Multijurisdictional Personal History Disclosure Form.***

Article 2, section 2.10 requires that business entity license applicants provide information on the individual qualifications of several categories of individuals. This section also requires these individuals to complete the Multijurisdicational Personal History Disclosure Form. Among those individuals required to submit this information are sales representatives and technological employees. These individuals should not be subject to inclusion in this provision and, if their job responsibilities satisfy the requirements of employee licensure, their information can be provided through that process. To address this concern, we suggest the following changes:

Article 2, Section 2.10:

"**Section 2.10 Qualification Requirements Before Granting a License**

A. The Commission shall not issue a License to any legal person unless the applicant has established in advance the individual qualifications of each one of the following persons:
   1) The enterprise;
   2) The holding company (ies) of the enterprise;
   3) Every owner of the enterprise who has, directly or indirectly, any interest in or is the owner of more than fivepercent (5%) of the enterprise;
   4) Every owner of a holding company of the enterprise that the Commission deems necessary to promote thepurposes of the Law and the Regulations;
   5) Any director of the enterprise, except such director who, in the opinion of the Commission, is not significantlyinvolved in or connected with the administration of the enterprise;
   6) Every officer of the enterprise who is significantly involved in or who has authority over the manner in whichthe business dealing with the activities of the operator is conducted and any officer who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;
   7) Any officer of the holding company of the enterprise who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;
   ~~8)~~ **~~[Any employee who supervises the regional or local office that employs the sales representatives who shallsolicit business from or negotiate directly with the operator;~~**
   9) **~~Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any operator in Puerto Rico or any technological employee who has access to the facilities ofthe operator in the performance of his job duties;]~~**
   10) Any other person who the Commission considers should be qualified.

B. To establish the individual qualifications, the persons specified in subparagraphs (A)(1) and (A)(2) of this section shall complete Business Entity License Application Form.

C. To establish the individual qualifications, the persons specified in subparagraphs (A)(3) through (A)(**~~[10]~~** **7**) of this section shall complete Multijurisdictional Personal History Disclosure Form."

- ***Issue 7 – Requirement to disclose information on all individuals or entities with a beneficiary interest in any non-voting shares.***

Article 2, section 2.17(A)(9) requires the disclosure of every individual or entity with a beneficial interest in any non-voting shares of a business entity applicant. This is the only section which requires disclosure of individuals or entities with an interest in non-voting shares. Further, it is inconsistent with the standard of disclosure throughout the rest of the regulations, which is limited to those owners of more than five percent (5%) of the voting shares. Finally, as these are non-voting shares, they do not exercise the ability to control the decisions of the business entity and thus do not need to be disclosed. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(9):
"License Application Form shall be completed in the format provided by the Commission and may require the followinginformation:…
9) **[~~The name, address, date of birth (if applicable), number and percent of shares owned by each person orentity with a beneficiary interest in any non-voting shares;~~]**"

- ***Issue 8 – Disclosure of managers and sales representatives.***

Article 2, sections 2.17(A)(10)(d)-(f) requires the disclosure of the name, address, date of birth, title or position, and percent ownership in the business enterprise of every sales representative, every manager who supervises a local or regional office which employs sales representatives, and anyone who has signed, or will sign a service agreement. As stated earlier, there is no need to disclose the names and information of sales representatives and others unless they would otherwise be subject to employee licensure, at which point the information would be provided. Likewise, if these individuals are owners of five percent (5%) or more of the applicant, then they would have to be disclosed under other article 2, section 2.17(A)(10)(c) and other provisions of these regulations. As such, these provisions are unnecessary and burdensome and should be removed. To address this concern, we suggest the following changes:

Article 2, Sections 2.17(10)(d)-(f):
"License Application Form shall be completed in the format provided by the Commission and may require the following information:…
10) The name, address, date of birth, title or position, and, if applicable, the percent of ownership in the enterpriseof the following persons:
a) Every officer, director or trustee;
b) Every owner, or partner, including all the partners, whether general, limited or any other type; **and**
c) Every beneficial owner who owns more than five percent (5%) of the voting shares;

~~d)~~ ~~[Every sales representative or other person who shall regularly solicit business from the operator;~~

~~e) Every manager who supervises a local or regional office which employs sales representatives orother persons who solicit business from the operator; and~~

~~f) Any other person not specified in subparagraphs (A)(10)(a), (b), (c), (d) and (e) above and who hassigned or will sign service agreements with the operator;]~~

- ***Issue 9 – Clarifying ownership standard for diagram of ownership interest***

Article 2, section 2.17(A)(11) requires the provision by an applicant for a business enterprise license of a diagram illustrating the ownership interest of "any other person who has an interest in the applying enterprise." As a business enterprise applicant may be a publicly traded corporation, it would be highly impractical to develop such a diagram, and it would immediately become erroneous due to the trading of shares of the applicant. As such, this requirement should be limited, as the rest of the provisions on ownership are, to those individuals with more than five percent (5%) ownership in the business enterprise. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(11):
"License Application Form shall be completed in the format provided by the Commission and may require the following information:…
11) A diagram that illustrates the ownership interest of any other person who has an interest **of more than five percent (5%) of the voting shares** in the applying enterprise."

- ***Issue 10 – Requirement to disclose significant amounts of unnecessary and/or confidential information.***

Article 2, sections 2.17(A)(12)-(15) and (20) require significant disclosures from applicants that are beyond what is generally required, even for gaming or sports wagering operator licensing in other jurisdictions. These provisions require, among other information, the name, address, date of birth, position, dates of employment, and reason for leaving for all former officers and directors who have left within the last ten years. Additionally, these provisions require the name, address, date of birth, position, length of employment and compensation for all employees earning fifty thousand ($50,000) per year or more. Beyond these requirements, these provisions also require disclosure of all bonus, profit sharing, pension, retirement, or deferred compensation plans and the compensation for all partners, officers, directors, and trustees. Finally, these provisions require disclosure of all contracts for twenty-five thousand dollars ($25,000) or more.

As stated before, these requirements go significantly beyond those required by other jurisdictions and should all be removed entirely.

- ***Issue 11 – Requirement for the use of an accountant registered or licensed in Puerto Rico.***

Article 2, section 2.17(A)(27)(c) requires a business entity applicant to provide audited financial statements from an independent certified public accountant registered or licensed in Puerto Rico. Business entities who are headquartered outside of Puerto Rico are likely to already have audited financial statements that have been prepared by firms which are licensed or registered in other jurisdictions. To ensure a speedy application process and prevent duplication of work that has already been completed, the Commission would be best served to accept audited financial statements that have been prepared by an independent certified public accountant in any jurisdiction in the United States. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(27)(c):
"License Application Form shall be completed in the format provided by the Commission and may require the following information:…
27) A copy, if applicable, of each one of the following:…
c) Audited financial statements from an independent certified public accountant, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing, prepared in accordance with the attestation standards establishedby the American Institute of Certified Public Accountants for the last fiscal year, including, but not limited to, income and expense statements, balance sheets, cash flow statements and the notes corresponding to said financial statements;"

- ***Issue 12 – Requirement for documents from the Treasury Department and the Municipal Revenue Collection Center.***

Article 2, sections 2.17(A)(30)-(32) require business entity license applicants to provide certificates from the Treasury Department of Puerto Rico and the Municipal Revenue Collection Center ensuring that the applicant has filed its income tax returns and does not have any outstanding debts to either entity. However, these requirements create two issues. First, if a business entity applicant has had no previous activity in Puerto Rico, they will not have filed an income tax return with the Treasury Department of Puerto Rico. Second, any significant delay (or refusal) of these agencies to issue a certificate will prevent a business entity from submitting its application to the Commission. To address these concerns, we suggest the following changes:

Article 2, Section 2.17(A)(30):
"License Application Form shall be completed in the format provided by the Commission and may require the following information:…
30) Certificate issued by the Treasury Department of Puerto Rico certifying that the enterprise has filed its income tax returns **(if applicable)**;"

Article 2, Section 2.17(C):
"C. **If an applicant requests a Negative Debt Certificate from the Treasury Department or**

the Municipal Revenue Collection Center and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.17(A)(31) or (32), respectively, by submitting an attestation that their request for such Negative Debt Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Negative Debt Certificate.

D. The application shall be signed by the president of the enterprise, general manager, partners, general partner or any other person authorized by the enterprise."

- ***Issue 13 – Minor errata.***

There are four minor technical edits in the business entity licensing sections. In two places the term "handle" (which is a sports wagering term) is used in place of the proper term "entry fees." Additionally, in the service provider licensing section, the term "service provider" is used where the context appears to reference an "operator." Finally, in article 2, section 2.5(F) the term "publicly traded commission" is used when it should be "publicly traded company." To address these concerns we suggest the following edits:

Article 2, Section 2.2(B)(1):
"1) A legal person who supplies services directly necessary for the operation of the Fantasy Contests activity or who receives payment or compensation tied to player activity or in excess of 5% of the **[~~handle~~]** **entry fees** of any Licensee;…"

Article 2, Section 2.3(B)(2) :
"B. Any legal person who provides non-material or general goods or services indirect to the conduct of Fantasy Contestsshall not be required to obtain Registration as a Vendor, unless the Person receives payment or compensation:

1) tied to player activity;
2) in excess of 1% of the **[~~handle~~]** **entry fees** of any Licensee;…"

Article 2, Section 2.2(B)(7):
"7) Applicants for a**n Operator** **[~~Service Provider~~]** license that also perform functions or services identified as Service Provider activities are only required to be registered as a**n Operator** **[~~Supplier~~]**. A Service Provider License does not authorize the Service Provider to perform, provide, or engage in activities requiring a**n Operator** License."

Article 2, Section 2.5(F):
"All License applicants shall submit to the Commission the information, documentation and guarantees necessary to establishthrough clear and convincing evidence:

F. If the applicant is not a publicly traded **[~~Commission~~]** **company**, the applicant shall produce proof of beneficial ownership. Stockownership shall be issued to bona fide individuals or entities and shall not be in the form of nominee or bearer shares."

Subpart C – Specific issues with employee licensing:

- ***Issue 1 – Employees subject to licensure.***

Article 2, section 2.1(A) begins with a prohibition on any individual working as an employee of a fantasy contest operator or provide services to a fantasy contest operator unless they have a valid, current, employee license. This provision does not limit the licensure requirement however to those employees whose position requires licensure, but rather appears to require every employee of a fantasy contest operator to receive an employee license. Additionally, this provision does not acknowledge the authority of the Commission to exempt an employee from licensure under Article 2, section 2.1(B)(3). Finally, this provision includes a confusing, and apparently duplicative statement, that the employee licensure requirement applies to both "managerial" and "non-managerial" employees.

To address the concerns raised above, we suggest the following changes:

Article 2, Section 2.1(A):
"A. Prohibition of Employment; Employee License Requirements.
No natural person**, whose position requires licensure,** may work as an employee of a Fantasy Contest Operator in Puerto Rico or provide services to it unless the person has a current Employee License validly issued by the Commission, as provided in this Article**, or has been deemed exempt from licensure under Section 2.1(B)(3)**. **[~~The Employee License requirement applies to managerial employees as well as non-managerial employees who work in or are directly connected with the Fantasy Contest operation.~~]**"

- ***Issue 2 – Categories of employee licensure.***

Article 2, section 2.1(B) provides for three different levels of employee licensure: Key Employee; Supervisory Employee; and Employee. In relation to Key Employee licensure, this section would require, among others, anyone who is involved in the development or administration of long-term plans related to fantasy sports to be licensed as a Key Employee. As written, a significant percentage of our employees, many of whom do not have direct interaction with the product itself, may be required to receive the highest level of licensure. This could include individuals in customer analytics, marketing, and other departments. The Gaming Commission and fantasy contest operators would be best served by specifically limiting the Key Employee license to the individual(s) who have ultimate responsibility for the fantasy contest operation.

To address this concern, we suggest the following change:

Article 2, Section 2.1(B)(2)(b)

"b) Any natural person **[~~in a position which includes any responsibilities or authority to develop or administer policy or long-term plans or to make discretionary decisions relative to~~]** **ultimately responsible for** the Fantasy Sports operation **in Puerto Rico**, regardless of the title, shall obtain a Key Employee License."

Article 2, section 2.1(B)(2)(a) provides for the individuals who are required to obtain a "Supervisory Employee" license. This provision, as currently written, appears to require all individuals who have any supervisory roles within a fantasy contest operator, whether or not that role has any relation to the fantasy contest operation itself. This could include employees with supervisory roles within the legal, human resources, customer service, marketing, and other departments, who do not have any direct interaction with the fantasy contest operation. Further, upon review of the remainder of the regulations, there appears to be only one minor provision that differentiates a "Supervisory Employee" from an "Employee" for which an individual would need the higher classification of licensure. This provision can be addressed without the requirement of differential levels of licensure.

To address these concerns, we suggest striking article 2, section 2.1(B)(2)(a) entirely and eliminating the "Supervisory Employee" category of employee licensure. In addition, the following change should be made to remove a reference to the "Supervisory Employee" category of licensure:

Article 2.1(H)(1):
"1) All Employee **[~~and Supervisory Employee~~]** Licenses shall be issued by the Commission for a period of two (2) years."

Finally, article 2, section 2.1(B)(2)(c) provides for the individuals who are required to receive an "Employee" license. This requirement is rather expansive, and we suggest that it be limited only to those individuals who have access to directly implement changes to the fantasy contest system, or who are employed in an authorized location. To address this concern, we suggest the following changes:

Article 2, Section 2.1(B)(2)(c):
"c) Any natural person **with access to directly implement changes to the fantasy contest system or** in a position which includes any responsibilities related to the operation at an Authorized Location, if utilized, **[~~or whose responsibilities predominantly involve the maintenance or the operation of Fantasy Sports activities or equipment and assets associated with the same, or who is required to work regularly in a restricted area~~]** shall obtain an Employee License."

- ***Issue 3 – Classification of contractors subject to employee licensure.***

Article 2, section 2.1(C)(1) provides for the determination of whether individuals who provide services to an operator are subject to employee licensure requirements. This provision however appears to deviate from the standard of review laid out in article 2, section 2.1(B) for determining whether employees of the operator are subject to licensure. This provision as written appears to create a situation where individuals, who are not directly employed by an operator may require licensing, when their role, if they were directly employed by an operator, would not require licensing. Additionally, there is a requirement that if an outside service provider supervises one or more employees of the operator, the service provider would be required to be licensed. This provision does not differentiate between a service provider who may supervise employees of the operator who themselves are not licensed and whose job roles are not directly related to fantasy contest operations.

To address these concerns, we suggest the following changes:

Article 2, section 2.1(C)(1):
"C. Scope and Applicability of the Licensing of Natural Persons
1) In determining whether a natural person who provides services to the operator should hold an Employee License, it shall be presumed that such person shall be required to hold an Employee License **if such person would be required under Section 2.1(B)(2) to hold a license if directly employed by the operator, and** if the services provided by that person are characterized by any of the following factors, being these indicative that an employment relationship exists:
a) The natural person will, for a period of time unrelated to any specific project or for an indefinite period of time, directly supervise one of more **licensed** employees of the operator;…"

Finally, article 2, section 2.1(C) does not provide for the ability of the Commission to exempt an individual who provides services to an operator from licensing, whereas article 2, section 2.1(B), provides such an option for individuals directly employed by a fantasy contest operator. We suggest adding the same exemption language to article 2, section 2.1(C) that exists in article 2, section 2.1(B).

To address this concern, we suggest adding the following language as article 2, section 2.1(C)(3):

"**3) The Commission may exempt any person from the employee licensing requirements of this title if the Commission determines that the person is regulated by another governmental agency or that licensing is not considered necessary to protect the public interest or accomplish the policies and purposes of the Act.**"

- ***Issue 4 – Requirement of United States citizenship or work authorization.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that indicate, or directly state, that United States citizenship or work authorization is required for individuals who are subject to employee licensure. However, FanDuel has offices in both the United States and

the United Kingdom and has a significant number of employees outside of the United States, who may be subject to licensure, who are not United States citizens and do not have work authorization for the United States. We suggest the following changes to the Proposed Regulations to remove any specific requirements related to United States citizenship or work authorization:

Article 2, Section 2.1(D)(1)(b):
"1) Each Employee License applicant shall provide the Commission with the necessary information, documentation and guarantees which establish through clear and convincing evidence that he/she:
…
b) **[~~Is a citizen of the United States of America or is authorized in accordance with the applicable federal laws or regulations to work in the United States of America, or is a legal resident of Puerto Rico before granting of the Employee License~~]**;"

Article 2, Section 2.1(E)(1)(e):
"1) As part of the initial application for an Employee License provided in section 2.1(F) of these Regulations, any applicant shall submit the following information which shall be provided by the Commission for such purposes:
…
e) **[~~Citizenship or immigration or residency status in the United States or in Puerto Rico~~]**;"

Article 2, Section 2.1(M)(2):
"M. Identification of the Applicant
Every applicant for an Employee License shall establish his identify with reasonable certainty. The applicant shall establish his identity in one of the following ways:
…
2) Presenting two (2) of the following authentic documents:
…
f) Current identification card issued by the Immigration and Naturalization Service containing a photograph or information about the name, date of birth, sex, height, color of eyes and address of the applicant; **[~~or~~]**
g) An unexpired foreign passport **[~~authorized by the Immigration and Naturalization Service~~]; or**
h) Any other documentation approved by the Commission."

- ***Issue 5 – Requirement of "Good Conduct Certificate" from the Puerto Rico Police.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that require applicants for employee licensure to provide a "Good Conduct Certificate" from the Puerto Rico Police. This requirement presents two issues. First, there is no timeline in the Proposed Regulations for the Puerto Rico Police to issue such a certificate, or even a guarantee that they will comply with a request from an applicant for the issuance of such a certificate. Second, as stated

previously, FanDuel has multiple offices in both the United States and the United Kingdom and has a significant number of employees outside of the United States, who may be subject to licensure, who may never have lived in, or travelled to, Puerto Rico. Requiring these individuals to prove that they have never committed a crime in Puerto Rico is unnecessarily burdensome. We suggest the following changes to the Proposed Regulations to limit the requirement of providing a "Good Conduct Certificate" to employees who reside in Puerto Rico, and to ensure that a delay in processing a request for a "Good Conduct Certificate" will not delay the processing of employee license applications:

Article 2, Section 2.1(F)(1)(e):
"1) Every initial application for an Employee License shall include:
…
e) **For employees who reside in Puerto Rico, a** **[~~R~~]r**ecent Good Conduct Certificate from the Puerto Rico Police;"

Article 2, Section 2.1(F)(3):
"**3) If an applicant requests a Good Conduct Certificate from the Puerto Rico Police and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.1(F)(1)(e) by submitting an attestation that their request for such Good Conduct Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Good Conduct Certificate.**"

Article 2, Section 2.1(J)(1)(d):
"1) The Employee License renewal application shall include:
…
d) **For employees who reside in Puerto Rico, a** **[~~R~~]r**ecent Good Conduct Certificate from the Puerto Rico Police"

Article 2, Section 2.1(J)(5):
"**5) If an applicant requests a Good Conduct Certificate from the Puerto Rico Police and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.1(J)(1)(d) by submitting an attestation that their request for such Good Conduct Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Good Conduct Certificate.**"

- ***Issue 6 – Required information for application.***

Article 2, section 2.1(E) contains the information required to be submitted by an applicant for an employee license. Among these provisions include specific information required to be submitted by applicants for a "Supervisory Employee" license. As we have suggested earlier in this subpart,

we do not believe the "Supervisory Employee" license is necessary, and as such, we suggest the removal of article 2, section 2.1(E)(2) which provides for additional information to be provided by applicants for this license.

Additionally, article 2, section 2.1(E)(3) provides for several individuals who, based on their title, would be required to submit the Multijurisdictional Personal History Disclosure Form ("MPHD"). While the use of the MPHD is of benefit to both the Commission and to applicants, we believe this requirement should be limited to those individuals who are subject to licensure as Key Employees.

To address this concern, we suggest the following changes:

Article 2, Section 2.1(E)(3):
"3) Every applicant for a**[~~n~~]** **Key** Employee License **[~~who will occupy a position of Director, General Manager or Finance Director in the operator of the type described in Section 2.1(C) of these Regulations~~]** must also submit the Multijurisdictional Personal History Disclosure Form – PHD-MJ"

- ***Issue 7 – Carrying of Credentials.***

Article 2, section 2.1(S) provides for the requirement that licensed employees must always carry their license on their person while carrying out their functions. Since not all licensed employees of a fantasy contest operator will be working in public facing roles at an authorized location, or even working in Puerto Rico, it does not make sense for certain employees to wear their credentials while carrying out their functions. This requirement should be limited to employees carrying out functions at an authorized location.

To address this concern, we suggest the following changes:

Article 2, Section 2.1(S):
"S. Carrying of Licenses and Credentials
1) All persons to whom the Commission has issued an Employee License must carry the Employee License on their person in a visible and conspicuous manner, at all times while carrying out their functions **at an authorized location**.
2) No operator shall permit a person to work **[~~in its site~~]** **at an authorized location** without said person carrying his Employee License as provided in paragraph (1) above."

- ***Issue 8 – Minor errata.***

There is one minor technical edit in the employee licensing sections, this is found in article 2, section 2.1(D)(1)(d)(v), where the text of the section references paragraphs (c) and (d) of the

section, but by context the reference should be to paragraphs (iii) and (iv) of the section. To address this concern, we suggest the following edit:

Article 2, Section 2.1(D)(1)(d)(v):
"v. The applicant is being prosecuted, or has pending charges in any jurisdiction, for any crime specified in paragraphs (**[~~c~~]iii**) and (**[~~d~~]iv**) of this Section; however, at the request of the applicant or the accused person, the Commission may postpone the decision on such request while said charges are pending."

Part II – Fantasy Contest Operations – Major Issues

Subpart A - Internal controls, child support enforcement, and geolocation:

- ***Issue 1 – Submission of internal controls.***

Article 3, section 3.1 provides for the process and timing of the submission of internal controls by fantasy contest operators to the commission. The first concern we have with this section is the requirement that the internal controls be required to be submitted by "the operator's financial director." While the internal controls include several financial components, they are primarily focused on the operations of the fantasy contests themselves and the better solution would be to have the individual who has ultimate responsibility for fantasy contest operations submit the internal controls. To address that concern, we suggest the following edit:

Article 3, Section 3.1(A):
"Each Fantasy Contest Operator shall formulate in writing a complete set of internal controls that adheres to these Regulations. The internal controls will include a written statement signed by the **[~~operator's financial director~~]** **individual with ultimate responsibility for the operation of fantasy contests in Puerto Rico** attesting that the system meets the requirements of these Regulations."

The second issue in this section is the timing requirements for the submission of internal controls, changes thereto, and approval of the Commission on changes to the internal controls. Article 3, section 3.1(B) requires operators to provide their internal controls for approval 90 days in advance of starting operations. This can lead to unnecessary delays in launching fantasy contest operations, especially when fantasy contests are already successfully being conducted in 43 states, many of which have similar statutory frameworks to that which was adopted in Chapter 4 of the Gaming Commission Act of the Government of Puerto Rico. We believe that 30 days advance submission of the internal controls for review and approval should be sufficient and will help prevent unnecessary delays. Additionally, for the sake of consistency, we suggest adopting a standard 30 day review timeline by the Commission of proposed changes to the internal controls in Article 3, sections 3.1(D) and (E). To address these concerns, we suggest the following edits:

Article 3, Section 3.1(B):
"The new operators will formulate their internal controls in writing and will present them to the Commission no later than **[~~ninety (90)~~]** **thirty (30)** days before the start of the operations. The Commission may **[~~extend~~]** **reduce** the period of **[~~ninety (90)~~]** **thirty (30)** days if the operator submits a written request to the Commission."

Article 3, Section 3.1(D):
"Every operator must submit to the Commission any change to its internal controls at least thirty (30) days before the change takes effect, unless the Commission instructs it in writing to do otherwise. The Commission will determine whether or not to approve the changes and will notify the operator of its decision in writing. No operator will modify its internal controls if the changes have not been approved before, unless the Commission orders it in writing to do otherwise. However, the determination of the Commission regarding any change presented to it will be made no later than **[~~sixty (60)~~]** **thirty (30)** days after receiving notification of said change."

Article 3, Section 3.1(E):
"Notwithstanding what is described in paragraph (D) above, the operators may implement any internal control measure, prior to requiring the authorization of the Commission, when due to extraordinary situations it is necessary to guarantee compliance with paragraph (A) above and will notify the Commission of the measure taken immediately, along with the reasons that required its immediate implementation prior to the Commission's authorization. The Commission will determine, within a term of **[~~sixty (60)~~]** **thirty (30)** days from notification, if the measure should be modified in any way and will notify the operator of its decision in writing."

- ***Issue 2 – Child support enforcement.***

Article 5, section 5.7(C) requires fantasy contest operators to withhold winnings from fantasy contest players who win $600 or more and who are delinquent in payment of child support. No other jurisdiction in the United States requires such a provision for fantasy contest operators and only one other jurisdiction in the United States, Indiana, has any delinquent child support check for fantasy contest operators at all. Indiana's requirement is a single, annual check for fantasy contestants when they are issued a 1099 tax form. We strongly suggest the removal of this provision as it is not required by the Gaming Commission Act of the Government of Puerto Rico, would be a significant burden on operators who are not currently required to comply with such a requirement in any other jurisdiction in the United States, and is unlikely to successfully recover any significant amounts of unpaid child support. To address this concern we suggest the following edit:

Article 5, Section 5.7(C):
"**[~~C. The operator shall receive information from the Administration for Child Support Enforcement ("ASUME") concerning persons who are delinquent in child support. The~~**

~~**following will occur prior to the operator disbursing a prize of six hundred dollars ($600) or more, in winnings to a person who is delinquent in child support,**~~
~~**1) The operator shall make a reasonable effort to:**~~
~~**a) Withhold the amount of delinquent child support owed from winnings;**~~
~~**b) Transmit to the Commission:**~~
~~**i. The amount withheld for delinquent child support; and**~~
~~**ii. Identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the operator; and**~~
~~**c) Issue the obligor a receipt in a form prescribed by ASUME with the total amount withheld for delinquent child support and the administrative fee mentioned under subsection (3).**~~
~~**2) The operator may also deduct and retain an administrative fee in the amount of the lesser of one hundred dollars ($100) or three percent (3%) of the amount of delinquent child support withheld.]**~~"

- ***Issue 3 – Geolocation.***

Article 5, section 5.9 provides the requirements fantasy contest operators must comply with in relation to the geolocation of fantasy contest players. There are three concerns with this section as currently written. First, the provisions of this section appear to require all fantasy contest participants to be physically located in Puerto Rico at the time they enter the fantasy contest. However, players may be physically in any jurisdiction that has authorized fantasy contests when they place their entry. The geolocation requirement is needed to determine what authorized jurisdiction they are in, and to assist in the determination of the location percentage for Puerto Rico. The second concern is that the provisions of this section appear to require that geolocation checks be commenced to prevent players from "participating" in fantasy contests while not located in authorized jurisdictions. However, this should be clarified to prevent players specifically from submitting entries while not located in authorized jurisdictions. Finally, there are number of specific technical requirements in this section which would be better addressed in MICS or evaluated separately to ensure these requirements are in fact technologically and commercially reasonable for fantasy contest operators. To address these concerns, we suggest the following edits:

Article 5, Section 5.9:
"**Section 5.9. Geolocation Requirements**
The operator must use technologically and commercially reasonable measures to **<u>determine the physical location of individuals when entering fantasy contests to ensure the proper payment of tax revenue and prevent individuals from entering fantasy contests while located in jurisdictions where such contests are prohibited</u>** **[~~make participating in Fantasy Contests possible through computers or mobile devices that allow participation through the Fantasy Contest System only for people who are within the territorial limits of Puerto Rico, provided~~**

~~**that measures are established to guarantee safety for all parties involved in the industry, avoid tax evasion, and the laundering of money and / or any other criminal conduct. To reasonably ensure that participation occurs within the territorial limits of Puerto Rico, the Commission will require the use of border control technology to reasonably detect the physical location of a player attempting to access their account and to monitor for simultaneous logins to a single account from geographically inconsistent locations]**~~. An Operator may use a third-party Location Service Provider (LSP) to provide the border control technology.

A. **[~~The border control technology must be able to perform as follows:~~**

~~1) Examine the IP Address upon each connection to a network on a specific computer or mobile device to ensure a known Virtual Private Network (VPN) or proxy service is not in use.~~

~~2) Check location prior to entering the first contest after logging in on a specific computer or mobile device. Subsequent location checks on that device shall occur prior to entering contests after a period of 30 minutes since the previous location check. If the location check indicates the player is outside the permitted boundary or cannot successfully locate the player, the entry shall be rejected, and the player shall be notified of this.~~

~~3) Use accurate location data sources (Wi-Fi, GSM, GPS, etc.) to confirm the player's location when a location check is performed. If a computer's only available location data source is an IP Address, the location data of a mobile device registered to the player account may be used as a supporting location data source under the following conditions:~~

~~a) The computer (where the entry is being purchased) and the mobile device shall be determined to be near one another.~~

~~b) Carrier-based location data of a mobile device may be used if no other location data sources other than IP Addresses are available.~~

~~B.~~] The player shall consent to the operator transmitting, collecting, maintaining, processing and using their location data to provide and improve the border control technology. The player may withdraw this consent at any time by turning off the location settings on their Mobile Device or by notifying the operator that they would like to withdraw such consent. However, a player who withdraws consent to providing location data will not be able to **[~~participate in~~]** **submit entries for** Fantasy Contests.

[~~C~~]B. The operator shall implement and abide by protocols and procedures to ensure a player is not utilizing a known virtual private network (VPN), proxy server, spoofing, or other means to disguise their physical location or their computer or mobile device's physical location when **[~~participating in~~]submitting an entry for** Fantasy Contests. The operator shall use, at a minimum:

1) Geolocation and geofencing techniques and capability; and

2) Commercially reasonable standards for the detection and restriction of proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

[~~D~~]C. The operator shall use commercially and technologically reasonable measures to prevent the use of proxy servers and deny **[~~participation in~~]** **entry to** Fantasy Contests if a player is

utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player in order to engage in Fantasy Contests.

[~~E~~]D. If the operator discovers a player utilizing any means to disguise their identity or physical location or their computer's or mobile device's physical location or acting as a proxy for another player, the operator shall immediately terminate the player's participation in any Fantasy Contests and follow protocols to restrict the player from future access and account privileges and shall maintain a record of all information, documentation, or evidence of such activity.

[~~F~~]E. The operator shall **[~~immediately~~]** **promptly** notify the Commission of any entries made when the player was located in a prohibited location and shall provide the regulatory body with all information, documentation, and other evidence of such activity.

[~~G~~]F. The operator shall take commercially and technologically reasonable measures to detect and prevent one player from acting as a proxy for another. Such measures shall include, without limitation, use of geolocation technologies to prevent simultaneous logins to a single account from geographically inconsistent locations.

[~~H~~]G. The border control technology shall monitor and flag for investigation any buy-ins of entries by a single Player Account from geographically inconsistent locations (e.g., participation locations were identified that would be impossible to travel between in the time reported).

[~~I~~]H. The operator should implement procedures to disable account access if the operator receives information that an account is being accessed from a location that indicates that there is a likelihood of unauthorized or improper access.

[~~J~~]I. The Commission may issue additional technical specifications for Location Detection and any specific requirements related to geolocation and may also issue such requirements in the form of MICS."

Subpart B – Contest operations:

- ***Issue 1 – Concerns with "Statement of Motives"***

The "Statement of Motives" at the beginning of the Proposed Regulations provides for the purposes of the regulations. There are two concerns with the provisions of the statement of motives. First, included in this statement is clause (e) which provides that one of the purposes of the regulations is to "establish…how payouts and spreads are reported" and how "…lines and odds" are determined. Fantasy contests do not include "spreads", "lines", or "odds" in the way that sports betting does, and thus these provisions do not relate to them. As such, they should be removed from the purposes of the regulations.

Second, clause (k) of the "Statement of Motives" requires all fantasy contest participants be at least eighteen (18) years of age and appears to require all participants in a fantasy contest be located in Puerto Rico. As fantasy contests include participants from many different authorized jurisdictions, the restriction of contests only to individuals located in Puerto Rico would drastically impact the viability of offering fantasy contests in the commonwealth. We suggest amending this

provision to clarify that individuals, who are in Puerto Rico, must be at least eighteen (18) years of age to participate in fantasy contests.

To address these concerns, we suggest the following edits:

Statement of Motives, Clause (e):
"The purpose of these Regulations is to:
…
e) Establish the way in which entry fees are received for authorized Fantasy Contests**[~~:~~]** **and** how **[~~payouts and spreads~~]** **prizes** are reported**[~~, lines and odds determined~~]** for each available type;"

Statement of Motives, Clause (k):
"The purpose of these Regulations is to:
…
k) Establish requirements around controls and/or technical solutions to ensure **[~~the~~]** **that a** person **in Puerto Rico who is** participating in Fantasy Contests is associated with a player account**[~~,~~]** **and** is at least eighteen (18) years of age **[~~and is located within Puerto Rico~~]**;"

- ***Issue 2 – Prohibitions on certain fantasy contests.***

Article 5, section 5.1 contains several prohibitions on the conduct of fantasy contests on certain events. Most of these provisions are like ones found in other jurisdictions, however, there are several clarifications which should be made to ensure these restrictions do not have unintended negative consequences. Section 5.1(B)(1)(a) prohibits fantasy contests based on events that "are designed for athletes or participants under eighteen (18) years of age (minors)." This is a difficult standard to interpret, and it would be far easier to prohibit fantasy contests based on events where the majority of participants are under eighteen (18) years of age. Additionally, section 5.1(B)(2)(d) prohibits fantasy contests on events where "the outcome of the event is unlikely to be affected by any Fantasy Contest." The effect of this prohibition, as currently drafted, would be to require that fantasy contests must be likely to affect the underlying sports event or special event in order to be approved. Finally, sections 5.1(B)(4)(b) and 5.1(B)(7) reference an approval process for the Commission to review certain events contained in "subsection (D) of this section." However, there is no subsection (D) in the section and there does not appear to be any specified approval process in the Proposed Regulations. To address these concerns, we suggest the following edits:

Article 5, Section 5.1(B)(1)(a):
"Entries may not be accepted or paid by the operator in contests based on:
1) Any Sports Events or Special Events which **[~~are~~]**:
a) **[~~Are designed for~~]** **Have a majority** of athletes or participants under eighteen (18) years of age (minors)."

Article 5, Section 5.1(B)(2)(d):

"Entries may not be accepted or paid by the operator in contests based on:…
2) Any Sports Events or Special Events in which**[~~.~~]:** …
d) The outcome of the event is **[~~unlikely~~]** **likely** to be affected by any Fantasy Contest;"

Article 5, Sections 5.1(B)(4)(b) and 5.1(B)(7):
"Entries may not be accepted or paid by the operator in contests based on: …
4) Any Esports event or tournament that:
a) Is not sanctioned by a Sports Governing Body or equivalent as an electronic competition; or
b) Has not been **[~~endorsed~~]** **approved** by the Commission **[~~pursuant to the procedures set forth in subsection (D) of this section~~]**.
…
7) Any Special Event, unless such event is approved **by the Commission** **[~~pursuant to the procedures set forth in subsection (D) of this section~~]**;"

- ***Issue 3 – Rights reserved by operators in house rules.***

Article 5, section 5.3(C)(2)(j) provides that fantasy contest operators must include a statement in their house rules that "the operator reserves the right to: i. Refuse any roster or part of a roster or reject or limit selections prior to the acceptance of an entry for reasons indicated to the player in these rules; ii. Accept an entry at other than posted terms; and iii. Lock contests at their discretion;…" While it makes sense for an operator to provide a statement in its house rules delineating the rights that the operator reserves in relation to contest operations, some of the provisions listed in the Proposed Regulations seem more appropriate for sports wagering rather than fantasy contests. For example, a fantasy contest operator would not "accept an entry at other than posted terms." To address this concern, we suggest the following edit:

Article 5, Section 5.3(C)(2)(j):
"A statement **[~~that~~]** **specifying the rights reserved by** the operator **[~~reserves the right to:~~**
~~i. Refuse any roster or part of a roster or reject or limit selections prior to the acceptance of an entry for reasons indicated to the player in these rules;~~
~~ii. Accept an entry at other than posted terms; and~~
~~iii. Lock contests at their discretion~~];"

- ***Issue 4 – Prohibition on certain free or discounted entries.***

Article 5, section 5.3(I) prohibits operators from offering free or discounted entries to fill a contest within the three-hour period prior to the earliest lock time for that contest unless such entries are made available according to a plan that does not unreasonably disadvantage players who have already entered the contest. This provision could benefit from clarification that entries purchased with credits received from a bonus or promotional offer are not considered a "free or discounted entry." To address this concern we suggest the following edit:

Article 5, Section 5.3(I):
"The operator shall not offer free or discounted entries to fill a contest in the three-hour period prior to the earliest lock time for that contest, unless such free or discounted entries are made available pursuant to a plan that does not unreasonably disadvantage the players that have already entered that contest. For the purposes of this regulation, an entry shall be considered "free" or "discounted" if it is less than the full entry fee for the contest or if the full entry fee is collected subject to refund, account credit, offset or reimbursement on any basis. **Entries, which may be paid with credits received from a bonus or promotional offer are not considered "free" or "discounted".**"

- ***Issue 5 – Restrictions on submission of entry buy-ins.***

Article 5, section 5.4 includes several provisions related to entry buy-ins and the process by which a fantasy contest player constructs their roster. There are three major concerns which arise in this section. First, the first undesignated paragraph of section 5.4 appears to determine the location a fantasy contest entry is placed based upon the location of the server that receives the entry. This language is appropriate for sports wagering and has been utilized by states for that purpose. However, for fantasy contests, the appropriate determination of where the entry is placed is best determined by the location of the player at the time they place the entry. Since fantasy contest entries may cross state lines (as opposed to sports wagers), this provision should be edited. Second, section 5.4(D) appears to inadvertently prohibit fantasy contest on any sporting events or special events other than professional events. Third, sections 5.4(D) and 5.4(J) appear to require all fantasy contest to adopt a very specific "auction" style format and the limitation of each player to only being rostered by one participant in the fantasy contest. While this format is one that can be utilized for "traditional" season-long fantasy contests, it is not the primary, or even a significantly utilized, format employed by paid fantasy contest operators. These restrictions on the types of events and format of contests should be removed to allow fantasy contest operators the ability to offer the same types of fantasy contests in Puerto Rico, that they offer to players throughout the United States. To address these concerns, we suggest the following edits:

Article 5, Section 5.4:
"Any entries submitted through electronic communication are considered purchased at the physical location of **fantasy contest player at the time they place the entry** **[~~the server or other equipment used by the operator. The intermediate route between servers, of electronic data related to Fantasy Contests, will not determine the location or locations where it starts, receive or otherwise purchases an entry.~~]**
…
D. Players group virtual rosters of real athletes or participants belonging to **[~~professional~~]** **authorized** Sports Events or Special Events. No roster may be based on the current membership of an actual real-world team that is a member of an amateur or professional sports organization. **[~~Athlete or participant selection is conducted through a bidding process.~~]**

1) Each athlete or participant has a **[~~transfer value or acquisition~~]** **player** value, and this value is given by their real performance in the Sports Event or Special Event in which they participate.
2) The player will be assigned a budget for the acquisition of athletes or participants into their roster.
3) The value given to the player for the acquisition of athletes or participants is part of the contest and does not correlate to the value of the entry fee.
…
[~~J. After the initial teams are selected, interim replacement of athletes or participants may occur by trade or purchase. A specific fee, which may not exceed the total entry fee, is charged for each transaction.~~]"

- ***Issue 6 – Contest locking.***

Article 5, section 5.5 provides several requirements for fantasy contest operators related to contest locking. These requirements attempt to allow for multiple "lock times" for contests where the underlying competitions begin at different times. However, as written, this section could be improved by clarification as to how lock requirements shall be implemented. To address this concern, we suggest the following edits:

Article 5, Section 5.5:
"Internal Controls shall be in place to provide how contest locking is controlled. This would include any cases where the contest began accepting entries, when it is locking, or any other time in between where an entry is unable to be purchased.
A. The operator shall clearly and conspicuously publish rules that govern when each Fantasy Contest shall lock **[~~that may include rules for multiple lock times in situations in which underlying competitions begin at different times. No lock times may occur after the commencement of the competition to which that lock time applies~~]**.
B. As of the time a Fantasy Contest locks, no further entries **[~~or substitution of athletes or participants~~]** shall be accepted in connection with that contest. **[~~Nor shall players be allowed to make further alterations or substitutions in connection with their entry or entries.~~]**
C. The operator may include rules to allow for substitution of athletes or participants in situations in which underlying competitions of a fantasy contest begin at different times. No athletes or participants may be substituted after the commencement of the competition to which that athlete or participant is associated."

- ***Issue 7 – Beginner players.***

Article 5, section 5.8 provides for the classification of players and provides several requirements around "beginner players" and the contests they participate in. While the provisions of this section related to "highly experienced players" are largely similar to the provisions found in other jurisdictions, the use of a separate "beginner player" designation unnecessarily complicates the

provision of fantasy contests and should be removed. To address this concern, we suggest the following edits:

Article 5, Section 5.8:
"**A. Player Classification**
[~~A Beginner Player is a player who has entered fewer than 51 contests offered by a single Fantasy Contest Operator, and who has not qualified as a highly-experienced player.~~] A Highly-Experienced Player is a player who has entered more than 1,000 contests offered by a single Fantasy Contest Operator or won more than 3 prizes valued at $1,000 or more from a single Fantasy Contest Operator. A Fantasy Contest Operator may declare others as highly-experienced players so long as the operator's criteria for declaration would include players previously declared highly-experienced players by the operator. Once a player is classified as a highly-experienced player, a player will remain classified as such.
B. On-Boarding Procedures for Beginner Players
The operator shall offer on-boarding procedures for Fantasy Contests for beginner players, which shall be clearly and conspicuously displayed on the Mobile App or Site explaining opportunities to learn about contest play**[~~,~~]** **and** how to identify highly-experienced players, including symbols or other identification used**[~~, and recommending beginner contests and low-cost private contests with friends for their value as a learning experience~~]**.
C. [~~Beginner Contests~~
~~The operator shall develop Fantasy Contests that are limited to beginners and shall keep non-beginner players from participating, either directly or through another person as a proxy, in those games. A Fantasy Contest Operator shall suspend the account of any non-beginner player that enters a beginner Fantasy Contests directly or through another person as a proxy and shall ban such individual from further play. A Fantasy Contest Operator may allow a non-beginner who is not a highly-experienced player to enter up to 10 beginner contests in any sport in which that player has not already entered 20 Fantasy Contests.~~
~~D.~~] Fantasy Contests that Exclude Highly-Experienced Players
The operator shall offer some Fantasy Contests **[~~open only to beginner players and~~]** that exclude highly-experienced players either directly or through another person as a proxy. Fantasy Contest Operators of contests described in this regulation shall:

1) Implement and follow procedures to prevent highly-experienced players from participating in such Fantasy Contests directly or through a proxy; and
2) Suspend accounts of highly-experienced players who participate in contests which excludes highly-experienced players, directly or through another person as a proxy, and shall ban such individual from further play."

- ***Issue 8 – Use of scripts and scripting programs.***

Article 5, section 5.8(F) includes several provisions related to the prohibition on the use of certain scripts and scripting programs by fantasy contest players. These provisions would be best served by clarification that the prohibition on scripts and scripting programs is on unauthorized scripts

which give one player a competitive advantage over another player. We suggest changes which would bring the provisions of this section closer to the requirements in Indiana which are found at 68 IAC 26 6-4. To address this concern, we suggest the following edits:

Article 5, Section 5.8(F):
"1) The operator shall use commercially reasonable efforts to monitor for and to deter, detect, and prevent cheating to the extent reasonably possible, including collusion and the use of cheating devices, such as the use of **unauthorized** software programs, **[~~unauthorized~~]** scripts, or scripting programs **that provide a player with a competitive advantage over another player. [~~that submit entry fees or adjust the athletes or participants selected by a player~~]**
2) Any player found to be cheating shall be barred from playing in any Fantasy Contest by terminating such individual's player account and by banning that individual from further participation.
3) Authorized scripts shall either be incorporated as a contest feature or be clearly and conspicuously displayed and thereby made readily available to all players; provided, that the operator shall clearly and conspicuously display its rules on what types of scripts may be authorized in the Fantasy Contest.
4) The operator shall not **[~~authorize~~]** **permit the use of unauthorized** scripts that provide a player with a competitive advantage over another player. A script will be treated as offering a competitive advantage for reasons including, but not limited to, its potential use to:
a) **[~~Auto-draft athletes or participants;~~**
~~b) Choose between pre-selected teams of athletes or participants;~~
~~c)~~] Facilitate entry of multiple contests with a single roster;
[~~d~~]b) Facilitate changes in many rosters at one time; **or**
[~~e~~]c) Facilitate use of commercial products designed and distributed by third-parties to Identify advantageous strategies**[~~; or~~**
~~f) Gather information about the performance of others for the purpose of identifying or entering contests against players who are less likely to be successful~~]."

- ***Issue 9 – Statistics service providers.***

Article 6, section 6.6(B) requires fantasy contest operators to disclose the data sources used by any statistics service provider that they contract with and the Commission may disapprove of any data source. This provision is not reflected by the fantasy contest provisions of the Gaming Commission Act of the Government of Puerto Rico. Additionally, as fantasy contests are not officially scored, and prized paid out, until after the completion of all the underlying events that comprise the contest, all the necessary statistics will be in the public domain as news at the time the winner(s) of the contest are determined. In view of this, we suggest the removal of this provision as follows:

Article 6, Section 6.6(B):

"B. **[~~Statistics Service Provider The operator shall document in their internal controls and report to the Commission the data sources used by the Statistics Service Provider. The Commission may disapprove of the data sources used by the Statistics Service Provider for any reason, including but not limited to, the type of contest and method of data collection. C.~~]**…"

Subpart C – Advertising restrictions:

- ***Issue 1 – Depiction of minors in advertisements.***

Article 4, section 4.3 prohibits operators from depicting minors in their advertisements and prohibits the depiction of students of primary, intermediate, and secondary education institutions. These prohibitions are designed to prevent the encouragement of minors to participate in fantasy contests and are laudable. However, as currently drafted, these prohibitions may prevent the depiction of athletes who participate in sporting events upon which fantasy contests are authorized. Fantasy contests are authorized on Olympic sporting events and while most participants are over 18 and are collegiate athletes or beyond, there are a small number of Olympic athletes who are minors and also still may participate in athletic events associated with the secondary school they still attend. For example, there were 6 individuals on the US 2018 Winter Olympic team who were 17 at the time of the Olympics, and there were 6 individuals on the US 2016 Summer Olympic team who were under 18 at the time of those Olympics as well. While the provisions of this section attempt to address this issue, we believe some additional clarification will solve this problem. To address this concern, we suggest the following edits:

Article 4, Section 4.3:
"Advertisements shall not depict:
A. Cartoon characters that appeal primarily to Minors;
B. Minors (other than collegiate or professional athletes or participants **in events upon which fantasy contests are authorized,** who may be Minors);
C. Students of educational institutions of primary, intermediate and secondary levels**, except as provided in paragraph B above**; …"

- ***Issue 2 – Restrictions on endorsements.***

Similar to the concerns raised in the previous issue, Article 4, section 4.4 prohibits operators from having endorsements from minors in their advertisements and prohibits endorsements by student athletes of primary, intermediate, and secondary education institutions. These prohibitions are designed to prevent the encouragement of minors to participate in fantasy contests and are laudable. However, as currently drafted, these prohibitions may prevent endorsements by athletes who participate in sporting events upon which fantasy contests are authorized. Fantasy contests are authorized on Olympic sporting events and while most participants are over 18 and are collegiate athletes or beyond, there are a small number of Olympic athletes who are minors and

still may participate in athletic events associated with the secondary school they still attend. For example, there were 6 individuals on the US 2018 Winter Olympic team who were 17 at the time of the Olympics, and there were 6 individuals on the US 2016 Summer Olympic team who were under 18 at the time of those Olympics as well. While the provisions of this section attempt to address this issue, we believe some additional clarification will solve this problem. To address this concern, we suggest the following edits:

Article 4, Section 4.4:
"Advertisements shall not state or imply endorsement or engagement by:
A. Minors (other than collegiate or professional athletes or participants **in events upon which fantasy contests are authorized,** who may be minors);
B. Athletes or participants of **athletic events sponsored by** educational institutions of primary, intermediate and secondary levels;…"

- ***Issue 3 – Requirement to disclose average net winnings of all players.***

Article 4, section 4.6(B) requires operators to disclose the average net winnings of all players in any advertisement which references average winnings. Fantasy contests are conducted as large pools where prizes are paid out to winners from the entry fees of all participants (minus the fee taken by the operator for conducting the contest). Thus, the average net winnings of all players would be a negative number and not useful or relevant to customers. To address this concern, we suggest the following edit:

Article 4, Section 4.6(B):
"Advertisements shall strictly comply with all local and federal standards to make no false or misleading claims or create a suggestion that the probabilities of winning or losing by participating, are different than those actually experienced. In addition, advertisements for Fantasy Contests shall not:…
B. Make representations about average winnings **[~~without equally prominently representing the average net winnings of all players. Any representations or implications about average winnings from Fantasy Contests shall be~~] that are not** accurate and capable of substantiation at the time the representation is made…"

- ***Issue 4 – Restrictions on direct marketing.***

Article 4, section 4.7 prohibits operators from directly marketing to prohibited players and "groups of people that are considered moderate and high-risk groups for compulsive play." Fantasy contest operators should of course be prevented from directly targeting prohibited players. However, the prohibition on marketing to certain additional groups is very subjective, does not benefit the public, and likely will induce confusion which will inhibit the success of the fantasy sports contest industry in Puerto Rico. To address this concern, we suggest the following edit:

Article 4, Section 4.7:
"The operator shall take all reasonable steps to prevent marketing Fantasy Contests by phone or email, or by knowingly directing any form of individually targeted advertisement or marketing material to Prohibited Players**.** **[~~and groups of people that are considered moderate and high-risk groups for compulsive play~~]**"

- ***Issue 5 – Restrictions on location of advertisements.***

Article 4, section 4.8 provides for restrictions on the locations where fantasy contest operators may place advertisements or marketing materials. Several the restrictions in this section attempt to prevent minors from being exposed to fantasy contest advertisements. However, these restrictions as drafted go beyond the requirements of other jurisdictions and create a burden on operators. For example, there is a prohibition on advertisements at venues where "most of the audience at many of the sports events at the venue is reasonably expected to be minors." It is impossible to accurately monitor and determine the exact proportion of minors to adults for every event at a venue. Further, the standard of "many" events is extremely subjective and open to interpretation. An additional concern is the provision prohibiting fantasy contest advertisements in media and news assets that are aimed "primarily" at minors. This standard is also subjective and open to interpretation. To address these concerns, we suggest the following edits:

Article 4, Section 4.8:
"Advertising and marketing will not be placed with such intensity and frequency that they represent saturation of that medium or become excessive. The operator shall take all reasonable steps to ensure that Fantasy Contests shall not be promoted or advertised: …
C. **[~~At a venue where most of the audience at many of the Sports Events or Special Events at the venue is reasonably expected to be Minors.~~**
~~D.~~] In published media or through news assets (e.g., print, radio or television broadcasts, Internet and mobile applications) in Puerto Rico that are aimed exclusively **[~~or primarily~~]** at minors or are owned by educational institutions of primary, intermediate and secondary levels or advertised on educational institutions of primary, intermediate and secondary levels..."

- ***Issue 6 – Advertisements of bonus or promotional offers.***

Article 5, section 5.3(F) provides the rules regarding bonus or promotional offers from fantasy contest operators. Among the requirements is a provision that prohibits the advertisement of a promotional offer if the material terms of that offer "cannot be fully and accurately disclosed within the constraints of a particular advertising medium." This is a significant issue for fantasy contest operations as the nature of fantasy contests lends itself to a significant use of digital advertising where it may not be practical to include all the material terms of an offer in the advertisement itself. We suggest requiring a link to a site with the material terms of the offer for digital advertisement to satisfy the requirements of this provision. To address this concern, we suggest the following edit:

Article 5, Section 5.3(F):
"The operator shall fully and accurately disclose the material terms of all bonus or promotional offers at the time such offers are advertised and provide full disclosures of the terms of and limitations on the offer before the player provides anything of value in exchange for the offer. If the material terms of a bonus or promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium (e.g., on a billboard), the promotional offer may not be advertised in that medium. **However, digital advertisements may satisfy the requirements of this section by providing a link to a website with the material terms of the bonus or promotional offer being advertised.** Bonus or promotional offers require Commission approval and must include the following:…"

Subpart D – Player authentication, prohibited players, responsible gaming, and player exclusion:

- ***Issue 1 – Requirement for players to provide social security information.***

Article 6, section 6.1 provides the requirements for fantasy contest operators to put in place to prevent individuals who are under 18 years of age from participating in fantasy contests. The requirements of this section however appear to require players to submit their social security information in order to be authorized to participate. While social security information (whether full social security number or the last 4 digits) may be utilized during the identity verification process, there are other, pieces of information which may be utilized and allow for player identity verification without full social security information. We suggest the following edit to address this concern:

Article 6, Section 6.1:
"The Fantasy Contest Operator will be required to have strict controls to prevent access by minors under eighteen (18) years of age. Only people eighteen (18) years of age or older may participate in Fantasy Contests. To corroborate that the player is not a minor, the Commission will oblige the operator to take the necessary measures to guarantee the identity of the player and that they are a person eighteen (18) years of age or older. For this exercise, the Commission will consider the most advanced technological tools and will establish suitable parameters to guarantee player authentication, including, but not limited to, identification verification **[~~and social security~~]**."

- ***Issue 2 – Participation by employees of fantasy contest operators.***

Article 1, section 1.3 and Article 6, section 6.2(A)(1) provide a list of individuals who are prohibited from participating in fantasy contests including individuals who are employees of a fantasy contest operator or who have access to confidential information held by the operator. Individuals who choose to work for fantasy contest operators often are drawn to such employment due to their personal interest and participation in fantasy contests. While many jurisdictions have

prohibitions on fantasy contest operator employees participating in contests which are open to the public at large, employees of operators can participate in private and employee-only contest. We suggest the following edits to ensure employees of fantasy contest operators may participate in these types of contests:

Article 1, Section 1.3:
"**Prohibited Player**
(a)Any individual under the age of eighteen (18)
(b)Any employee of the Commission
(c)Any individual who is listed on the Commission's Voluntary Exclusion List or Involuntary Exclusion List
(d)Any individual who is listed on any operator's Voluntary Exclusion List or Involuntary Exclusion List
(e)The operator, a director, officer, owner, contractor, or employee of the operator, or any relative living in the same household
(f) Any individual, group of individuals, or entity i. With access to confidential information or insider information held by the operator; or ii. Acting as an agent or surrogate for others.
(g)Any person or entity included in the Specially Designated Nationals and Blocked Persons List issued by OFAC
With respect to individuals who are Prohibited Players based on (e) or (f)(i) above, they shall only be prohibited from participation in fantasy contests with a fee that are offered to the public. However, they may participate in private contests limited to the participation of such individuals, or private contests where all players are aware of the individual's association with the operator."

Article 6, Section 6.2(A):
"Fantasy Contests may not be directed at minors or other Prohibited Players excluded by the Law. 1) The operator's internal controls shall describe the method to prevent Prohibited Players from participating in Fantasy Contests, defined as:

a) Any individual under the age of eighteen (18)
b) Any employee of the Commission
c) Any individual who is listed on the Commission's Voluntary Exclusion List or Involuntary Exclusion List
d) Any individual who is listed on any operator's Voluntary Exclusion List or Involuntary Exclusion List
e) The operator, a director, officer, owner, contractor, or employee of the operator, or any relative living in the same household
f) Any individual, group of individuals, or entity
    i. With access to confidential information or insider information held by the operator; or
    ii. Acting as an agent or surrogate for others.
g) Any person or entity included in the Specially Designated Nationals and Blocked Persons List issued by OFAC

2) **With respect to individuals who are Prohibited Players based on Sections 6.2(A)(1)(e) or 6.2(A)(1)(f)(i) above, they shall only be prohibited from participation in fantasy contests with a fee that are offered to the public. However, they may participate in private contests limited to the participation of such individuals, or private contests where all players are aware of the individual's association with the operator.**
3) The operator shall make these restrictions known to all affected individuals and corporate entities…"

- ***Issue 3 – Refunding deposits made by prohibited players.***

Article 6, section 6.2(A)(4)(e) requires operators to refund all deposits made by any individual that the operator becomes aware of that is a Prohibited Player. While this sounds reasonable, this provision presumes that operator becomes aware of this information shortly after the player creates and funds their account. This provision does not take into consideration that several the reasons why an individual may be a Prohibited Player could develop far after the individual initially created their account as an authorized player. For example, an individual may create an account and participate in fantasy contests as an authorized player, and then, years later be hired by the Commission or a fantasy contest operator. As currently written, the operator would then be required to refund all deposits ever made to their account, regardless of whether those funds had already been expended on entry fees paid while the individual was an authorized participant. To address this concern, we suggest the following edits:

Article 6, Section 6.2(A)(4)(e):
"If the operator becomes or is made aware that a Prohibited Player has participated in Fantasy Contests, the operator shall promptly, within no more than three (3) business days, refund any **[~~deposit~~]** **entry fee for a contest not yet started** received from the Prohibited Player**[~~, whether or not the Prohibited Player has engaged in or attempted to engage in a Fantasy Contest; provided, however, that any refund may be offset by prizes already awarded~~]** **and cancel the entry**."

- ***Issue 4 – Prohibition on sharing of confidential information.***

Article 6, section 6.2(C)(4) requires fantasy contest operators to ensure that they do not "knowingly allow an athlete or participant, sports agent, team employee, referee or league official to provide confidential information to any player, or to provide such information to a player before such information is made public." Fantasy contest operators do not exercise any control over these individuals associated with sports events and have no way of preventing them from providing such information to players in fantasy sports contests. As such, this provision should be removed. To address this concern, we suggest the following edits:

Article 6, Section 6.2(C):

"1) The operator must implement commercially reasonable procedures to prevent Confidential Information that may affect the participation in Fantasy Contests from being shared with third-parties, before the information is available to the public.
2) No operator employee, principal, officer, director, or contractor may disclose confidential information that may affect a Fantasy Contest to any person permitted to participate in such contest.
3) The operator shall prohibit the disclosure of confidential information by all operator employees and contractors that may affect the result of a contest to any person permitted to engage in Fantasy Contests;
4) **[~~The operator shall not knowingly allow an athlete or participant, sports agent, team employee, referee or league official to provide confidential information to any player, or to provide such information to a player before such information is made public.~~**
~~5)~~] The operator shall not knowingly allow a player to enter a contest after that player has been provided with confidential information that may affect the result of a Fantasy Contest by an athlete or participant, sports agent, team employee, referee, or league official;
[~~6~~]5) The operator shall regularly monitor its Fantasy Contests for evidence of activity that indicates that a player has access to confidential information; and
[~~7~~]6) On learning of a violation of this regulation, the operator shall permanently bar the player receiving such information from participating in any Fantasy Contest operated by the operator and close the player's account. **[~~and banning~~]** **The operator shall also ban** such individual(s) from further play. The operator shall also terminate any existing individual promotional agreements with any athlete or participant, sports agent, team employee, referee or league official that violates these regulations and shall refuse to make any new individual promotional agreements that compensate such individual.
[~~8~~]7) The operator shall make these restrictions known to all affected individuals and corporate entities."

- ***Issue 5 – Application of Law 96 of May 16, 2006.***

Article 6, section 6.3 contains several provisions addressing responsible gaming. Section 6.3(A) provides that "The provisions of Articles 1 through 4 of Law No. 96 of May 16, 2006, as amended, shall apply to Fantasy Contests." We seek further clarity from the Commission on this issue, why the Commission feels it necessary and appropriate to reference this statute, and how this provision would affect fantasy contest operators.

- ***Issue 6 – Continued player participation.***

Article 6, section 6.3(B) prohibits fantasy contest operators from "inducing" players to continue participating in fantasy contests "when the player is in session, when the player attempts to end a session, or when a player wins or loses a contest." While the Commission appears to be preventing operators from pushing players to increase their play inappropriately, this prohibition may capture innocuous actions, such as the optionality offered by operators to players to submit a lineup they

have already created into a new or different contest, or simply telling a player "better luck next time" when they lose a contest. To address this concern, we suggest the following edits:

Article 6, Section 6.3(B):
"The Mobile App or Site shall not induce players to continue participation when the player **[~~is in session, when the player~~]** attempts to end a session**[~~, or when a player wins or loses a contest~~]**. Communications with players shall not intentionally encourage players to increase the amount of time spent or funds in player accounts beyond pre-determined limits, participate continuously, re-play winnings, and chase losses."

- ***Issue 7 – Statement of potential risks associated with excessive play.***

Article 6, section 6.3(D)(2) provides the text of statement that fantasy contest operators must put on their player protection page. This statement includes the phrase as an example "The games can create addiction…" While there is a small subset of the population which has issues with compulsive gaming, and specifically with participation in fantasy contests, the games themselves do not "create addiction" and we suggest removal of that provision. To address this concern, we suggest the following edits:

Article 6, Section 6.3(D)(2):
"The Mobile App or Site shall display a responsible play logo or information to direct players to the operator's player protection page, which shall include, at a minimum:
…
2) A statement of potential risks associated with excessive play and where to seek help if the player develops a problem (e.g. "**[~~The games can create addiction.~~]** If playing causes you financial, family and occupational problems, call the ASSMCA PAS line at 1-800-981-0023." "**[~~Los juegos pueden crear adicción.~~]** Si jugar le causa problemas económicos, familiares y ocupacionales, llame a la línea PAS de ASSMCA 1-800-981- 0023.")"

- ***Issue 8 – Lifetime deposit threshold.***

Article 7, section 7.4(D) requires operators to prevent any additional transactions by a player when the player's lifetime deposits reach or exceed $2,500 until the player acknowledges receipt of certain responsible gaming information. Further, section 7.4(E) then requires players to make this same acknowledgement annually thereafter. The information provided by the section will be readily available to players on the player protection page and the link to that page shall be available on the both the website and in the mobile application of the fantasy contest operator. As such, these requirements do not provide any additional benefit to the customer and only serve as a burden on fantasy contest operators. We suggest the removal of these requirements as follows:

Article 7, Sections 7.4(D) and (E):

"D. **[~~When a player's lifetime deposits reaches/exceed the lifetime deposit threshold of $2,500 or another value specified by the Commission, the system shall immediately prevent any additional transactions until the player acknowledges:~~**

~~1) The player has met the lifetime deposit threshold as established by the Commission;~~

~~2) The player has the capability to establish responsible play limits or close their account; and~~

~~3) The availability of the Addiction and Mental Health Services Administration (ASSMCA) helpline number.~~

~~E. The acknowledgement prescribed in subsection (D) above shall be required on an annual basis thereafter.~~

~~F.~~]"

- ***Issue 9 – Player self-limitations.***

Article 7, section 7.7(A) provides for the player self-limitation tools that fantasy contest operators must make available to their customers. There are three specific items in this section we would like to address. First, is that the language on limits to entry fees per fantasy contest and limits on "potential losses permissible" could use some clarification. These limits would be better phrased as limiting participation by a player to contests with entry fees below a certain limit and a limit on the total entry fees paid in a given period. Second, there is a reference to a required monthly deposit limit, which we suggest removing in the next issue in this subpart. Thus, we suggest removing the refence in this section. Third, this section provides that any changes to player self-limits, which reduce the severity of such limits, may not be made for at least 24 hours. Since player self-limitations may be based on weekly or monthly time periods, this provision would best serve by providing that changes which reduce the severity of limits shall not take effect until the expiration of the current time period for the limit. To address these concerns, we suggest the following edits:

Article 7, Section 7.7(A):
"Self-limitation shall be offered as a player-initiated restriction on their ability to participate in Fantasy Contests.
1) Players must be provided with a process available on the Mobile App or Site or via direct communications with the operator to set daily, weekly or monthly financial deposit limits, limits on **participation to fantasy contests with** entry fees **[~~per Fantasy Contest~~]** **below a specific limit**, or limits on total **[~~potential losses permissible~~]** **entry fees paid** in a given period
2) Upon receipt, any self-limitation order must be employed correctly and immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player;
3) The self-limitations set by a player must not override more restrictive involuntary limitations **[~~or the Monthly Deposit Limit specified in subsection (B)~~]**. The more restrictive limitations must take priority;
4) Once established by a player and implemented, the operator shall prohibit an individual from participating over the limit they have set.

5) Any changes increasing the severity of the self-limitations shall be effective immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player. No changes **[~~can be made~~]** **shall take effect** reducing the severity of the self-limitations **[~~for at least 24 hours~~]** **until the expiration of the current time period for the limit (e.g., day, week, month, etc.)**."

- ***Issue 10 – Monthly deposit limits.***

Article 7, section 7.7(B) appears to require fantasy contest operators to impose a $2,500 per month default deposit limit on all fantasy contest players and that players must then apply for an increase to this limit if they so choose. In order to apply for an increase to their monthly deposit limit, players must submit to the operator significant personal financial information, including the types of certifications used to qualify accredited investors. Further, any player who has received a temporary or permanent increase in their monthly deposit limit must annually provide their financial information have their limit reviewed by the operator.

This requirement is not reflected by the provisions of Chapter 4 of the Gaming Commission Act of the Government of Puerto Rico relating to fantasy contests and imposes a drastic and unnecessary burden on fantasy contest operators. As such it should be removed. To address this concern, we suggest the following edits:

Article 7, Section 7.7(B):
"**[~~Monthly Deposit Limits and other~~] Imposed Limitations**
The Operator must be capable of imposing responsible play limits including, but not limited to, deposit limits, spending limits, and time-based limits as established by the Commission through regulations to that effect. Where required by the Commission, it is the operator's responsibility is to discuss with the Commission any procedures implemented to assess the financial capacity of the players so that it can set and update these limits correlatively to their income where required by the commission.
1) Players must be notified in advance of any involuntary limits or updates and their effective dates. Once updated, involuntary limits must be consistent with what is disclosed to the player**[~~;~~].**
2) **[~~Where required by the Commission, no player shall be permitted to deposit more than two thousand five hundred dollars ($2,500) per calendar month with the operator. The operator may establish procedures for temporarily or permanently increasing a player's deposit limit, at the request of the player.~~**

~~a) If established by the operator, such procedures shall include evaluation of income or asset information, sufficient to establish that the player can afford losses that might result from participation at the deposit limit level requested.~~

~~b) The player must provide reasonable certification or proof, including the types of certifications used to qualify accredited investors, to the operator that the player's monthly deposit limit should be increased in accordance with these rules and the published rules of the operator.~~

~~**c) In order to be eligible for a deposit limit increase, a player must demonstrate, to the operator's reasonable satisfaction, that they qualify for an increase under policies and procedures established by the operator, based on the player's annual income or net worth.**~~

~~**d) When a temporary or permanent deposit level limit increase is approved, the operator's procedures shall provide for annual evaluation of information, including income or asset information, sufficient to establish a player's financial ability to afford losses at the deposit limit level in place. Absent such evaluation, the temporary or permanent deposit level increase shall not be extended.**~~

~~**e) No player shall be granted an increase in his or her deposit limit prior to verification of their identity in accordance with these rules.**~~

~~**f) No player who is classified as a beginner player shall be allowed to request an increase in their deposit limit.**~~

~~**3)]**~~ Upon receiving any involuntary limitation order or update, the Operator must ensure that all specified limits are correctly implemented immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player**[~~;~~].**"

- ***Issue 11 – Self exclusion.***

Article 7, section 7.7(C) provides for the regulations fantasy contest operators must comply with regarding player self-exclusion requests. Most of the provisions of this section are compatible with the existing self-exclusion requirements of other jurisdictions. However, there are three concerns that should be addressed to ensure the optimum effectiveness of the self-exclusion program.

First, the Proposed Regulations require operators to provide the ability to self-exclude "with a process available on the Mobile App or Site or via direct communications with the operator." The requirement to allow players to exclude "via direct communications with the operator" creates the potential for significant issues in ensuring that the self-exclusion process is completed properly. This could require operators to receive and process self-exclusion requests via all form of direct communication (postal mail, email, webchat, in-person appearance, telephone, etc.). Not all these forms of communication are properly designed to ensure the successful completion of the self-exclusion process. As such, we suggest that this provision be removed and replaced with language to allow fantasy contest operators to develop alternative self-exclusion processes in their internal controls, which will be authorized in addition to self-exclusion through the mobile app or site.

Second, this section allows players to self-exclude for an "indefinite" time period. Generally self-exclusion is for set periods of time (1, 3, 5 years) or permanently/for life. This specification of time periods is also reflected later in the regulations (article 9, section 9.2(O)). We suggest amending the provisions of this section to provide for specified time periods of self-exclusion.

Third, this section provides that players may "self-exclude" for any "specified period of at least 1 hour." While fantasy contests operators may offer temporary "timeout" options for players, self-exclusion is a significant process and as such should be utilized for set periods of time. We suggest amending this provision to allow players to request a temporary "timeout" for a specified period of at least 72 hours.

To address these concerns, we suggest the following edits:

Article 7, Section 7.7(C):
"**C. Self-Exclusions**
Self-exclusion shall be offered as a player-initiated restriction on their ability to participate in Fantasy Contests.
1) Players must be provided with a process available on the Mobile App or Site **[~~or via direct communications with the operator~~]** to self-exclude from participating in Fantasy Contests **[~~indefinitely~~]** **for life** or for **a** specified period of **one (1), three (3), or five (5) years. Operators may also provide additional processes in their internal controls to allow players to self-exclude. Additionally, a player may request a temporary "timeout" for a specified period of** at least **[~~1~~]** **seventy-two (72)** hour**s**.
2) Immediately upon receiving the self-exclusion order and until such time as the order has been removed, the player shall be prevented from participating in Fantasy Contests and depositing funds into their account. In addition, the player shall receive clearly worded information:
a) About available addiction resources (e.g., helpline number, blocking software, counseling), such as the Mental Health and Addiction Prevention Services Authority (ASSMCA).
b) That outlines the conditions of the self-exclusion, which includes:
i. Length of self-exclusion
ii. The closure process for any accounts opened by the player and restrictions on opening new accounts during the self-exclusion
iii. Requirements for reinstatement at the conclusion of the length selected for self-exclusion
iv. The manner in which bonus or promotional credits and remaining player account balances are handled; and
v. Help access points shall a problem exist
3) In the event a player has a pending entry and then self-excludes, the entries shall be handled according to the internal controls.
4) The player's account shall be closed or suspended during self-exclusion so that no account deposits or entries can be made. Any new accounts detected following a player's self-exclusion shall be closed so that no account deposits or entries can be made.
5) In the event of **[~~indefinite~~]** **lifetime** self-exclusion, the operator must ensure that the player is paid in full for the player's account balance within a reasonable time provided that the operator acknowledges that the funds have cleared. **[~~A player who has self-excluded indefinitely shall not be allowed to again engage in Fantasy Contests until the player completes a reinstatement process.~~]**

6) Temporary self-exclusion, regardless of the length, shall be irrevocable during the period of time specified. Self-exclusion shall stay in effect until the player completes a reinstatement process after the period of time passes.
7) There shall be a process in place for players to request reinstatement at the conclusion of the length selected for temporary self-exclusion **[~~and for indefinite self-exclusion after a reasonable amount of time of not less than 30 days has passed since the individual self-excluded~~]**. Information on reinstatement requests and tools for responsible play shall be provided to the player along with addiction resources (e.g. tips on determining risks, as well as frequency and volume of participation and encouragement to use the Mobile App or Site's responsible play features).
8) Players shall be able to renew or extend their temporary self-exclusion. Players who renew or extend their self-exclusion shall, at the time of renewal or extension, receive information concerning compulsive play and help resources.
9) All **[~~indefinite~~]** **lifetime and temporary** self-exclusion requests made by a player to the operator must be immediately notified to the Commission for their review, and addition to their Voluntary Exclusion List as covered in Section 9.2 of these Regulations."

- ***Issue 12 – Third party exclusion and limitation requests.***

Article 7, section 7.7(E) requires fantasy contest operators to provide the ability for third parties to request exclusion on behalf of an individual. While we understand the concerns highlighted by the provisions of this section, we do not think it is best practice to have a third-party exclusion/limit system as the value of exclusion and player limits come from the player themselves making such a decision. If such a requirement is forced upon them by a third party, they are likely to attempt to participate in some other way. Thus, this section should be removed. To address this concern, we suggest the following edit:

Article 7, section 7.7(E):
"E. **[~~Exclusion and Limitation Requests from Third-Parties~~**
~~The operator shall develop procedures for reviewing requests made by third-party requestors to impose exclusions or set limitations for players. These procedures shall include provisions for:~~
~~1) Whom the requestor can provide documentary evidence of sole or joint financial responsibility for the source of any funds deposited with the operator for participating in Fantasy Contests, including proof:~~
~~a) That the requestor is jointly obligated on the credit or debit card associated with the player's account;~~
~~b) Of legal dependency of the player on the requestor under local or federal law; and~~
~~c) Of the existence of a court order that makes the requestor wholly or partially obligated for the debts of the person for whom exclusion or limitation is requested.~~
~~2) Exclusions or limitations in situations in which the requestor can establish the existence of a court order requiring the player to pay unmet child support obligations~~
~~F.~~]"

- ***Issue 13 – Voluntary exclusion list.***

Article 9, section 9.2 provides the process by which a player may have their name added to the voluntary self-exclusion list and the requirements operators and the Commission must comply with while processing such a request. There are two concerns with the provisions of this section. First, section 9.2(M)(3) requires players to provide a statement that they identify as a "problem gamer" or have another reason why they wish to be added to the voluntary self-exclusion list. This requirement may deter individuals from self-excluding and it is in direct conflict with the provisions of section 9.2(L) which states that "A person does not have to admit they are a problem gamer when placing themselves on the Voluntary Exclusion List." As such, we suggest removal of this provision.

Second, section 9.2(O) provides the time periods for minimum length of self-exclusion as one year, eighteen months, three years, five years, and lifetime. Generally, one, three and five years are the specified time limits in other jurisdictions and thus we suggest removal of the eighteen month time period.

To address these concerns, we suggest the following edits:

Article 9, Section 9.2(M)(3):
"M. If the applicant has elected to seek services available within the Commonwealth, the Commission, or its designee, shall contact the designated coordinating organization for the provision of requested services. The Executive Director shall determine the information and forms to be required of a person seeking placement on the Voluntary Exclusion List. Such information shall include, but not be limited to, the following:
1) Name, home address, email address, telephone number, date of birth, and Social Security number of the applicant;
2) A passport-style photo of the applicant;
3) **[~~A statement from the applicant that one or more of the following apply:~~**
~~a) They identify as a "problem gamer," meaning an individual who believes their gaming behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, or co-workers;~~
~~b) They feel that their gaming behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or~~
~~c) There is some other reason why they wish to add their name to the Voluntary Exclusion List~~
~~4)~~] Election of the duration of the exclusion in accordance with subsection (O) of this section;"

Article 9, Section 9.2(O):

"O. As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:
1) One (1) year;
2) **[~~Eighteen (18) months;~~**
~~3)~~] Three (3) years;
[4]3) Five (5) years; or
[~~5~~]4) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Voluntary Exclusion List for at least six (6) months)."

- ***Issue 14 – Involuntary exclusion list.***

Article 9, section 9.3 provides the process by which the Commission may add the names of certain individuals to the involuntary exclusion list and the process for sharing the information on these individuals. There are two concerns with the provisions of this section. First, is the inclusion of individuals on the involuntary exclusion list who have been convicted of any crime or offense involving "moral turpitude." This is a potentially subjective standard that may not directly relate to an individual's participation in fantasy contests. The Gaming Commission, and the public, would be best served by a clear standard, which prevents individuals who have been convicted of crimes specifically related to fantasy contests or gambling from participating in fantasy contests.

Second, the information provided for each involuntarily excluded individual, although significant, does not include their Social Security number. Inclusion of that information is important for operators to be able to properly identify individuals who are on the involuntary exclusion list and prevent them from participating in fantasy contests.

To address these concerns, we suggest the following edits:

Article 9, Section 9.3(A):
"A. The Commission shall maintain an Involuntary Exclusion List that consists of the names of people who the Executive Director determines meet anyone of the following criteria:
1) Any person whose participation would be inimical to Fantasy Contests in the Commonwealth of Puerto Rico, including the following:
a) Any person who cheats;
b) Any person who poses a threat to the safety of the players or employees;
c) Persons who pose a threat to themselves;
d) Persons with a documented history of conduct involving the disruption of a Sports Event or Special Event;
e) Persons included on another jurisdiction's exclusion list; or
f) Persons subject to a Court order excluding those persons from any Fantasy Contests;
g) Any felon or person who has been convicted of any crime or offense

[h)] involving **[~~moral turpitude~~]** **gambling or fantasy contests** and whose participation would be inimical to Fantasy Contests in the Commonwealth of Puerto Rico; or
2) Any person who enhances a risk of unfair or illegal practices in the conduct of Fantasy Contests."

Article 9, Section 9.3(C):
"C. The Involuntary Exclusion List shall contain the following information, if known, for each excluded person:
1) The full name and all known aliases and the date of birth;
2) A physical description;
3) The date the person's name was placed on the Involuntary Exclusion List;
4) A photograph, if available;
5) **Social Security number, if available;**
6) The person's occupation and current home and business addresses; and
[6]7) Any other relevant information as deemed necessary by the Commission."

Part III – Fantasy Contest Operations – Secondary Issues

Subpart A – Recordkeeping, reporting and audit requirements:

- ***Issue 1 – Clarification on conduct of financial audit and compliance audit.***

Article 3, section 3.3 provides the requirement on operators to complete independent, annual, audits which address both financial review and compliance review. We agree that both issues are important and should be addressed. However, it is unclear in the regulations as drafted whether both reviews need to be completed by the same firm. We believe operators should have the flexibility to have their financial and compliance audits be conducted by separate entities if they so choose. To address this issue, we suggest the following edit:

Article 3, Section 3.3:
"The operator must hire third-parties to carry out independent annual audits, in compliance with the Law and these Regulations. No later than 270 days from the end date of the operator's fiscal year, the operator shall submit a full and complete copy of the audit of the operator's total Fantasy Contest operations, unless the Commission has granted an extension to the operator who has requested it. This audit shall include two components, a financial audit and a compliance audit as described below. **The financial audit and compliance audit may be completed by two different third-parties.**"

- ***Issue 2 – Requirement for use of Puerto Rico licensed accountant.***

Article 3, section 3.3(A) and Article 3, section 3.4(C) require operators to utilize certified public accountants who are "registered or licensed in Puerto Rico." While we understand the desire to

ensure that the independent accountants utilized by operators have the proper qualifications to complete their work, as many operators are headquartered elsewhere, they will have contracted with independent auditors who are based in other US jurisdictions. To address this issue, we suggest the following edits:

Article 3, Section 3.3(A):
"The operator shall submit a financial audit of the operator's financial operations and handling of player accounts and funds, prepared by an independent certified public accountant, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing, consistent with the attestation standards established by the American Institute of Certified Public Accountants or the rules of the Securities and Exchange Commission, or both, to the extent applicable, pursuant to the Law and meet the following conditions:…"

Article 3, Section 3.4(C):
"Unless otherwise specified in this part, all other books, records, and documents shall be retained until such time as the accounting records have been audited by the Fantasy Contest operation's independent certified public accountants, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing. The term independent as used in this rule is consistent with definitions set forth by the American Institute of Certified Public Accountants or the rules of the Securities and Exchange Commission, or both, to the extent applicable."

- ***Issue 3 – Sharing of data with Gaming Commission:***

Article 5, section 5.10(A)(3) requires fantasy contest operators to provide the Commission with the ability to directly query and export data from the operator's fantasy contest system. Building this ability into the fantasy contest system and ensuring the security of the data as provided to the Commission would be a significant burden on operators. The better way to ensure the Commission can receive the information it needs is for operators to provide a mechanism for the Commission to request the information it needs and then for the operators to provide that information to the Commission. To address this concern, we suggest the following edit:

Article 5, Section 5.10(A)(3):
"The Fantasy Contest **[~~System~~]** Operator shall provide a mechanism for the Commission to **[~~query and to export~~]request**, in a format required by the Commission (e.g., CSV, XLS), all transactional data for the purposes of data analysis and auditing/verification."

- ***Issue 4 – Identifying and reporting fraud and suspicious conduct.***

Article 6, section 6.6(G) provides several requirements on fantasy contest operators in relation to reporting fraud and suspicious conduct. As a general note, several the provisions seem to be sourced from statutes and regulations on sports betting in other jurisdictions and would be more appropriate to be applied there. We suggest the Commission consider reviewing alternative state

provisions on reporting of suspicious fantasy contest activity and adopt similar regulations. However, if the Commission wishes to keep these provisions, there are three concerns which should be specifically addressed. First, this section requires integrity monitoring of "irregularities in volume or swings in statistical data that could signal Unusual or Suspicious Activities.." This provision is directly related to sports wagering and not fantasy contests as sports wagering operators would be concerned by unnatural swings in wagers on a specific sports event outcome, which would raise concerns. As fantasy contest entries are not specifically tied to a single event outcome, this monitoring is not appropriate and thus should be removed.

Second, this section requires operators to report any violation or law, or Commission rule committed by the operator, their key persons, or their employees within 24 hours. Requiring operators to report such events on an overly abbreviated and rigid timeline would unnecessarily distract them from prioritizing analytical and remediation efforts, without providing any meaningful countervailing benefit. Instead, the provision should be revised to require "prompt" notification to the Commission following the operator's identification of any such violation.

Third, this section requires the Commission to report all the same suspicious and concerning activity that they receive from operators to any sports team or sports governing body they deem appropriate. However, most of the information contained in this section does not directly relate to concerns about the integrity of the underlying sports events. As such, this section should be revised to ensure that only information which raises concern about the integrity of the underlying sports events needs to be reported by the Commission to the appropriate sports team or sports governing body.

To address these concerns, we suggest the following edits:

Article 6, Section 6.6(G):

"**G. Identifying and Reporting Fraud and Suspicious Conduct**

The operator shall develop and implement an Integrity Monitoring System **[~~utilizing software to~~]** **for** monitoring **fantasy contest activity and detecting fraud, suspicious behavior and cheating or collusion.** **[~~events and/or irregularities in volume or swings in statistical data that could signal Unusual or Suspicious Activities as well as all changes to statistical data and/or suspensions throughout an event that should require further investigation~~]**

1) The operator shall take measures delineated in the internal controls to reduce the risk of collusion or fraud, including having procedures for:

a) Identifying and/or refusing to accept suspicious entries which may indicate cheating, manipulation, interference with the regular conduct of an event, or violations of the integrity of any event on which entries were purchased;

b) Reasonably detecting irregular patterns or series of entries to prevent player collusion or the unauthorized use of scripts; and

2) The operator shall promptly**[~~, but no longer than 24 hours,~~]** report to the Commission any facts or circumstances which the operator has reasonable grounds to believe indicate a violation of law or Commission rule committed by the operator, their key persons, or their employees,

including without limitation the performance of licensed activities different from those permitted under their license. The operator is also required to provide a detailed written report within 72 hours from the discovery for any of the following:

a) Criminal or disciplinary proceedings commenced against the operator or its employees in connection with the operator conducting Fantasy Contests;

b) Abnormal activity or patterns that may indicate a concern about the integrity of Fantasy Contests;

c) Any other conduct with the potential to corrupt an outcome of Fantasy Contests for purposes of financial gain, including but not limited to match fixing; and

d) Suspicious or illegal activities, including the use of funds derived from illegal activity, deposits of money to participate in Fantasy Contests to conceal or launder funds derived from illegal activity,

e) The use of employees to participate in Fantasy Contests or use of false identification.

3) The Commission is required to share any information received pursuant to **[~~this paragraph~~]** **subparagraph 2(c) of this section** with the division of criminal investigation, any other law enforcement entity upon request, or any regulatory agency the Commission deems appropriate. The Commission shall promptly report any information received pursuant to this paragraph with any sports team or Sports Governing Body or equivalent as the Commission deems appropriate but shall not share any information that would interfere with an ongoing criminal investigation."

- ***Issue 5 – Suspicious Activity Reports.***

Article 6, Section 6.7 provides for requirements on operators in relation to filing suspicious activity reports. This provisions of this requirement appear similar to federal requirements for the filing of Suspicious Activity Reports, however, federal guidelines provide 30-60 days for the filing of such a report depending on the circumstances (12 CFR § 21.11(d)) whereas the provisions of this section require such a report to be filed within two business days. Since article 6, section 6.6 provides for a robust and timely reporting process of questionable activity to the Commission, we suggest removal of this section.

However, if the Commission wishes to keep this provision, we strongly suggest amending the timeframe for filing reports to match the timeframe provided in federal regulations.

Subpart B – Customer protections:

- ***Issue 1 – Reserve requirements and protection of player funds***

Article 6, sections 6.4 and 6.5 include provisions designed to protect the integrity of player account funds. While most of the provisions in sections are relatively standard, there are two significant concerns that arise from their provisions. The first is the requirement that, as written, fantasy contest operators must BOTH maintain a reserve equal to the amount of player funds on deposit

(plus pending entries and any prizes owed but unpaid) AND segregate player funds. This in effect will make fantasy contest operators reserve and segregate an amount double the amount of player funds on deposit. We strongly suggest that operators are given the option to either maintain a reserve or segregate player funds, or that the Commission choose one of these two options, but not both, for fantasy contest operators to comply with.

The second concern in relation to the reserve provisions is that section 6.4(D) requires operators to report any deficiency in their reserve "within 24 hours." In the unlikely event that such a shortfall occurs, the process of identifying and remediating the technical issue, accounting error, or other underlying cause may well take longer than 24 hours. Requiring operators to report such events on an overly abbreviated and rigid timeline would unnecessarily distract them from prioritizing analytical and remediation efforts, without providing any meaningful countervailing benefit. Instead, the provision should be revised to require "prompt" notification to the Commission following the operator's identification of any such deficiency. To address this concern, we suggest the following edit:

Article 6, Section 6.4(D):
"The operator shall calculate their reserve requirements each day. In the event the operator determines that their reserve is not sufficient to cover the calculated requirement, the operator must, **[~~within 24 hours~~]** **promptly**, notify the Commission of this fact and must also indicate the steps the operator has taken to remedy the deficiency.

- ***Issue 2 – Dormant accounts.***

Article 1, section 1.3 and Article 7, sections 7.1(C)(4)(g) and 7.5(A) provide for the determination of when player accounts are deemed "dormant" and how dormant accounts are to be treated. These sections require player accounts to be deemed dormant after one year of inactivity. This standard is too short and inconsistent with other jurisdictions. We believe a three year standard would be more appropriate, such as is provided in Indiana (68 IAC 26-7-4). We suggest the following edits to address this concern:

Article 1, Section 1.3:
"…Dormant Account
A Player Account which has had no player-initiated activity for a period of **[~~one (1)~~]** **three (3)** year**s**."

Article 7, Section 7.1(C)(4)(g):
"C. The account registration process shall also include:
…
4) Availability and acceptance of a set of terms and conditions that are also readily accessible to the player before and after registration and noticed when materially updated (i.e. beyond any grammatical or other minor changes) that include, at a minimum, the following:

…
g) Statement that an account is declared dormant after it has had no player-initiated activity for a period of **[~~one (1)~~]** **three (3)** year**s**, and explain what actions will be undertaken on the account once this declaration is made…"

Article 7, Section 7.5(A):
"A Player Account is considered to be dormant after it has had no player-initiated activity, such as entering a contest, making an account deposit, or withdrawing funds for a period of **[~~one (1)~~]** **three (3)** year**s** as specified in the terms and conditions. Procedures shall be in place to:

1) Protect dormant accounts that contain funds from unauthorized access, changes or removal.
2) Deal with unclaimed funds from dormant accounts, including returning any remaining funds to the player where possible.
3) Close a Player Account if the player has not logged into the account for **six (6)** **[~~eighteen (18)~~]** consecutive months **after it has become dormant**; …"

- ***Issue 3 – Changes to player accounts.***

Article 7, section 7.3(G) requires fantasy contest operators to properly document changes to player accounts and ensure that the appropriate personnel are involved in the processing or authorization of such changes. The requirements in this section however, require supervisory employees to perform or authorize all changes to player accounts that are not conducted automatically. This standard is far too restrictive and should be adjusted to reduce the burden on operators and licensed employees. To address this concern, we suggest the following edit:

Article 7, Section 7.3(G):
"Changes to player accounts other than through an automated process related to actual play must be sufficiently documented (including substantiation of reasons for increases) and authorized or performed by **[~~supervisory~~]** employees. An addition, deletion, or change to **a** player account**[~~s~~]** **of $500 or more** must be authorized by **[~~supervisory~~]** **licensed** employees and documented and randomly verified by authorized personnel on a quarterly basis. All other changes to player accounts must be appropriately documented **and reviewed by a licensed employee on a quarterly basis**."

- ***Issue 4 – Player account suspensions.***

Article 7, section 7.7(D) regulates when and how fantasy contest operators must suspend the accounts of players. There are two concerns with the provisions of this section. First, is the requirement to suspend a player's account "after failed ACH deposit attempts." We agree that multiple failed ACH deposit attempts within a short period of time can be suspicious conduct that should be investigated. However, as written, this section provides no minimum number of attempts and no time constraint. We suggest that five (5) failed ACH deposit attempts in a twenty-

four hour period is a proper standard to trigger suspension of a player account for further analysis. Second, this section requires that the Commission be immediately notified of all "indefinite" suspensions of player accounts. We routinely "indefinitely" but temporarily suspend a player's account when investigating a customer issue and many times quickly reinstate the account once the issue has been resolved. To notify the Commission each time this takes place would be onerous and wasteful of the time and resources of both operators and the Commission. We suggest instead that fantasy contest operators be required to promptly notify the Commission of any permanent account suspensions. To address these concerns, we suggest the following edits:

Article 7, Section 7.7(D):
"1) The operator must be capable of suspending a player from participating in Fantasy Contests:
a) When required by the Commission;
b) Upon a determination that a player is a Prohibited Player; or
c) When initiated by the operator that has evidence that indicates illegal activity, a negative account balance, after **five (5)** failed ACH deposit attempts **in a twenty-four (24) hour period**, **or** a violation of the terms and conditions has taken place on a player account.
2) Immediately upon receiving the suspension order and until such time as the order has been removed, the player shall be prevented from participating in Fantasy Contests and depositing funds into their account. In addition, the player shall not be prevented from withdrawing any or all of their account balance, provided that the operator acknowledges that the funds have cleared, and that the reason(s) for suspension would not prohibit a withdrawal.
3) The suspension order may be removed
a) When permission is granted by the Commission;
b) When the player is no longer a Prohibited Player; or
c) When the operator has lifted the suspended status.
4) All **[~~indefinite~~]** **permanent** suspensions must be **[~~immediately~~]** **promptly** notified to the Commission for their review, and addition to their Involuntary Exclusion List as covered in Section 9.3 of these Regulations."

- ***Issue 5 – Account information access.***

Article 7, section 7.8 provides the information that must be made available to players about activity that has taken place in their account. Most of the information required by this section is standard, however, there is the requirement for fantasy contest operators to provide players with information about "time spent." For fantasy contests, as opposed to other products like online casino gaming, time spent does not directly correlate to the number of games a player participates in, or how much money a player spends. For example, a player may spend a significant amount of time developing and editing the lineup for one, or a few contests. Additionally, a player may spend a significant amount of time checking the status of his or her entry while the underlying contests are taking place, but not enter any additional contests during that time. As such, the "time spent" by a player logged into their account is a relatively irrelevant piece of information and should be removed from this section. To address these concerns, we suggest the following edits:

Article 7, Section 7.8:
"Section 7.8. Account Information Access
A. The player must be able to access information listing the time and date of the following player activity that have taken place in their account over the last thirty (30) days. In addition, the operator shall, upon request, be capable of providing to a player a summary statement of the following player activity during the past year:

1) Account details including all deposits amounts, withdrawal amounts and bonus or promotional information including how much is left on any pending bonus or promotional offer and how much has been released to the player, restrictions such as exclusion events and limits, and net outcomes including total won or lost.

2) Play history including entries made, amounts won, **[~~time and~~]** money spent, and net wins/losses.

B. The player must have the ability to receive updates during play about **[~~time and~~]** money spent on entries for confirmed contests and account balances in currency as well as the amount available (if any) of pending bonus or promotional offer. In addition, the player must have the ability to receive updates during play about entries for future contests."

- ***Issue 6 – Permanent account closure***

Article 7, section 7.9 provides a requirement for fantasy contest operators to implement processes and procedures to allow a player to permanently close their account. Among these provisions is a requirement that operators must return all unrestricted player funds from a closed account to the player within five (5) business days. However, this provision does not acknowledge the potential for delays by third party payment service processors or the financial institution of the player themselves. To address this concern, we suggest the following edit:

Article 7, Section 7.9:
"The operator shall implement processes and procedures that allow any player to permanently close an account at any time and for any reason. The procedures will allow for cancellation by any means including, without limitation, by a player on any Mobile App or Site used by that player to make deposits into a player account. The operator shall return all unrestricted player funds from a closed account to the player within five (5) business days. Closure of the Player Account will render participation in a bonus or promotional offer void and the value of restricted player funds remaining will be removed from the Player Account. **For the purposes of this regulation the return of all unrestricted player funds shall be deemed timely if it is processed by the operator within five (5) business days of account closure but is delayed by a payment service provider, credit card issuer or by the custodian of a financial account.**"

- ***Issue 7 – Customer complaint process.***

Article 10 of the Proposed Regulations provides the processes by which fantasy contests operators must process complaints by players. There are three concerns with the provisions of this section. First, there is a requirement in article 10, section 10.1 that players may file a complaint "on a 24/7 basis." Fantasy contest operators may provide multiple mechanisms for players to file complaints, not all of which may be feasible to have available on a 24/7 basis. Further, there may be times when a particular mechanism may be unavailable due to issues beyond the control of an operator (extreme weather conditions, acts of God, etc.). Since fantasy contest operators must submit their procedures for receiving complaints for approval as part of their internal controls, we suggest removal of the 24/7 requirement and instead have operators to work with the Commission to develop procedures that ensure players are able to file a complaint in a timely fashion.

Second, there are several provisions in article 10 which provide timelines for submission of information and record retention. The timelines in article 10, sections 10.4 and 10.5 are slightly different than those required by states like Indiana which require retention of customer complaints for three years (68 IAC 26-9-2) and provision of complaint information to the Commission within ten business days (68 IAC 26-9-2). We suggest amending the Proposed Regulations to be in conformity with these timelines.

Third, article 10, section 10.7 provides that the Commission may compel a mediation process, overseen by the Commission to address customer complaints. While mediation can serve a significant role in complaint resolution, a Commission mandated mediation process may not desired by all parties in every potential situation. Further, fantasy contest operator terms and conditions have provisions that address dispute resolution and often provide for alternative dispute resolution procedures. We suggest amending this provision to allow for Commission mediation when approved by all parties to the complaint.

To address these concerns, we suggest the following edits:

Article 10, Sections 10.1, 10,4, 10.5, and 10.7:
"**Section 10.1. Opportunities for Player Complaints**
The Fantasy Contest Operator shall develop and maintain procedures delineated in the internal controls on the complaint reporting and resolution process. A player may file a complaint with the operator about any aspect of a Fantasy Contest operation **[~~on a 24/7 basis~~]**.
…
Section 10.4. Operator Retention of Complaints
All complaints received by the operator from a player and the operator's responses to complaints shall be retained for at least **three [~~five~~]** years.
Section 10.5. Reporting to Commission of Complaints
All complaints received by the operator from a player and the operator's responses to complaints shall made available to the Commission within **[~~seven~~]** **ten business** days of any request by the Commission.
…
Section 10.7. Mediation Hearing

A. In order to encourage the informal resolution of complaints related to Fantasy Contests in the most rapid, fair and economical way for the parties, **upon the approval of all parties to the complaint,** the Commission may hold a mediation hearing to encourage the parties to reach an agreement without the need to bring carry out further procedures…"

Part IV – Corrections to Definitions and Minor edits

- ***Issue 1 – Definition of Adjusted Gross Revenue.***

Section 1.3 provides a definition of "Adjusted Gross Revenue" which is not in line with the definition of this term as provided by chapter 4.1(6) of the Gaming Commission Act of the Government of Puerto Rico. As such, we suggest amending this definition in regulation to match the definition found in statute. To address this concern, we suggest the following edits:

Article 1, Section 1.3:
"**Adjusted Gross Revenue**
~~[The Total Revenue Received by the operator from players in Puerto Rico minus the total sums paid to winning players in Puerto Rico. This includes the cash equivalent of any merchandise or object of value awarded as a prize, the free play offered and payments of the tax on the consumption of specific goods to the Federal Government of the United States of America.]~~
The sum equivalent to the total of all entry fees a Fantasy Contest Operator collects from all fantasy contest players Nationwide, less the total sums paid to winning players of the fantasy contests, multiplied by the location percentage for Puerto Rico."

- ***Issue 2 – Definition of Fantasy Contest or Contest.***

Section 1.3 provides a definition of "Fantasy Contest or Contest" which is not in line with the definition of this term as provided by chapter 4.1(3) of the Gaming Commission Act of the Government of Puerto Rico. As such, we suggest amending this definition in regulation to match the definition found in statute. To address this concern, we suggest the following edits:

Article 1, Section 1.3:
"**Fantasy Contest or Contest**
~~[A Special Event involving any game or contest or simulation in which:~~
~~(a)One or more players compete against each other by grouping virtual rosters of real athletes or participants belonging to professional Sports Events or Special Events.~~
~~(b)These teams compete against each other based on cumulative statistical results of the performance of athletes or participants in real Sports Events or Special Events for a specific period. (c)The winning outcomes reflect the skills and relative knowledge of the players and are mostly determined by the cumulative statistical results of the performance of athletes or participants in real Sports Events or other Special Events.]~~

Any game or Fantasy Contest or simulation in which one or more players compete against one another and victories reflect the relative skills and knowledge of the players of the Fantasy Contest and are largely determined by the cumulative statistical results of the persons' performance, including athletes in the case of sports events."

- ***Issue 3 – Definition of Fantasy Contest Operator or Operator.***

Section 1.3 provides a definition of "Fantasy Contest Operator or Operator" which is not in line with the definition of this term as provided by chapter 4.1(4) of the Gaming Commission Act of the Government of Puerto Rico. As such, we suggest amending this definition in regulation to match the definition found in statute. To address this concern, we suggest the following edits:

Article 1, Section 1.3:
"**Fantasy Contest Operator or Operator**
[~~An entity authorized by a license issued by the Commission to accept and pay entries in Fantasy Contests through a Mobile App or Site on the Fantasy Contest System, within the territorial limits of Puerto Rico, in compliance with the local and federal legal framework. The Commission, through regulations, will determine the limit of portals that each Operator may offer.~~]
A person or entity who offers Fantasy Contests to the general public with an Entry Fee and for a cash prize."

- ***Issue 4 – Definition of Total Revenue Received.***

Section 1.3 provides a definition of "Total Revenue Received" this term would be better defined as "Gross Revenue from Fantasy Contests Nationwide" as provided by chapter 4.1(8) of the Gaming Commission Act of the Government of Puerto Rico. As such, we suggest amending this definition in regulation to match the definition found in statute. To address this concern, we suggest the following edits:

Article 1, Section 1.3:
"**[~~Total Revenue Received~~]** **Gross Revenue from Fantasy Contests Nationwide**
[~~Revenue received by a licensee from players for Fantasy Contests in Puerto Rico for the purpose of accepting and paying entries~~]
The sum equivalent to the total of all entry fees the Fantasy Contest Operator collects from all players of the Fantasy Contests located in the United States and Puerto Rico, less the total of all sums paid to winning players of the fantasy contests."

- ***Issue 6 – Requirement for all times shown to be in Eastern Time.***

Article 5, section 5.3(B)(2) requires that all times shown to customers in the fantasy contest system are "Eastern Time (ET) unless otherwise stated." As the time zone for Puerto Rico is Atlantic

Time, this requirement is likely to be confusing to customers. To address this concern, we suggest either of the two following edits to change to Atlantic Time or remove the requirement entirely:

Article 5, Section 5.3(B)(2):
"2) All times shown are **[~~Eastern Time (ET)~~]** **Atlantic Time (AT)** unless otherwise stated"

OR

Article 5, Section 5.3(B)(2):
"2) **[~~All times shown are Eastern Time (ET) unless otherwise stated~~]**"

- ***Issue 7 – Clarification on data for fantasy contest promotional offers.***

Article 5, section 5.10(A)(9)(b) requires operators to retain "The date and time the bonus or promotional was made available." It appears the word "offer" was left out after the word "promotional." To address this issue, we suggest the following edit:

Article 5, Section 5.10(A)(9)(b):
"b) The date and time the bonus or promotional **offer** was made available;"

- ***Issue 8 – Clarification that fantasy contest entries are not wagers.***

Article 13, section 13.1(B) provides that fantasy contest operator income from sources other than fantasy contests shall be subject to the provisions of other applicable tax statutes. However, it appears the word "wager" was inadvertently used instead of the proper term "entries" in this section. To address this issue, we suggest the following edit:

Article 13, Section 13.1(B):
"It is provided that the Operator's income that does not come from the **[~~wagers~~]** **entries** placed in accordance with the Law shall be subject to the provisions of the Code or the applicable tax statute."

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We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

Cory Fox
Government Affairs and Product Counsel Vice President

Cory Fox
cory.fox@fanduel.com

April 4, 2021

Via Email to infocjpr@comjuegos.pr.gov
Puerto Rico Gaming Commission
P.O. Box 9023960
San Juan, PR 00902

Re: FanDuel Comments on Proposed "Regulations for Sports Betting of the Puerto Rico Gaming Commission"

Dear Commissioners:

I write to provide comments on behalf of FanDuel Group, Inc. ("FanDuel") regarding the proposed "Regulations for Sports Betting of the Puerto Rico Gaming Commission" ("Proposed Regulations"). Based on our extensive experience as an operator in the sports betting industry and collaborator with regulators of sports betting in many states in the development of their regulations, we offer constructive feedback on ways in which the Proposed Regulations can be improved for effectiveness and consistency with other state regulations.

Following the Supreme Court's decision to strike down the Professional and Amateur Sports Protection Act (PASPA) in May of 2018, FanDuel has now become the leading sports wagering operator, and the largest online real-money gaming operator, in the United States. FanDuel currently operates fifteen (15) brick and mortar sportsbooks in nine (9) states and online sports wagering in ten (10) states. We appreciate the opportunity to share our perspective on sports betting regulation with you and have arranged our comments in four parts. Part I is focused on issues in the Proposed Regulations related to the licensing of sports betting operators, service providers, vendors, and employees. Part II is focused on major issues in the Proposed Regulations related to the operations of sports betting. Part III is focused on additional issues in the Proposed Regulations related to the operations of sports betting, including requests for clarification and adjustments to comply with statutory provisions. Finally, Part IV is focused on grammatical clarifications and other minor errata.

Part I - Issues with licensing of sports betting operators.

Article 2 of the Proposed Regulations provides for the licensing process of sports betting operators, service providers, vendors, and employees. These regulations lay out significantly burdensome and unnecessary requirements that are frequently beyond the requirements imposed by other jurisdictions on sports wagering or other gaming operators. We have arranged our issues within this part into three subparts: Subpart A – General issues with licensing; Subpart B – Specific issues with business entity licensing; and Subpart C – Specific issues with employee licensing.

FANDUEL

Subpart A – General issues with licensing:

- ***Issue 1 – Prohibition on electronic submission of application documents.***

Throughout Article 2 of the Proposed Regulations, there are numerous instances where applications or supporting documents must be either mailed or hand delivered to the Commission. This, in effect, creates a prohibition on the electronic submission of application documents, a process that is utilized by regulators in other jurisdictions. To improve the ease of applying for a license and reduce unnecessary burdens on both applicants and the Commission, the Commission should have the authority to accept and process applications electronically if it chooses to do so. We suggest the following changes to the Proposed Regulations to remove any specific requirements that would prevent the electronic submission of application documents:

Article 2, Section 2.1(F)(1)(c):
"1) Every initial application for an Employee License shall include:
…
c) **[~~One (1) passport type photographs, provided by the applicant, taken within the three (3) months preceding the date of the filing of the Employee License application, which shall be stapled to the initial request~~]**;"

Article 2, Section 2.1(F)(2):
"2) Each initial application shall be **[~~filed at or mailed~~]** **submitted** to the Commission **[~~at the address indicated~~]** **in a format approved** by the Commission."

Article 2, Section 2.1(J)(1)(c):
"1) The Employee License renewal application shall include:
…
c) **[~~One (1) Passport type photographs, provided by the applicant, taken within the three (3) months preceding the date of the filing of the Employee License renewal application, which shall be stapled to the in the renewal request~~]**;"

Article 2, Section 2.1(J)(2):
"2) All renewal applications shall be **[~~filed with or mailed~~]** **submitted** to the **[~~address provided~~]** **Commission in a format approved** by the Commission.

Article 2, Section 2.6(A)(1):
"A. The initial application for a License shall consist in:
1) **[~~An original and a digital copy of t~~]****T**he following documents:"

Article 2, Section 2.6(B):

"B. Every initial application shall be **[~~filed at or mailed at~~]** **submitted to** the **[~~address provided~~]** **Commission in a format approved** by the Commission."

Article 2, Section 2.7(A):
"Every License renewal application shall be filed no later than one hundred twenty (120) days prior to the expiration date of said license. The License renewal application shall include:
A. A duly completed **[~~original and a photocopy of~~]**:…"

Article 2, Section 2.18(C):
"C. All Multijurisdictional Personal History Disclosure Form shall be filed **[~~in original and digital copy~~]** together with the corresponding Service Provider License Application Form and shall also include:
1) The documents similar to those required in section 2.1 (M) of these Regulations for identifying the person; **and**
2) **[~~A photograph of the applicant taken within the twelve (12) months prior to the date of filing of Multijurisdictional Personal History Disclosure Form, which shall be stapled to said Form; and~~**
~~3)~~] A Puerto Rico Supplemental Form to Multijurisdictional Personal History Disclosure Form, completed in all its parts."

- ***Issue 2 – Requirement for notarized statements.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that require applicants to submit notarized statements attesting to the veracity of the information provided. We have seen over the last year the problems that arise due to requirements for in-person notarization and suggest the Proposed Regulations clearly authorize the submission of documents that have been electronically notarized. To address this concern, we suggest the following changes:

Article 2, Section 2.1(E)(1)(m):
"1) As part of the initial application for an Employee License provided in section 2.1(F) of these Regulations, any applicant shall submit the following information which shall be provided by the Commission for such purposes:
…
m) Notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** in which the applicant declares that all the information provided in the application is true…"

Article 2, Section 2.1(J)(1)(f):
"1) The Employee License renewal application shall include:
…

f) A notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby the applicant declares that all the information contained in the application is true."

Article 2, Section 2.17(B):
"B. In addition to the information in paragraph (A) above, License Application Form shall include a Release Authorization authorizing governmental and private **[~~organisms~~] organizations** to release any information pertaining to the applicant which may be requested by the Commission and a notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby applicant declares that all the information supplied in the application is true."

Article 2, Section 2.18(B)(2):
"B. In addition to the information in (A) above, the Multijurisdictional Personal History Disclosure Form completed shall include the following:
…
2) A Release Authorization authorizing governmental and private **[~~organisms~~] organizations** to take and offer any pertinent information relating to the person that may be requested by the Commission and a notarized sworn statement**, which may be electronically notarized if authorized in the jurisdiction where the notarization takes place,** whereby applicant declares that all the information supplied in the application is true."

Subpart B – Specific issues with business entity licensing and registration:

- ***Issue 1 – Compliance with the Americans with Disabilities Act.***

Article 2, section 2.2(A)(8) provides a requirement that an applicant for a sports betting operator license must certify that their operations will comply with the requirements of Title III of the Americans with Disabilities Act ("ADA"). The concern with the language in this section is that it is not specific as to what, if any, limit is placed on the definition of the sports betting operators "operations." This term could be interpreted to include offices and locations of the operator outside of Puerto Rico. Sports betting operators may have offices and locations outside of Puerto Rico or even outside of the United States (where the provisions of the ADA would not apply) as well. As such, we suggest removal of this provision. However, if not removed, we suggest it is limited in scope to ensure that authorized locations in Puerto Rico comply with the requirements associated with places of public accommodation under Title III of the ADA. To address these concerns, we suggest the following changes:

Article 2, Section 2.2(A)(8):
"**~~[8) Applicants must certify that their operations will comply with the requirements of title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 ("ADA"), and its implementing regulations, which are found at 28 C.F.R. part 36.]~~**"

Or

Article 2, Section 2.2(A)(8):
*"*8) Applicants must certify that their **[~~operations~~]** **authorized locations in Puerto Rico** will comply with the requirements of title III of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12181-12189 ("ADA"), and its implementing regulations, which are found at 28 C.F.R. part 36."

- ***Issue 2 – Limiting licensure and registration to operations in Puerto Rico.***

Article 2, sections 2.2, 2.3 and 2.4 provide for service provider licensure, vendor registration, and restrictions on doing business without the proper license or registration. However, these provisions are inconsistent on the applicability of the provisions to only the operation of sports betting in Puerto Rico. We believe for the sake of consistency all these provisions should be clarified to apply only to the operation of sports betting in Puerto Rico. To address this concern, we suggest the following changes:

Article 2, Section 2.2(B)(1):
"1) A legal person who supplies services directly necessary for the operation of the Sports Betting activity **in Puerto Rico** or who receives payment or compensation tied to player activity or in excess of 5% of the handle of any Licensee; who shares in a percentage of adjusted Gross Revenue of any Licensee of 5% or more; or who provides any similar services that are material to conducting these activity as determined by the Commission shall be considered a Service Provider and shall be required to obtain a license as a Service Provider…"

Article 2, Section 2.2(B)(2):
*"*2) Companies that provide goods or services directly related to Sports Betting **in Puerto Rico** will pay $ 5,000, such as manufacturers, Providers, service providers, laboratories, vendors or distributors of devices, equipment, accessories, objects or items that are used for Sports Betting. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto."

Article 2, Section 2.3(A):
*"*A. Any legal person who provides goods or services that are material and ancillary to conducting Sports Betting **in Puerto Rico**, and who are not otherwise classified as a Licensee, shall be considered a Vendor and shall be required to obtain approval from the Commission for Registration as a Vendor. These services may include, but are not limited to:
1) payment services or processors that do not qualify as Supplier Registrants,
2) contractors for goods or services relating to **the operation of** Sports Betting **in Puerto Rico**,
3) lobbyists,
4) brand developers, and

5) affiliated marketers."

Article 2, Section 2.3(B)(4):
"B. Any legal person who provides non-material or general goods or services indirect to the conduct of Sports Betting shall not be required to obtain Registration as a Vendor, unless the Person receives payment or compensation:
…
4) that exceeds $250,000 in a one-year period for goods and services **directly** relating to **the operation of** Sports Betting **[~~activity~~] in Puerto Rico**."

Article 2, Section 2.4(A):
"A. No enterprise shall operate, provide equipment or services related with the activity of Sports Betting **in Puerto Rico**, or in another manner shall carry on business related with activities of Sports Betting with the operator, its employees or agents, unless it holds a current License validly issued by the Commission"

- ***Issue 3 – Requirement for licensure of companies that provide goods or services not directly related to sports betting.***

Article 2, section 2.2(B)(3) provides a requirement that companies which provide goods or services that are not directly related to sports betting should still be required to be licensed as service providers, just at a lower fee. Many of these companies (including those specifically mentioned – cleaning companies, restaurants, etc.) should not be subject to service provider licensure or vendor registration at all, with the only exception of firms providing consulting services on regulations. Such firms, however, would be better being included in the vendor registration provision along with lobbyists. To address these concerns, we suggest the following changes:

Article 2, Section 2.2(B)(3):
"3) **[~~Companies that provide goods or services not directly related to Sports Betting will pay $ 2,000, such as cleaning companies, players' representatives ("junket") and their respective companies, restaurants, sale of articles, and provide consulting services on regulations, administration and opening of an Authorized Location, provide security services, transportation services and storage of Wagering Equipment. Plus, all costs incurred by the Commission of any additional investigation necessary for finding of suitability of the entity or any Person related thereto.~~]**The Service provider license shall be valid for three (3) years."

Article 2, Section 2.3(A)(3):
"A. Any legal person who provides goods or services that are material and ancillary to conducting Sports Betting, and who are not otherwise classified as a Licensee, shall be considered a Vendor and shall be required to obtain approval from the Commission for Registration as a Vendor. These services may include, but are not limited to:
…

3) lobbyists **and consultants on regulations**…"

- ***Issue 4 – Requirement for administrative and supervisory personnel, principal employees and sales representatives to provide information for business entity licensure.***

Article 2, section 2.5(C) requires that business entity license applicants must submit information and documentation to establish that the "…owners, administrative and supervisory personnel, principal employees and sales representatives of the applicant comply with the parameters provided in this section." Our concern is that these categories of individuals are not clearly defined, and they go beyond the categories provided in other sections for business entity licensure. We suggest the following changes to bring this section in line with the requirements elsewhere:

Article 2, Section 2.5(C):
"All License applicants shall submit to the Commission the information, documentation and guarantees necessary to establish through clear and convincing evidence:
…
C. That the **direct or indirect** owners **of 5% or more of the voting interests of the applicant and the key employees**[~~, administrative and supervisory personnel, principal employees and sales representatives~~] of the applicant comply with the parameters provided in this section;"

- ***Issue 5 – Requirement to provide information on sales representatives and all technological employees including completion of the Multijurisdictional Personal History Disclosure Form.***

Article 2, section 2.10 requires that business entity license applicants provide information on the individual qualifications of a number of categories of individuals. This section also requires these individuals to complete the Multijurisdicational Personal History Disclosure Form. Among those individuals required to submit this information are sales representatives and technological employees. These individuals should not be subject to inclusion in this provision and, if their job responsibilities satisfy the requirements of employee licensure, their information can be provided through that process. To address this concern, we suggest the following changes:

Article 2, Section 2.10:
"**Section 2.10 Qualification Requirements Before Granting a License**
A. The Commission shall not issue a License to any legal person unless the applicant has established in advance the individual qualifications of each one of the following persons:
1) The enterprise;
2) The holding company (ies) of the enterprise;
3) Every owner of the enterprise who has, directly or indirectly, any interest in or is the owner of more than five percent (5%) of the enterprise;
4) Every owner of a holding company of the enterprise that the Commission deems necessary to promote the purposes of the Law and the Regulations;

5) Any director of the enterprise, except such director who, in the opinion of the Commission, is not significantly involved in or connected with the administration of the enterprise;
6) Every officer of the enterprise who is significantly involved in or who has authority over the manner in which the business dealing with the activities of the operator is conducted and any officer who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;
7) Any officer of the holding company of the enterprise who the Commission considers necessary to protect the good character, honesty and integrity of the enterprise;
8) **[~~Any employee who supervises the regional or local office that employs the sales representatives who shall solicit business from or negotiate directly with the operator; 9) Any employee who shall function as a sales representative or who shall be regularly dedicated to soliciting business from any operator in Puerto Rico or any technological employee who has access to the facilities of the operator in the performance of his job duties;~~**
~~10)~~]Any other person who the Commission considers should be qualified.
B. To establish the individual qualifications, the persons specified in subparagraphs (A)(1) and (A)(2) of this section shall complete Business Entity License Application Form.
C. To establish the individual qualifications, the persons specified in subparagraphs (A)(3) through (A)(**[~~10~~]** 7) of this section shall complete Multijurisdictional Personal History Disclosure Form."

- ***Issue 6 – Requirement to disclose information on all individuals or entities with a beneficiary interest in any non-voting shares.***

Article 2, section 2.17(A)(9) requires the disclosure of every individual or entity with a beneficial interest in any non-voting shares of a business entity applicant. This is the only section which requires disclosure of individuals or entities with an interest in non-voting shares. Further, it is inconsistent with the standard of disclosure throughout the rest of the regulations, which is limited to those owners of more than five percent (5%) of the voting shares. Finally, as these are non-voting shares, they do not exercise the ability to control the decisions of the business entity and thus do not need to be disclosed. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(9):
"A. License Application Form shall be completed in the format provided by the Commission and may require the following information:
…
9) **[~~The name, address, date of birth (if applicable), number and percent of shares owned by each person or entity with a beneficiary interest in any non-voting shares;~~]**"

- ***Issue 7 – Disclosure of managers and sales representatives.***

Article 2, sections 2.17(A)(10)(d)-(f) requires the disclosure of the name, address, date of birth, title or position, and percent ownership in the business enterprise of every sales representative, every manager who supervises a local or regional office which employs sales representatives, and anyone who has signed, or will sign a service agreement. As stated earlier, there is no need to disclose the names and information of sales representatives and others unless they would otherwise be subject to employee licensure, at which point the information would be provided. Likewise, if these individuals are owners of five percent (5%) or more of the applicant, then they would have to be disclosed under other article 2, section 2.17(A)(10)(c) and other provisions of these regulations. As such, these provisions are unnecessary and burdensome and should be removed. To address this concern, we suggest the following changes:

Article 2, Sections 2.17(10)(d)-(f):
"A. License Application Form shall be completed in the format provided by the Commission and may require the following information:
…
10) The name, address, date of birth, title or position, and, if applicable, the percent of ownership in the enterprise of the following persons:
a) Every officer, director or trustee;
b) Every owner, or partner, including all the partners, whether general, limited or any other type; **and**
c) Every beneficial owner who owns more than five percent (5%) of the voting shares;
~~**[d) Every sales representative or other person who shall regularly solicit business from the operator;**~~
~~**e) Every manager who supervises a local or regional office which employs sales representatives or other persons who solicit business from the operator; and**~~
~~**f) Any other person not specified in subparagraphs (A)(10)(a), (b), (c), (d) and (e) above and who has signed or will sign service agreements with the operator;]**~~"

- ***Issue 8 – Clarifying ownership standard for diagram of ownership interest***

Article 2, section 2.17(A)(11) requires the provision by an applicant for a business enterprise license of a diagram illustrating the ownership interest of "any other person who has an interest in the applying enterprise." As a business enterprise applicant may be a publicly traded corporation, it would be highly impractical to develop such a diagram, and it would immediately become erroneous due to the trading of shares of the applicant. As such, this requirement should be limited, as the rest of the provisions on ownership are, to those individuals with more than five percent (5%) ownership in the business enterprise. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(11):
"A. License Application Form shall be completed in the format provided by the Commission and may require the following information:

…
11) A diagram that illustrates the ownership interest of any other person who has an interest **of more than five percent (5%) of the voting shares** in the applying enterprise;"

- ***Issue 9 – Requirement to disclose significant amounts of unnecessary and/or confidential information.***

Article 2, sections 2.17(A)(12)-(15) and (20) require significant disclosures from applicants that are beyond what is generally required for gaming or sports wagering operator licensing in other jurisdictions. These provisions require, among other information, the name, address, date of birth, position, dates of employment, and reason for leaving for all former officers and directors who have left within the last ten years. Additionally, these provisions require the name, address, date of birth, position, length of employment and compensation for all employees earning fifty thousand ($50,000) per year or more. Beyond these requirements, these provisions also require disclosure of all bonus, profit sharing, pension, retirement, or deferred compensation plans and the compensation for all partners, officers, directors, and trustees. Finally, these provisions require disclosure of all contracts for twenty-five thousand dollars ($25,000) or more.

As stated before, these requirements go significantly beyond those required by other jurisdictions and should all be removed entirely.

- ***Issue 10 – Requirement for the use of an accountant registered or licensed in Puerto Rico.***

Article 2, section 2.17(A)(27)(c) requires a business entity applicant to provide audited financial statements from an independent certified public accountant registered or licensed in Puerto Rico. Business entities who are headquartered outside of Puerto Rico are likely to already have audited financial statements that have been prepared by firms which are licensed or registered in other jurisdictions. To ensure a speedy application process and prevent duplication of work that has already been completed, the Commission would be best served to accept audited financial statements that have been prepared by an independent certified public accountant in any jurisdiction in the United States. To address this concern, we suggest the following change:

Article 2, Section 2.17(A)(27)(c):
*"*A. License Application Form shall be completed in the format provided by the Commission and may require the following information:
…
27) A copy, if applicable, of each one of the following:
…
c) Audited financial statements from an independent certified public accountant, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing, prepared in accordance with the attestation standards established by the American Institute of Certified

Public Accountants for the last fiscal year, including, but not limited to, income and expense statements,"

- ***Issue 11 – Requirement for documents from the Treasury Department and the Municipal Revenue Collection Center.***

Article 2, sections 2.17(A)(30)-(32) require business entity license applicants to provide certificates from the Treasury Department of Puerto Rico and the Municipal Revenue Collection Center ensuring that the applicant has filed its income tax returns and does not have any outstanding debts to either entity. However, these requirements create two issues. First, if a business entity applicant has had no previous activity in Puerto Rico, they will not have filed an income tax return with the Treasury Department of Puerto Rico. Second, any significant delay (or refusal) of these agencies to issue a certificate will prevent a business entity from submitting its application to the Commission. To address these concerns, we suggest the following changes:

Article 2, Section 2.17(A)(30):
"A. License Application Form shall be completed in the format provided by the Commission and may require the following information:
…
30) Certificate issued by the Treasury Department of Puerto Rico certifying that the enterprise has filed its income tax returns **(if applicable)**;"

Article 2, Section 2.17(C):
"C. **If an applicant requests a Negative Debt Certificate from the Treasury Department or the Municipal Revenue Collection Center and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.17(A)(31) or (32), respectively, by submitting an attestation that their request for such Negative Debt Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Negative Debt Certificate.**

D. The application shall be signed by the president of the enterprise, general manager, partners, general partner or any other person authorized by the enterprise."

- ***Issue 12 – Minor errata.***

There are two minor technical edits in the business entity licensing sections. First, in the service provider licensing section, the term "service provider" is used where the context appears to reference an "operator." Second, in article 2, section 2.5(F) the term "publicly traded commission" is used when it should be "publicly traded company." To address these concerns, we suggest the following edits:

Article 2, Section 2.2(B)(7):

"7) Applicants for a**n Operator** **[~~Service Provider~~]** license that also perform functions or services identified as Service Provider activities are only required to be registered as a**n Operator** **[~~Supplier~~]**. A Service Provider License does not authorize the Service Provider to perform, provide, or engage in activities requiring a**n Operator** License."

Article 2, Section 2.5(F):
"All License applicants shall submit to the Commission the information, documentation and guarantees necessary to establish through clear and convincing evidence:
…
F. If the applicant is not a publicly traded **[~~Commission~~]** **company**, the applicant shall produce proof of beneficial ownership. Stock ownership shall be issued to bona fide individuals or entities and shall not be in the form of nominee or bearer shares."

Subpart C – Specific issues with employee licensing:

- ***Issue 1 – Employees subject to licensure.***

Article 2, section 2.1(A) begins with a prohibition on any individual working as an employee of a sports betting operator or provide services to a sports betting operator unless they have a valid, current, employee license. This provision does not limit the licensure requirement however to those employees whose position requires licensure, but rather appears to require every employee of a sports betting operator to receive an employee license. Additionally, this provision does not acknowledge the authority of the Commission to exempt an employee from licensure under Article 2, section 2.1(B)(3). Finally, this provision includes a confusing, and apparently duplicative statement, that the employee licensure requirement applies to both "managerial" and "non-managerial" employees.

To address the concerns raised above, we suggest the following changes:

Article 2, Section 2.1(A):
"**A. Prohibition of Employment; Employee License Requirements.**
No natural person**, whose position requires licensure,** may work as an employee of a Sports Betting Operator in Puerto Rico or provide services to it unless the person has a current Employee License validly issued by the Commission, as provided in this Article**, or has been deemed exempt from licensure under Section 2.1(B)(3)**. **[~~The Employee License requirement applies to managerial employees as well as non-managerial employees who work in or are directly connected with the Sports Betting operation.~~]**"

- ***Issue 2 – Categories of employee licensure.***

Article 2, section 2.1(B) provides for three different levels of employee licensure: Key Employee; Supervisory Employee; and Employee. In relation to Key Employee licensure, this section would

require, among others, anyone who is involved in the development or administration of long term plans related to sports betting to be licensed as a Key Employee. As written, a significant percentage of our employees, many of whom do not have direct interaction with the product itself, may be required to receive the highest level of licensure. This could include individuals in customer analytics, marketing, and other departments. The Gaming Commission and sports betting operators would be best served by specifically limiting the Key Employee license to the individual(s) who have ultimate responsibility for the sports betting operation in Puerto Rico.

To address this concern, we suggest the following change:

Article 2, Section 2.1(B)(2)(b):
"b) Any natural person **[~~in a position which includes any responsibilities or authority to develop or administer policy or long-term plans or to make discretionary decisions relative to~~]** **ultimately responsible for** the Sports Betting operation **in Puerto Rico**, regardless of the title, shall obtain a Key Employee License."

Article 2, section 2.1(B)(2)(a) provides for the individuals who are required to obtain a "Supervisory Employee" license. This provision, as currently written, appears to require all individuals who have any supervisory roles within a sports betting operator, whether that role has any relation to the sports betting operation itself. This could include employees with supervisory roles within the legal, human resources, customer service, marketing, and other departments, who do not have any direct interaction with the sports betting operation. This section should be amended to clarify that only individuals whose duties otherwise would require employee licensure and who directly supervise one or more employees whose duties require employee licensure. To address this concern, we suggest the following edits:

Article 2, Section 2.1(B)(2)(a):
"a) Any natural person in a position which includes any responsibilities or powers **[~~for supervision of specific areas of the operator~~]** **which would require them to obtain an Employee License and who directly supervises one or more individuals required to receive an Employee License**, regardless of the title, shall obtain a Supervisory Employee License."

Finally, article 2, section 2.1(B)(2)(c) provides for the individuals who are required to receive an "Employee" license. This requirement is rather expansive, and we suggest that it be limited only to those individuals who have access to directly implement changes to the sports betting system, or who are employed in an authorized location. To address this concern, we suggest the following changes:

Article 2, Section 2.1(B)(2)(c):
"c) Any natural person **with access to directly implement changes to the sports betting system or** in a position which includes any responsibilities related to the operation at an Authorized Location, if utilized, **[~~or whose responsibilities predominantly involve the maintenance or the~~**

~~**operation of Sports Betting activities or equipment and assets associated with the same, or who is required to work regularly in a restricted area]**~~ shall obtain an Employee License."

- ***Issue 3 – Classification of contractors subject to employee licensure.***

Article 2, section 2.1(C)(1) provides for the determination of whether individuals who provide services to an operator are subject to employee licensure requirements. This provision however appears to deviate from the standard of review laid out in article 2, section 2.1(B) for determining whether employees of the operator are subject to licensure. This provision as written appears to create a situation where individuals, who are not directly employed by an operator may require licensing, when their role, if they were directly employed by an operator, would not require licensing. Additionally, there is a requirement that if an outside service provider supervises one or more employees of the operator, the service provider would be required to be licensed. This provision does not differentiate between a service provider who may supervise employees of the operator who themselves are not licensed and whose job roles are not directly related to sports betting operations.

To address these concerns, we suggest the following changes:

Article 2, section 2.1(C)(1):
"**C. Scope and Applicability of the Licensing of Natural Persons**
1) In determining whether a natural person who provides services to the operator should hold an Employee License, it shall be presumed that such person shall be required to hold an Employee License **if such person would be required under Section 2.1(B)(2) to hold a license if directly employed by the operator, and** if the services provided by that person are characterized by any of the following factors, being these indicative that an employment relationship exists:

a) The natural person will, for a period of time unrelated to any specific project or for an indefinite period of time, directly supervise one **[~~of~~] or** more **licensed** employees of the operator;"

Finally, article 2, section 2.1(C) does not provide for the ability of the Commission to exempt an individual who provides services to an operator from licensing, whereas article 2, section 2.1(B), provides such an option for individuals directly employed by a sports betting operator. We suggest adding the same exemption language to article 2, section 2.1(C) that exists in article 2, section 2.1(B).

To address this concern, we suggest adding the following language as article 2, section 2.1(C)(3):

"**3) The Commission may exempt any person from the employee licensing requirements of this title if the Commission determines that the person is regulated by another governmental agency or that licensing is not considered necessary to protect the public interest or accomplish the policies and purposes of the Act.**"

- ***Issue 4 – Requirement of United States citizenship or work authorization.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that indicate, or directly state, that United States citizenship or work authorization is required for individuals who are subject to employee licensure. However, FanDuel has offices in both the United States and the United Kingdom and has a significant number of employees outside of the United States, who may be subject to licensure, who are not United States citizens and do not have work authorization for the United States. We suggest the following changes to the Proposed Regulations to remove any specific requirements related to United States citizenship or work authorization:

Article 2, Section 2.1(D)(1)(b):
"1) Each Employee License applicant shall provide the Commission with the necessary information, documentation and guarantees which establish through clear and convincing evidence that he/she:
…
b) **[~~Is a citizen of the United States of America or is authorized in accordance with the applicable federal laws or regulations to work in the United States of America, or is a legal resident of Puerto Rico before granting of the Employee License~~]**;"

Article 2, Section 2.1(E)(1)(e):
*"*1) As part of the initial application for an Employee License provided in section 2.1(F) of these Regulations, any applicant shall submit the following information which shall be provided by the Commission for such purposes:
…
e) **[~~Citizenship or immigration or residency status in the United States or in Puerto Rico~~]**;"

Article 2, Section 2.1(M)(2):
"**M. Identification of the Applicant**
Every applicant for an Employee License shall establish his identify with reasonable certainty. The applicant shall establish his identity in one of the following ways:
…
2) Presenting two (2) of the following authentic documents:
…
f) Current identification card issued by the Immigration and Naturalization Service containing a photograph or information about the name, date of birth, sex, height, color of eyes and address of the applicant; **[~~or~~]**
g) An unexpired foreign passport **[~~authorized by the Immigration and Naturalization Service~~]**; **or**
h) Any other documentation approved by the Commission."

- ***Issue 5 – Requirement of "Good Conduct Certificate" from the Puerto Rico Police.***

Throughout Article 2 of the Proposed Regulations, there are multiple provisions that require applicants for employee licensure to provide a "Good Conduct Certificate" from the Puerto Rico Police. This requirement presents two issues. First, there is no timeline in the Proposed Regulations for the Puerto Rico Police to issue such a certificate, or even a guarantee that they will comply with a request from an applicant for the issuance of such a certificate. Second, as stated previously, FanDuel has multiple offices in both the United States and the United Kingdom and has a significant number of employees outside of the United States, who may be subject to licensure, who may never have lived in, or travelled to, Puerto Rico. Requiring these individuals to prove that they have never committed a crime in Puerto Rico is unnecessarily burdensome. We suggest the following changes to the Proposed Regulations to limit the requirement of providing a "Good Conduct Certificate" to employees who reside in Puerto Rico, and to ensure that a delay in processing a request for a "Good Conduct Certificate" will not delay the processing of employee license applications:

Article 2, Section 2.1(F)(1)(e):
"1) Every initial application for an Employee License shall include:
…
e) **For employees who reside in Puerto Rico, a** **[~~R~~]r**ecent Good Conduct Certificate from the Puerto Rico Police;"

Add New Article 2, Section 2.1(F)(3):
"**3) If an applicant requests a Good Conduct Certificate from the Puerto Rico Police and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.1(F)(1)(e) by submitting an attestation that their request for such Good Conduct Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Good Conduct Certificate.**"

Article 2, Section 2.1(J)(1)(d):
"1) The Employee License renewal application shall include:
…
d) **For employees who reside in Puerto Rico, a** **[~~R~~]r**ecent Good Conduct Certificate from the Puerto Rico Police"

Add New Article 2, Section 2.1(J)(5):
"**5) If an applicant requests a Good Conduct Certificate from the Puerto Rico Police and does not receive a response within 30 days of such request, the applicant can satisfy the requirements of Section 2.1(J)(1)(d) by submitting an attestation that their request for such Good Conduct Certificate has not received a timely response. An applicant shall not be denied a license due to the lack of a timely response to a request for a Good Conduct Certificate.**"

- ***Issue 6 – Required information for application.***

Article 2, section 2.1(E) contains the information required to be submitted by an applicant for an employee license. Article 2, section 2.1(E)(3) provides for several individuals who, based on their title, would be required to submit the Multijurisdictional Personal History Disclosure Form ("MPHD"). While the use of the MPHD is of benefit to both the Commission and to applicants, we believe this requirement should be limited to those individuals who are subject to licensure as Key Employees.

To address this concern, we suggest the following changes:

Article 2, Section 2.1(E)(3):
*"*3) Every applicant for a**[~~n~~] <u>Key</u>** Employee License **[~~who will occupy a position of Director, General Manager or Finance Director in the operator of the type described in Section 2.1(C) of these Regulations~~]** must also submit the Multijurisdictional Personal History Disclosure Form – PHD-MJ"

- ***Issue 7 – Carrying of Credentials.***

Article 2, section 2.1(S) provides for the requirement that licensed employees must always carry their license on their person while carrying out their functions. Since not all licensed employees of a sports betting operator will be working in public facing roles at an authorized location, or even working in Puerto Rico, it does not make sense for certain employees to wear their credentials while carrying out their functions. This requirement should be limited to employees carrying out functions at an authorized location.

To address this concern, we suggest the following changes:

Article 2, Section 2.1(S):
*"***S. Carrying of Licenses and Credentials**
1) All persons to whom the Commission has issued an Employee License must carry the Employee License on their person in a visible and conspicuous manner, at all times while carrying out their functions **<u>at an authorized location</u>**.
2) No operator shall permit a person to work **[~~in its site~~] <u>at an authorized location</u>** without said person carrying his Employee License as provided in paragraph (1) above."

- ***Issue 8 – Minor errata.***

There are three minor technical edits in the employee licensing sections. The first is found in article 2, section 2.1(D)(1)(d)(v), where the text of the section references paragraphs (c) and (d) of the section, but by context the reference should be to subparagraphs (iii) and (iv) of the section. To address this concern, we suggest the following edit:

Article 2, Section 2.1(D)(1)(d)(v):
*"*v. The applicant is being prosecuted, or has pending charges in any jurisdiction, for any crime specified in **sub**paragraphs (**[~~c~~]iii**) and (**[~~d~~]iv**) of this Section; however, at the request of the applicant or the accused person, the Commission may postpone the decision on such request while said charges are pending"

The second is found in article 2, section 2.1(D)(2), where the text of the section references paragraph (A), but by context the reference should be to paragraph (1) of the section. To address this concern, we suggest the following edit:

Article 2, Section 2.1(D)(2):
"2) Failure to comply with one of the parameters established in paragraph (**[~~A~~]1**) above may be enough reason for the Commission to deny an application for an Employee License"

The third is found in article 2, section 2.1(E)(1)(n) where the text of the section appears to leave out the word "organizations." To address this concern, we suggest the following edit:

Article 2, Section 2.1(E)(1)(n):
"n) A Release Authorization allowing government and private **organizations** to take and offer any pertinent information related to the person as may be requested by the Commission."

Part II – Sports Betting Operations – Major Issues

Subpart A - Internal controls, child support enforcement, and geolocation:

- ***Issue 1 – Submission of internal controls.***

Article 3, section 3.1 provides for the process and timing of the submission of internal controls by sports betting operators to the commission. The first concern we have with this section is the requirement that the internal controls be required to be submitted by "the operator's financial director." While the internal controls include several financial components, they are primarily focused on the operations of sports betting itself and the better solution would be to have the individual who has ultimate responsibility for sports betting operations in Puerto Rico submit the internal controls. To address that concern, we suggest the following edit:

Article 3, Section 3.1(A):
*"*A. Each Sports Betting Operator shall formulate in writing a complete set of internal controls that adheres to these Regulations. The internal controls will include a written statement signed by the **[~~operator's financial director~~]** **individual with ultimate responsibility for the operation of sports betting in Puerto Rico** attesting that the system meets the requirements of these Regulations."

The second issue in this section is the timing requirements for the submission of internal controls, changes thereto, and approval of the Commission on changes to the internal controls. Article 3, section 3.1(B) requires operators to provide their internal controls for approval 90 days in advance of starting operations. This can lead to unnecessary delays in launching sports betting operations, especially when sports betting is already successfully being conducted in more than a dozen states. We believe that 30 days advance submission of the internal controls for review and approval should be sufficient and will help prevent unnecessary delays. Additionally, for the sake of consistency, we suggest adopting a standard 30 day review timeline by the Commission of proposed changes to the internal controls in Article 3, sections 3.1(D) and (E). To address these concerns, we suggest the following edits:

Article 3, Section 3.1(B):
"B. The new operators will formulate their internal controls in writing and will present them to the Commission no later than **[~~ninety (90)~~]** **thirty (30)** days before the start of the operations. The Commission may **[~~extend~~]** **reduce** the period of **[~~ninety (90)~~]** **thirty (30)** days if the operator submits a written request to the Commission."

Article 3, Section 3.1(D):
*"*D. Every operator must submit to the Commission any change to its internal controls at least thirty (30) days before the change takes effect, unless the Commission instructs it in writing to do otherwise. The Commission will determine whether or not to approve the changes and will notify the operator of its decision in writing. No operator will modify its internal controls if the changes have not been approved before, unless the Commission orders it in writing to do otherwise. However, the determination of the Commission regarding any change presented to it will be made no later than **[~~sixty (60)~~] thirty (30)** days after receiving notification of said change."

Article 3, Section 3.1(E):
*"*E. Notwithstanding what is described in paragraph (D) above, the operators may implement any internal control measure, prior to requiring the authorization of the Commission, when due to extraordinary situations it is necessary to guarantee compliance with paragraph (A) above and will notify the Commission of the measure taken immediately, along with the reasons that required its immediate implementation prior to the Commission's authorization. The Commission will determine, within a term of **[~~sixty (60)~~]** **thirty (30)** days from notification, if the measure should be modified in any way and will notify the operator of its decision in writing."

- ***Issue 2 – Duplicates and triplicates of documents***

Article 3, section 3.4(G)(1) provides that sports betting operators must "color-code" any required duplicate and triplicate copies of documents that are required to be maintained by the rules of the Commission. Depending on the type of document and contents of the document, it may be more

appropriate to identify the original versus copies in a format other than color-coding. As such, we suggest the following edits to this section:

Article 3, Section 3.4(G)(1):
"G. Whenever duplicate or triplicate copies of a form, record or document are required by these rules—
1) The original, duplicate and triplicate copies shall be **[~~color-coded~~]** **clearly identified as such** and have the destination of the original copy identified on the duplicate and triplicate copies; and…"

- ***Issue 3 – Child support enforcement.***

Article 5, section 5.7(C) requires sports betting operators to withhold winnings from sports bettors who win $600 or more and who are delinquent in payment of child support. No other jurisdiction in the United States requires such a provision for online sports betting and only one other jurisdiction in the United States, Indiana, has this requirement for in-person sports wagering. We strongly suggest the removal of this provision as it is not required by the Gaming Commission Act of the Government of Puerto Rico, would be a significant burden on operators, and is unlikely to successfully recover any significant amounts of unpaid child support. To address this concern, we suggest the following edit:

Article 5, Section 5.7(C):
"**[~~C. The operator shall receive information from the Administration for Child Support Enforcement ("ASUME") concerning persons who are delinquent in child support. The following will occur prior to the operator disbursing a prize of six hundred dollars ($600) or more, in winnings to a person who is delinquent in child support,~~**
~~1) The operator shall make a reasonable effort to:~~
~~a) Withhold the amount of delinquent child support owed from winnings;~~
~~b) Transmit to the Commission:~~
~~i. The amount withheld for delinquent child support; and~~
~~ii. Identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the operator; and~~
~~c) Issue the obligor a receipt in a form prescribed by ASUME with the total amount withheld for delinquent child support and the administrative fee mentioned under subsection (3).~~
~~2) The operator may also deduct and retain an administrative fee in the amount of the lesser of one hundred dollars ($100) or three percent (3%) of the amount of delinquent child support withheld.~~]"

If the Commission is not amenable to removal of this provision, we strongly suggest adjusting the threshold at which operators must perform a child support obligation check to coincide with the threshold of player winnings at which operators are required to issue W2-G tax forms to players.

- ***Issue 4 – Geolocation.***

Article 5, section 5.9 provides the requirements sports betting operators must comply with in relation to the geolocation of sports bettors. There are two concerns with this section as currently written. First, is that the provisions of this section appear to require that geolocation checks be commenced to prevent players from "participating" in sports betting while not located in Puerto Rico. However, this should be clarified to prevent players specifically from submitting a sports wager while located outside of Puerto Rico. Second, there are number of specific technical requirements in this section which would be better addressed in MICS or evaluated separately to ensure these requirements are in fact technologically and commercially reasonable for sports betting operators, and to ensure they are more easily updated in the future to address new technological developments. To address these concerns, we suggest the following edits:

Article 5, Section 5.9:
*"*Section 5.9. Geolocation Requirements
The operator must use technologically and commercially reasonable measures to make **[participating in Sports Betting]** **placement of online sports wagers** possible through computers or mobile devices that allow participation through the Sports Betting System only for people who are within the territorial limits of Puerto Rico, provided that measures are established to guarantee safety for all parties involved in the industry, avoid tax evasion, and the laundering of money and / or any other criminal conduct. To reasonably ensure that **[participation]** **placement of online sports wagers** occurs within the territorial limits of Puerto Rico, the Commission will require the use of border control technology to reasonably detect the physical location of a player attempting to access their account and to monitor for simultaneous logins to a single account from geographically inconsistent locations. An Operator may use a third-party Location Service Provider (LSP) to provide the border control technology.
A. **[~~The border control technology must be able to perform as follows:~~**

~~1) Examine the IP Address upon each connection to a network on a specific computer or mobile device to ensure a known Virtual Private Network (VPN) or proxy service is not in use.~~

~~2) Check location prior to placing the first wager after logging in on a specific computer or mobile device. Subsequent location checks on that device shall occur prior to placing wagers after a period of 30 minutes since the previous location check. If the location check indicates the player is outside the permitted boundary or cannot successfully locate the player, the wager shall be rejected, and the player shall be notified of this.~~

~~3) Use accurate location data sources (Wi-Fi, GSM, GPS, etc.) to confirm the player's location when a location check is performed. If a computer's only available location~~

~~**data source is an IP Address, the location data of a mobile device registered to the player account may be used as a supporting location data source under the following conditions:**~~

~~**a) The computer (where the wager is being placed) and the mobile device shall be determined to be near one another.**~~

~~**b) Carrier-based location data of a mobile device may be used if no other location data sources other than IP Addresses are available.**~~

~~**B.]**~~ The player shall consent to the operator transmitting, collecting, maintaining, processing and using their location data to provide and improve the border control technology. The player may withdraw this consent at any time by turning off the location settings on their Mobile Device or by notifying the operator that they would like to withdraw such consent. However, a player who withdraws consent to providing location data will not be able to **[~~participate in Sports Betting~~]** **place online sports wagers**.

[~~C~~] **B**. The operator shall implement and abide by protocols and procedures to ensure a player is not utilizing a known virtual private network (VPN), proxy server, spoofing, or other means to disguise their physical location or their computer or mobile device's physical location when **placing online sports wagers** **[~~participating in Sports Betting~~]**. The operator shall use, at a minimum:

1) Geolocation and geofencing techniques and capability; and

2) Commercially reasonable standards for the detection and restriction of proxy servers, virtual private networks, spoofing, or other means of disguising one's location.

[~~D~~]C. The operator shall use commercially and technologically reasonable measures to prevent the use of proxy servers and deny **[~~participation in Sports Betting~~]** **placing online sports wagers** if a player is utilizing any means to disguise his identity or physical location or his computer or device's physical location or attempting to act as a proxy for another player in order to engage in Sports Betting.

[~~E~~]D. If the operator discovers a player utilizing any means to disguise their identity or physical location or their computer's or mobile device's physical location or acting as a proxy for another player, the operator shall immediately terminate the player's participation in any Sports Betting and follow protocols to restrict the player from future access and account privileges and shall maintain a record of all information, documentation, or evidence of such activity.

[~~F~~]E. The operator shall **[~~immediately~~]** **promptly** notify the regulatory body of any wagers made when the player was located in a prohibited location and shall provide the regulatory body with all information, documentation, and other evidence of such activity.

[~~G~~]F. The operator shall take commercially and technologically reasonable measures to detect and prevent one player from acting as a proxy for another. Such measures shall include, without limitation, use of geolocation technologies to prevent simultaneous logins to a single account from geographically inconsistent locations.

[~~H~~]G. The border control technology shall monitor and flag for investigation any wagers by a single Player Account from geographically inconsistent locations (e.g., participation locations were identified that would be impossible to travel between in the time reported).

[~~H~~]H. The operator should implement procedures to disable account access if the operator receives information that an account is being accessed from a location that indicates that there is a likelihood of unauthorized or improper access.
[~~J~~]I. The Commission may issue additional technical specifications for Location Detection and any specific requirements related to geolocation and may also issue such requirements in the form of MICS."

Subpart B – Sports Betting Operations:

- ***Issue 1 – Concerns with "Statement of Motives"***

The "Statement of Motives" at the beginning of the Proposed Regulations provides for the purposes of the regulations. Included in this statement is clause (e) which provides that one of the purposes of the regulations is to establish how lines and odds/payouts and prices are determined. The setting of lines and odds are fundamental to the operation of sports betting and need to be determined by the operator. This section should be clarified to ensure that the purpose of the regulations is to ensure that operators are able to set their own lines and odds.

To address these concerns, we suggest the following edits:

Statement of Motives, Clause (e):
"The purpose of these Regulations is to:
…
e) Establish the way in which wagers are received for authorized Sports Betting**[~~;~~]** **and** how payouts**, lines, odds, prices** and spreads are reported**[~~, lines and odds/payouts and prices determined~~]** for each available type;"

- ***Issue 2 – Prohibitions on sports betting for certain events.***

Article 5, section 5.1 contains several prohibitions on the conduct of sports betting on certain events. Most of these provisions are like ones found in other jurisdictions, however, there are a number of clarifications which should be made to ensure these restrictions do not have unintended negative consequences. Section 5.1(A) provides the list of events that sports betting is authorized on; however, it does not directly match the definition of sports event in article 3.1 of the Gaming Commission Act of the Government of Puerto Rico. Section 5.1(B)(1)(a) prohibits sports betting based on events that "are designed for athletes or participants under eighteen (18) years of age (minors)." This is a subjective standard which is open to interpretation and it would be simpler, and more straightforward, to prohibit sports betting based on events where the majority of participants are under eighteen (18) years of age. Finally, section 5.1(E) provides that sports betting shall not be authorized by the Commission on an event unless the Commission has received evidence of the integrity policies of the sports governing body overseeing the event or independent integrity monitoring of the event. Without such evidence, the Commission may only approve the

event with a wager limit of not more than $100 and a win limit of $500. We believe this inhibits the discretion of the Commission to review events and make its own determination on authorizing sports betting based on the totality of the circumstances surrounding the event. To address these concerns, we suggest the following edits:

Article 5, Section 5.1(A):
"A. Sports Betting is authorized on Sports Events from any professional sport or, any college or university sports event, any Olympic or international event, or any part thereof, **including but not limited to the individual performance statistics of the athletes or teams in a Sports Event or combination thereof**[**~~from any sports team that plays in a championship, tournament, cup, league or season~~**]. In addition, Sports Betting is authorized on Special Events, such as those from electronic game leagues such as Esports."

Article 5, Section 5.1(B)(1)(a):
"Wagers may not be accepted or paid by the operator on:
1) Any Sports Events or Special Events which:
a) **[~~Are designed for~~]** **Have a majority of** athletes or participants under eighteen (18) years of age (minors)."

Article 5, Sections 5.1(E):
"E. Except as otherwise provided in this subsection, any new type of Sports Betting shall not be approved unless the Commission has acknowledged evidence of appropriate policies and procedures of the Sports Governing Body or equivalent to monitor the integrity of the athletes or participants, or independent integrity monitoring of the underlying Sports Event or Special Event upon which the new type of Sports Betting is based. In the absence of such acknowledgement, the Commission may allow for wagering to occur, however **[~~will~~]** **it may** require the operator to impose a wager limit **to be determined by the Commission**[**~~of not more than $100 and a win limit of $500 on such events.~~**]"

- ***Issue 3 – Free Play Mode***

Article 5, Section 5.3(E) authorizes sports betting operators to offer a "free play" mode. However, this section requires operators to provide the same payout as paid wagering. Due to the nature of any "free play" mode, operators may design such activities or contests in a different form or fashion than the paid wagering opportunities they offer. As such, this requirement should be removed. To address this concern, we suggest the following edit:

Article 5, Section 5.3(E):
"E. Free Play Mode The operator may offer free play mode, which allow players to participate in Sports Betting without paying. Free play must not be available to the player without first signing into an account. **[~~Free play shall have the same payout as paid wagering.~~]** Free play shall have the same restrictions and requirements as paid wagering including the prohibition of participation

by minors. Free play shall provide the same responsible play information as paid wagering. Wagers, which may be paid with credits received from a bonus or promotional offer are not considered free play."

- ***Issue 4 – Payment of Winning Wagers.***

Article 5, section 5.7(A) requires operators to pay all winning wagers to players within 48 hours of the end of the event. This requirement presumes that all wagers have been made through a player account and able to be paid into such an account. For example, wagers placed at an authorized location could be placed at a kiosk that prints a ticket for redemption at a later date. If the player does not return to the authorized location within 48 hours of the end of the event, the operator will not be able to make payment within the specified timeframe. As such we suggest the removal of this requirement. To address this concern, we suggest the following edits:

Article 5, Section 5.7(A):
"A. Players with winning wagers shall have the prize deposited into their player account or be paid by other means approved by the Executive Director **[~~within 48 hours from the end of the event~~] in accordance with procedures identified in the operator's internal controls**. If the prize is unable to be placed in a player account, such prize must then be handled in accordance with procedures identified in the internal controls."

- ***Issue 5 – Issuance of tickets and "reprints."***

Article 5, section 5.8(B) provides the regulations on the issuance of wager tickets and vouchers. Sections 5.8(B)(1)(i)(ii) and 5.8(B)(2)(g)(ii) require that in the event a ticket or voucher is reprinted that it is clearly identified as a "reprint." We agree with this requirement, however we would seek clarity to confirm that operators are not required to reprint tickets in the event that their internal controls provide for an alternative process to deal with lost/stolen/mutilated tickets.

- ***Issue 6 – Clarification on prohibition on team owners "participating" in sports betting.***

Article 6, section 6.2(B)(4) provides that owners of a sports governing body or any of its member teams may not "participate" in sports betting involving a sports event in which any member team of that sports governing body participates. This issue has been recently addressed by legislation passed in December 2020 which amended article 3.12 of the Gaming Commission of the Government of Puerto Rico act to specify that an owner may not "place any bets" on a sports event in which any team member of the governing body of that sports governing body participates. To update the provision of this section, we suggest the following edit:

Article 6, Section 6.2(B)(4):
"4) The direct or indirect legal or beneficial owner of a Sports Governing Body or equivalent or any of its member teams may not **[~~participate~~] place any bets in** Sports Betting involving a Sports

Event or Special Event in which any member team of that Sports Governing Body or equivalent participates."

- ***Issue 7 - Statistics service providers.***

Article 6, section 6.6(B) requires sports betting operators to disclose the data sources used by any statistics service provider that they contract with and the Commission may disapprove of any data source. This provision is not reflected by the provisions of the Gaming Commission Act of the Government of Puerto Rico. Additionally, as statistics service provides will be subject to licensure themselves as services providers, this information should not be required to be presented by operators. In view of this, we suggest the removal of this provision as follows:

Article 6, Section 6.6(B):
"B. **[~~Statistics Service Provider~~**
~~The operator shall document in their internal controls and report to the Commission the data sources used by the Statistics Service Provider. The Commission may disapprove of the data sources used by the Statistics Service Provider for any reason, including but not limited to, the type of wagering and method of data collection.~~
~~C.~~]…"

- ***Issue 8 – Display of Signage.***

Article 8, section 8.4(B)(2) provides the text of statement that sports betting operators must put on in their authorized location. This statement includes the phrase as an example "Gaming can create addiction…" While there is a small subset of the population which has issues with compulsive gaming, and specifically with participation in sports betting, the games themselves do not "create addiction" and we suggest removal of that provision. To address this concern, we suggest the following edits:

Article 8, Section 8.4(B)(2):
"Section 8.4. Display of License and Signage
…
B. The Authorized Location shall also include signage that displays messages encouraging players to play responsibly which shall include the following statements or similar:
1) "Only for players over the age of eighteen (18) years." "Solo para jugadores Mayores de dieciocho (18) Años."
2) "**[~~Gaming can create addiction.~~]** If playing causes you financial, family and occupational problems, call the ASSMCA PAS line at 1-800-981-0023." "**[~~Las apuestas pueden crear adicción.~~]** Si jugar le causa problemas económicos, familiares y ocupacionales, llame a la línea PAS de ASSMCA 1-800-981-0023."

- ***Issue 9 – Monthly reporting of information on employees.***

Article 8, section 8.5(A)(17) requires authorized locations to report monthly to sports betting operators a list of all employees who work at their authorized location along with information about their duties. Reporting this information monthly is burdensome and repetitive when employees maintain the same position and duties month to month. Further, an operator may require different information or require information on a different timeframe than provided in this section. We suggest the operator be notified when an employee is hired to work at a location and when the employee no longer works at the location. To address this concern, we suggest the following edits:

Article 8, section 8.5(A)(17):
"17) Report **[~~monthly~~]** **periodically** to the operator a list of all **[~~the~~]** **new** employees who **have been hired to** work**[~~ed~~]** at the **[~~Authorization~~]** **Authorized Location** detailing their names, addresses, phone numbers and **a list of all employees who have left employment at the location during the reporting period.** [~~indicate also the names of each one of the employees who are dedicated to the following tasks;~~

~~a) Ensure the security and protection of the Kiosks and Ticket Writer Stations;~~
~~b) The handling, transportation and deposit of the funds generated in each Kiosk and Ticket Writer Station; and~~
~~c) Access the Kiosks and Ticket Writer Stations to give it the required maintenance.~~]

- ***Issue 10 – Restrictions on kiosks.***

Article 8, section 8.6(B) provides restrictions on the amounts that an individual may deposit, withdraw, wager, or redeem via kiosks at authorized locations. There are two concerns with the provisions of this section. First, is the prohibition on kiosks issuing a wager ticket with the potential of a payout of $10,000 or more. While this may seem like a significant amount, often parlay wagers that are compiled by players have odds that would provide for very large payouts for a very minimal amount wagered. Since there is a separate cap on how large a winning wager may be that is authorized to be redeemed by a kiosk, this requirement is not necessary and is likely to frustrate customers. As such, we suggest removal of this requirement.

The second concern is the $1,500 limit on vouchers issued or redeemed, and wagers which may redeemed, via kiosks. Other jurisdictions have a $3,000 limit or leave the limit up to the internal controls of the operator. We suggest increasing the limit to $3,000.

To address these concerns, we suggest the following edits:

Article 8, Section 8.6(B):
"**B. Kiosk Restrictions**
Kiosks shall be configured such that they are unable to:
1) Process deposits and withdrawals to Player Accounts of $10,000 or more.

2) Issue or redeem a voucher with a value of **[~~$1,500~~]** **$3,000** or more.
3) **[~~Issue a wager ticket with a potential payout of $10,000 or more;~~**
~~4)~~] Redeem a wager ticket with a value of **[~~$1,500~~]** **$3,000** or more; and
[~~5~~]4) Redeem a wager ticket or voucher with a value which exceeds any Tax Reporting Thresholds (e.g., W-2G)"

Subpart C – Advertising restrictions:

- ***Issue 1 – Depiction of minors in advertisements.***

Article 4, section 4.3 prohibits operators from depicting minors in their advertisements and prohibits the depiction of students of primary, intermediate and secondary education institutions. These prohibitions are designed to prevent the encouragement of minors to participate in sports betting and are laudable. However, as currently drafted, these prohibitions may prevent the depiction of athletes who participate in sporting events upon which sports betting is authorized. Sports betting is authorized on Olympic sporting events and while most participants are over 18 and are collegiate athletes or beyond, there are a small number of Olympic athletes who are minors and still may participate in athletic events associated with the secondary school they still attend. For example, there were 6 individuals on the US 2018 Winter Olympic team who were 17 at the time of the Olympics, and there were 6 individuals on the US 2016 Summer Olympic team who were under 18 at the time of those Olympics as well. While the provisions of this section attempt to address this issue, we believe some additional clarification will solve this problem. To address this concern, we suggest the following edits:

Article 4, Section 4.3:
*"***Section 4.3. No Depiction of Minors**
Advertisements shall not depict:
A. Cartoon characters that appeal primarily to Minors;
B. Minors (other than collegiate or professional athletes or participants **in events upon which sports betting is authorized,** who may be Minors);
C. Students of educational institutions of primary, intermediate and secondary levels**, except as provided in paragraph B above**;…"

- ***Issue 2 – Restrictions on endorsements.***

Similar to the concerns raised in the previous issue, article 4, section 4.4 prohibits operators from having endorsements from minors in their advertisements and prohibits endorsements by student athletes of primary, intermediate, and secondary education institutions. These prohibitions are designed to prevent the encouragement of minors to participate in sports betting and are laudable. However, as currently drafted, these prohibitions may prevent endorsements by athletes who participate in sporting events upon which sports betting is authorized. Sports betting is authorized on Olympic sporting events and while most participants are over 18 and are collegiate athletes or

beyond, there are a small number of Olympic athletes who are minors and also still may participate in athletic events associated with the secondary school they still attend. For example, there were 6 individuals on the US 2018 Winter Olympic team who were 17 at the time of the Olympics, and there were 6 individuals on the US 2016 Summer Olympic team who were under 18 at the time of those Olympics as well. While the provisions of this section attempt to address this issue, we believe some additional clarification will solve this problem. To address this concern, we suggest the following edits:

Article 4, Section 4.4:
"**Section 4.4. Endorsement Restrictions**
Advertisements shall not state or imply endorsement or engagement by:
A. Minors (other than collegiate or professional athletes or participants **in events upon which sports betting is authorized,** who may be minors);
B. Athletes or participants of **athletic events sponsored by** educational institutions of primary, intermediate and secondary levels;…"

- ***Issue 3 – Requirement to disclose average net winnings of all players.***

Article 4, section 4.6(B) requires operators to disclose the average net winnings of all players in any advertisement which references average winnings. Sports betting customer net winnings are the inverse of the sportsbook gross revenue and this may significantly vary month to month, based on the results of the underlying sports events, odds offered on those events, and the wagers placed by customers. Thus, the average net winnings of all players would ever be changing and likely not useful or relevant to customers. To address this concern, we suggest the following edit:

Article 4, Section 4.6(B):
"**Section 4.6. Content of Advertisements**
Advertisements shall strictly comply with all local and federal standards to make no false or misleading claims or create a suggestion that the probabilities of winning or losing by participating, are different than those actually experienced. In addition, advertisements for Sports Betting shall not:
A. Be designed to appeal primarily to minors
B. Make representations about average winnings **[~~without equally prominently representing the average net winnings of all players. Any representations or implications about average winnings from Sports Betting shall be~~]** **that are not** accurate and capable of substantiation at the time the representation is made…"

- ***Issue 4 – Restrictions on direct marketing.***

Article 4, section 4.7 prohibits operators from directly marketing to prohibited players and "groups of people that are considered moderate and high-risk groups for compulsive play." Sports betting operators should of course be prevented from directly targeting prohibited players. However, the

prohibition on marketing to certain additional groups is very subjective, does not benefit the public, and likely will induce confusion which will inhibit the success of the sports betting industry in Puerto Rico. To address this concern, we suggest the following edit:

Article 4, Section 4.7:
"**Section 4.7. Restriction on Direct Marketing**
The operator shall take all reasonable steps to prevent marketing sports betting by phone or email, or by knowingly directing any form of individually targeted advertisement or marketing material to Prohibited Players**. [~~and groups of people that are considered moderate and high risk groups for compulsive play~~]**"

- ***Issue 5 – Restrictions on location of advertisements.***

Article 4, section 4.8 provides for restrictions on the frequency and locations where sports betting operators may place advertisements or marketing materials. Our first concern is the prohibition on "excessive" placement of advertisements by operators. A significant purpose of the Gaming Commission Act of the Government of Puerto Rico is to eliminate illegal sports wagering. This is best achieved through the conversion of individuals from wagering with illegal operators, to the legal, regulated market. To best facilitate this conversion, sports betting operators need to be able to advertise widely in order to make customers aware of their legal, regulated options. To impose a restriction on advertising to a level below the subjective standard of "excessive" will only constrain the ability of the legal, regulated market to convert customers.

Second, there is a prohibition on advertising at any location within 100 meters of a school, religious center, or public or private rehabilitation facility. There is a similar restriction on the creation of authorized locations for sports betting within 100 meters of those facilities in article 8, section 8.2(B)(2) of the Proposed Regulations. However, authorized locations for sports betting may be created within 100 meters of those facilities if they receive approval from the facilities. As such, the prohibition on advertising should be amended to authorize advertising at an approved authorized location for sports betting if the authorized location is within 100 meters of those facilities.

Finally, several the restrictions in this section attempt to prevent minors from being exposed to sports betting advertisements. However, these restrictions as drafted go beyond the requirements of other jurisdictions and create a burden on operators. For example, there is a prohibition on advertisements at venues where "most of the audience at many of the sports events at the venue is reasonably expected to be minors." It is impossible to accurately monitor and determine the exact proportion of minors to adults for every event at a venue. Further, the standard of "many" events is extremely subjective and open to interpretation. An additional concern is the provision prohibiting sports betting advertisements in media and news assets that are aimed "primarily" at minors. This standard is also subjective and open to interpretation.

To address these concerns, we suggest the following edits:

Article 4, Section 4.8:
"**Section 4.8. No Advertising or Promotions at Prohibited Locations**
[~~Advertising and marketing will not be placed with such intensity and frequency that they represent saturation of that medium or become excessive.~~] The operator shall take all reasonable steps to ensure that Sports Betting shall not be promoted or advertised:
A. At any location within less than one hundred (100) meters from a school, religious center, or public or private rehabilitation site for addicts of controlled substances or alcoholic beverages **unless such location is an approved location for sports wagering**.
B. At Amateur Sports Events or Special Events held at educational institutions of primary, intermediate and secondary levels, including events held at venues not primarily used for these events; provided, however, if permanent or semi-permanently placed advertisements in such venues cannot reasonably be removed or covered, the operator shall not be in violation of this regulation
C. **[~~At a venue where most of the audience at many of the Sports Events or Special Events at the venue is reasonably expected to be Minors.~~**
~~D.~~] In published media or through news assets (e.g., print, radio or television broadcasts, Internet and mobile applications) in Puerto Rico that are aimed exclusively **[~~or primarily~~]** at minors or are owned by educational institutions of primary, intermediate and secondary levels or advertised on educational institutions of primary, intermediate and secondary levels.
[~~E~~] **D**. At or in any other locations prohibited by local or federal law."

- ***Issue 6 – Advertisements of bonus or promotional offers.***

Article 5, section 5.3(F) provides the rules regarding bonus or promotional offers from sports betting operators. Among the requirements is a provision that prohibits the advertisement of a promotional offer if the material terms of that offer "cannot be fully and accurately disclosed within the constraints of a particular advertising medium." This is a significant issue for sports betting operations as the nature of online sports betting lends itself to a significant use of digital advertising where it may not be practical to include all the material terms of an offer in the advertisement itself. We suggest requiring a link to a site with the material terms of the offer for digital advertisement to satisfy the requirements of this provision. To address this concern, we suggest the following edit:

Article 5, Section 5.3(F):
"**Bonus or Promotional Offers**
The operator shall fully and accurately disclose the material terms of all bonus or promotional offers at the time such offers are advertised and provide full disclosures of the terms of and limitations on the offer before the player provides anything of value in exchange for the offer. If the material terms of a bonus or promotional offer cannot be fully and accurately disclosed within the constraints of a particular advertising medium (e.g., on a billboard), the promotional offer may

not be advertised in that medium. **However, digital advertisements may satisfy the requirements of this section by providing a link to a website with the material terms of the bonus or promotional offer being advertised.** Bonus or promotional offers require Commission approval and must include the following:…"

Subpart D – Player authentication, prohibited players, responsible gaming and player exclusion:

- ***Issue 1 – Requirement for players to provide social security information.***

Article 6, section 6.1 provides the requirements for sports betting operators to put in place to prevent individuals who are under 18 years of age from participating in sports betting. The requirements of this section however appear to require players to submit their social security information in order to be authorized to participate. While social security information (whether full social security number or the last 4 digits) may be utilized during the identity verification process, there are other pieces of information which may be utilized and allow for player identity verification without full social security information. We suggest the following edit to address this concern:

Article 6, Section 6.1:
*"***Section 6.1. Authorized Players**
The Sports Betting Operator will be required to have strict controls to prevent access by minors under eighteen (18) years of age. Only people eighteen (18) years of age or older may participate in Sports Betting. To corroborate that the player is not a minor, the Commission will oblige the operator to take the necessary measures to guarantee the identity of the player and that they are a person eighteen (18) years of age or older. For this exercise, the Commission will consider the most advanced technological tools and will establish suitable parameters to guarantee player authentication, including, but not limited to, identification verification **[~~and social security~~]**."

- ***Issue 2 – Participation by employees of sports betting operators.***

Article 1, section 1.3 and Article 6, section 6.2(A)(1) provide a list of individuals who are prohibited from participating in sports betting including individuals who are employees of a sports betting operator or who have access to confidential information held by the operator. Individuals who choose to work for sports betting operators often are drawn to such employment due to their personal interest and participation in sports betting. While many jurisdictions have prohibitions on sports betting operator employees participating in sports betting with the operator they are employed by, employees of operators can participate in sports betting with other operators. We suggest the following edits to ensure employees of sports betting operators may participate in sports betting with other operators:

Article 1, Section 1.3:

"**Prohibited Player**
(a)Any individual under the age of eighteen (18)
(b)Any employee of the Commission
(c)Any individual who is listed on the Commission's Voluntary Exclusion List or Involuntary Exclusion List
(d)Any individual who is listed on any operator's Voluntary Exclusion List or Involuntary Exclusion List
(e)The operator, a director, officer, owner, contractor, or employee of the operator, or any relative living in the same household
(f) Any individual, group of individuals, or entity
i. With access to confidential information or insider information held by the operator; or
ii. Acting as an agent or surrogate for others.
(g)Any person or entity included in the Specially Designated Nationals and Blocked Persons List issued by OFAC
With respect to individuals who are Prohibited Players based on (e) above, they shall only be prohibited from participation in sports betting with the operator they are employed by or associated with. However, they may participate in sports betting offered by other operators."

Article 6, Section 6.2(A):
*"*A. Prevent Participation by Prohibited
Players Sports Betting may not be directed at minors or other Prohibited Players excluded by the Law.
1) The operator's internal controls shall describe the method to prevent Prohibited Players from participating in Sports Betting, defined as:
a) Any individual under the age of eighteen (18)
b) Any employee of the Commission
c) Any individual who is listed on the Commission's Voluntary Exclusion List or Involuntary Exclusion List
d) Any individual who is listed on any operator's Voluntary Exclusion List or Involuntary Exclusion List
e) The operator, a director, officer, owner, contractor, or employee of the operator, or any relative living in the same household f) Any individual, group of individuals, or entity
i. With access to confidential information or insider information held by the operator; or
ii. Acting as an agent or surrogate for others.
g) Any person or entity included in the Specially Designated Nationals and Blocked Persons List issued by OFAC
2) **With respect to individuals who are Prohibited Players based on (e) above, they shall only be prohibited from participation in sports betting with the operator they are employed by or associated with. However, they may participate in sports betting offered by other operators.**

3) The operator shall make these restrictions known to all affected individuals and corporate entities…"

- ***Issue 3 – Refunding deposits made by prohibited players.***

Article 6, section 6.2(A)(4)(e) requires operators to refund all deposits made by any individual that the operator becomes aware of that is a Prohibited Player. While this sounds reasonable, this provision presumes that operator becomes aware of this information shortly after the player creates and funds their account. This provision does not take into consideration that several the reasons why an individual may be a Prohibited Player could develop far after the individual initially created their account as an authorized player. For example, an individual may create an account and participate in sports betting as an authorized player, and then, years later be hired by the Commission or a sports betting operator that they had an account with. As currently written, the operator would then be required to refund all deposits ever made to their account, regardless of whether those funds had already been expended on sports wagers while the individual was an authorized participant. To address this concern, we suggest the following edits:

Article 6, Section 6.2(A)(4)(e):
"e) If the operator becomes or is made aware that a Prohibited Player has participated in Sports Betting, the operator shall promptly **suspend the player's account**~~**[, within no more than three (3) business days, refund any deposit received from the Prohibited Player,]**~~ **regardless of** whether or not the Prohibited Player has engaged in or attempted to engage in Sports Betting~~**[; provided, however, that any refund may be offset by prizes already awarded]**~~."

- ***Issue 4 – Prohibition on sharing of confidential information.***

Article 6, section 6.2(C)(4) requires sports betting operators to ensure that they do not "knowingly allow an athlete or participant, sports agent, team employee, referee or league official to provide confidential information to any player, or to provide such information to a player before such information is made public." Sports betting operators do not exercise any control over these individuals associated with sports events and have no way of preventing them from providing such information to players in sports betting. As such, this provision should be removed. To address this concern, we suggest the following edits:

Article 6, Section 6.2(C)(4):
"4) ~~**[The operator shall not knowingly allow an athlete or participant, sports agent, team employee, referee or league official to provide confidential information to any player, or to provide such information to a player before such information is made public.**~~
~~**5)]**~~ The operator shall not knowingly allow a player to place a wager after that player has been provided with confidential information that may affect the result of Sports Betting by an athlete or participant, sports agent, team employee, referee, or league official;…"

- ***Issue 5 – Application of Law 96 of May 16, 2006.***

Article 6, section 6.3 contains several provisions addressing responsible gaming. Section 6.3(A) provides that "The provisions of Articles 1 through 4 of Law No. 96 of May 16, 2006, as amended, shall apply to Sports Betting." We seek further clarity from the Commission on this issue, why the Commission feels it necessary and appropriate to reference this statute, and how this provision would affect sports betting operators.

- ***Issue 6 – Continued player participation.***

Article 6, section 6.3(B) prohibits sports betting operators from "inducing" players to continue participating in sports betting "when the player is in session, when the player attempts to end a session, or when a player wins or loses a contest." While the Commission appears to be preventing operators from pushing players to increase their play inappropriately, this prohibition may capture innocuous actions, such as simply telling a player "better luck next time" when they lose a wager. To address this concern, we suggest the following edits:

Article 6, Section 6.3(B):
"B. The Mobile App or Site shall not induce players to continue participation when the player **[~~is in session, when the player~~]** attempts to end a session**[~~, or when a player wins or loses a wager~~]**. Communications with players shall not intentionally encourage players to increase the amount of time spent or funds in player accounts beyond pre-determined limits, participate continuously, re-play winnings, and chase losses."

- ***Issue 7 – Statement of potential risks associated with excessive play.***

Article 6, section 6.3(D)(2) provides the text of statement that sports betting operators must put on their player protection page. This statement includes the phrase as an example "The games can create addiction…" While there is a small subset of the population which has issues with compulsive gaming, and specifically with participation in sports betting, the games themselves do not "create addiction" and we suggest removal of that provision. To address this concern, we suggest the following edits:

Article 6, Section 6.3(D)(2):
*"*D. The Mobile App or Site shall display a responsible play logo or information to direct players to the operator's player protection page, which shall include, at a minimum:
…
2) A statement of potential risks associated with excessive play and where to seek help if the player develops a problem (e.g. "**[~~The games can create addiction.~~]** If playing causes you financial, family and occupational problems, call the ASSMCA PAS line at 1-800-981-0023." "**[~~Los juegos pueden crear adicción.~~]** Si jugar le causa problemas económicos, familiares y ocupacionales, llame a la línea PAS de ASSMCA 1-800-981- 0023.")"

- ***Issue 7 – Player account registration.***

Article 7, section 7.1 provides the requirements for establishing a player account with a sports betting operator. There are two concerns with the provisions of this section. The first is how to address player account registration for players who have existing accounts with operators that were opened in other jurisdictions in the United States. Since article 7, section 7.2 prohibits players from having more than one account with an operator, they need to be authorized to utilize their existing account and thus should not be forced to go through a new "registration" process.

The second concern is the prohibition on "anonymous participation in sports betting." While article 3.9 of the Gaming Commission Act of the Government of Puerto Rico requires all individuals to be "registered" in order to participate in sports wagering, it is silent on whether all wagering activity at an authorized location must go through a player account. We suggest that this provision is removed to allow registered players to place wagers at authorized locations without requiring all wagers be placed through their sports wagering accounts.

To address these concerns, we suggest the following edits:

Article 7, Section 7.1:
"**Section 7.1. Player Account Registration**
An individual must have an established player account with the Sports Betting Operator in order to participate in Sports Betting in accordance with Article 3.9 of the Law. This registration is an essential condition for participation on any Sports Betting on the internet. **A new player account shall be established at an Authorized Location in accordance with Article 3.9 of the Law via a process approved by the Commission. In the event that a player has already established an account with a Sports Betting Operator in another jurisdiction in the United States, that player shall not be required to undergo the registration process and only shall need to acknowledge acceptance of the terms and conditions for participation in sports betting in Puerto Rico [~~Anonymous participation in Sports Betting is prohibited~~]**."

- ***Issue 8 – Use of player account at authorized location.***

Article 7, section 7.3(F) provides for the requirements related to how players may access their accounts at authorized locations. This section has specific provisions related to the use of smart card/device technology. We believe that as technology develops, there should be flexibility in the forms that may be utilized for accessing player accounts at an authorized location. As such, we suggest changing this provision to ensure that account access at an authorized location is in conformity with methods which have been approved by the Commission. To address this concern, we suggest the following edit:

Article 7, Section 7.3(F):

"F. If player account is also utilized at an Authorized Location, players may access their accounts there using **methods authorized by the Commission [~~smart card/device technology, including smartphone and tablet technology where the account information, including the current account balance, is maintained in the system's database. Smart cards/devices which have the ability to maintain a player account balance are only permissible when the system validates that the amount on the card/device is in agreement with the amount stored within the system's database (i.e., smart cards/devices cannot maintain the only source of account data)~~]**."

- ***Issue 9 – Lifetime deposit threshold.***

Article 7, section 7.4(D) requires operators to prevent any additional transactions by a player when the player's lifetime deposits reach or exceed $2,500 until the player acknowledges receipt of certain responsible gaming information. Further, section 7.4(E) then requires players to make this same acknowledgement annually thereafter. The information provided by the section will be readily available to players on the player protection page and the link to that page shall be available on the both the website and in the mobile application of the sports betting operator. As such, these requirements do not provide any additional benefit to the customer and only serve as a burden on sports betting operators. We suggest the removal of these requirements as follows:

Article 7, Sections 7.4(D) and (E):
"D. **[~~When a player's lifetime deposits reaches/exceed the lifetime deposit threshold of $2,500 or another value specified by the Commission, the system shall immediately prevent any additional transactions until the player acknowledges:~~**

~~1) The player has met the lifetime deposit threshold as established by the Commission;~~
~~2) The player has the capability to establish responsible play limits or close their account; and~~
~~3) The availability of the Addiction and Mental Health Services Administration (ASSMCA) helpline number.~~

~~E. The acknowledgement prescribed in subsection (D) above shall be required on an annual basis thereafter.~~
~~F.~~]"

- ***Issue 10 – Player self-limitations.***

Article 7, section 7.7(A) provides for the player self-limitation tools that sports betting operators must make available to their customers. There are three specific items in this section we would like to address. First, is that the language on limits to wagers per sporting event and limits on "potential losses permissible" could use some clarification. These limits would be better phrased as limiting participation by a player to wagers below a certain limit and a limit on the total wagers placed during a given period. Second, there is a reference to a required monthly deposit limit, which we suggest removing in the next issue in this subpart. Thus, we suggest removing the

refence in this section. Third, this section provides that any changes to player self-limits, which reduce the severity of such limits, may not be made for at least 24 hours. Since player self-limitations may be based on weekly or monthly time periods, this provision would best serve by providing that changes which reduce the severity of limits shall not take effect until the expiration of the current time period for the limit. To address these concerns, we suggest the following edits:

Article 7, Section 7.7(A):
"A. Self-Limitations
Self-limitation shall be offered as a player-initiated restriction on their ability to participate in Sports Betting.
1) Players must be provided with a process available on the Mobile App or Site or via direct communications with the operator to set daily, weekly or monthly financial deposit limits, **limits on the amount of a single wager being placed** **[~~wagers per Sports Event or Special Event~~]**, or limits on total **[~~potential losses permissible~~]** **wagers placed** in a given period
2) Upon receipt, any self-limitation order must be employed correctly and immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player;
3) The self-limitations set by a player must not override more restrictive involuntary limitations **[~~or the Monthly Deposit Limit specified in subsection (B)~~]**. The more restrictive limitations must take priority;
4) Once established by a player and implemented, the operator shall prohibit an individual from participating over the limit they have set.
5) Any changes increasing the severity of the self-limitations shall be effective immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player. No changes **[~~can be made~~]** shall take effect reducing the severity of the self-limitations **[~~for at least 24 hours~~]** **until the expiration of the current time period for the limit (e.g., day, week, month, etc.)**."

- ***Issue 11 – Monthly deposit limits.***

Article 7, section 7.7(B) appears to sports betting operators to impose a $2,500 per month default deposit limit on all sports betting players and that players must then apply for an increase to this limit if they so choose. In order to apply for an increase to their monthly deposit limit, players must submit to the operator significant personal financial information, including the types of certifications used to qualify accredited investors. Further, any player who has received a temporary or permanent increase in their monthly deposit limit must annually provide their financial information have their limit reviewed by the operator.

This requirement imposes a significant burden on sports betting operators and players. Additionally, the ability for players to set their own limits and the provisions of this section authorizing operators to impose involuntary limits when they deem it necessary, make the blanket $2,500 limit unnecessary. As such it should be removed. To address this concern, we suggest the following edits:

Article 7, Section 7.7(B):

*"*B. **[~~Monthly Deposit Limits and other~~]** Imposed Limitations

The Operator must be capable of imposing responsible play limits including, but not limited to, deposit limits, spending limits, and time-based limits as established by the Commission through regulations to that effect. Where required by the Commission, it is the operator's responsibility is to discuss with the Commission any procedures implemented to assess the financial capacity of the players so that it can set and update these limits correlatively to their income where required by the commission.

1) Players must be notified in advance of any involuntary limits or updates and their effective dates. Once updated, involuntary limits must be consistent with what is disclosed to the player**[;].**

2) **[~~Where required by the Commission, no player shall be permitted to deposit more than two thousand five hundred dollars ($2,500) per calendar month with the operator. The operator may establish procedures for temporarily or permanently increasing a player's deposit limit, at the request of the player.~~**

~~a) If established by the operator, such procedures shall include evaluation of income or asset information, sufficient to establish that the player can afford losses that might result from participation at the deposit limit level requested.~~

~~b) The player must provide reasonable certification or proof, including the types of certifications used to qualify accredited investors, to the operator that the player's monthly deposit limit should be increased in accordance with these rules and the published rules of the operator.~~

~~c) In order to be eligible for a deposit limit increase, a player must demonstrate, to the operator's reasonable satisfaction, that they qualify for an increase under policies and procedures established by the operator, based on the player's annual income or net worth.~~

~~d) When a temporary or permanent deposit level limit increase is approved, the operator's procedures shall provide for annual evaluation of information, including income or asset information, sufficient to establish a player's financial ability to afford losses at the deposit limit level in place. Absent such evaluation, the temporary or permanent deposit level increase shall not be extended.~~

~~e) No player shall be granted an increase in his or her deposit limit prior to verification of their identity in accordance with these rules.~~

~~3)]~~ Upon receiving any involuntary limitation order or update, the Operator must ensure that all specified limits are correctly implemented immediately or at the point in time (e.g., next login, next day) that was clearly indicated to the player**[;].**"

- ***Issue 12 – Self exclusion.***

Article 7, section 7.7(C) provides for the regulations sports betting operators must comply with in regard to player self-exclusion requests. Most of the provisions of this section are compatible with the existing self-exclusion requirements of other jurisdictions. However, there are three concerns that should be addressed to ensure the optimum effectiveness of the self-exclusion program.

First, the Proposed Regulations require operators to provide the ability to self-exclude "with a process available on the Mobile App or Site or via direct communications with the operator." The requirement to allow players to exclude "via direct communications with the operator" creates the potential for significant issues in ensuring that the self-exclusion process is completed properly. This could require operators to receive and process self-exclusion requests via any and all form of direct communication (postal mail, email, webchat, in-person appearance, telephone, etc.). Not all of these forms of communication are properly designed to ensure the successful completion of the self-exclusion process. As such, we suggest that this provision be removed and replaced with language to allow sports betting operators to develop alternative self-exclusion processes in their internal controls, which will be authorized in addition to self-exclusion through the mobile app or site.

Second, this section allows players to self-exclude for an "indefinite" time period. Generally self-exclusion is for set periods of time (1, 3, 5 years) or permanently/for life. This specification of time periods is also reflected later in the regulations (article 9, section 9.2(O)). We suggest amending the provisions of this section to provide for specified time periods of self-exclusion.

Third, this section provides that players may "self-exclude" for any "specified period of at least 1 hour." While sports betting operators may offer temporary "timeout" options for players, self-exclusion is a significant process and as such should be utilized for set periods of time. We suggest amending this provision to allow players to request a temporary "timeout" for a specified period of at least 72 hours.

To address these concerns, we suggest the following edits:

Article 7, Section 7.7(C):

"**C. Self-Exclusions**
Self-exclusion shall be offered as a player-initiated restriction on their ability to participate in Sports Betting.
1) Players must be provided with a process available on the Mobile App or Site **[~~or via direct communications with the operator~~]** to self-exclude from participating in Sports Betting **[~~indefinitely~~]** **for life** or for **a** specified period of **one (1), three (3), or five (5) years. Operators may also provide additional processes in their internal controls to allow players to self-exclude. Additionally, a player may request a temporary "timeout" for a specified period of** at least **[~~1~~] seventy-two (72)** hour**s**.
2) Immediately upon receiving the self-exclusion order and until such time as the order has been removed, the player shall be prevented from participating in Sports Betting and depositing funds into their account. In addition, the player shall receive clearly worded information:

a) About available addiction resources (e.g., helpline number, blocking software, counseling), such as the Mental Health and Addiction Prevention Services Authority (ASSMCA).

b) That outlines the conditions of the self-exclusion, which includes:

i. Length of self-exclusion

ii. The closure process for any accounts opened by the player and restrictions on opening new accounts during the self-exclusion

iii. Requirements for reinstatement at the conclusion of the length selected for self-exclusion

iv. The manner in which bonus or promotional credits and remaining player account balances are handled; and

v. Help access points shall a problem exist

3) In the event a player has a pending wager and then self-excludes, the wagers shall be handled according to the internal controls.

4) The player's account shall be closed or suspended during self-exclusion so that no account deposits or wagers can be made. Any new accounts detected following a player's self-exclusion shall be closed so that no account deposits or wagers can be made.

5) In the event of **[~~indefinite~~] lifetime** self-exclusion, the operator must ensure that the player is paid in full for the player's account balance within a reasonable time provided that the operator acknowledges that the funds have cleared. **[~~A player who has self-excluded indefinitely shall not be allowed to again engage in Sports Betting until the player completes a reinstatement process.~~]**

6) Temporary self-exclusion, regardless of the length, shall be irrevocable during the period of time specified. Self-exclusion shall stay in effect until the player completes a reinstatement process after the period of time passes.

7) There shall be a process in place for players to request reinstatement at the conclusion of the length selected for temporary self-exclusion **[~~and for indefinite self-exclusion after a reasonable amount of time of not less than 30 days has passed since the individual self-excluded~~]**. Information on reinstatement requests and tools for responsible play shall be provided to the player along with addiction resources (e.g. tips on determining risks, as well as frequency and volume of participation and encouragement to use the Mobile App or Site's responsible play features).

8) Players shall be able to renew or extend their temporary self-exclusion. Players who renew or extend their self-exclusion shall, at the time of renewal or extension, receive information concerning compulsive play and help resources.

9) All **[~~indefinite~~] lifetime and temporary** self-exclusion requests made by a player to the operator must be immediately notified to the Commission for their review, and addition to their Voluntary Exclusion List as covered in Section 9.2 of these Regulations."

- ***Issue 13 – Third party exclusion and limitation requests.***

Article 7, section 7.7(E) requires sports betting operators to provide the ability for third parties to request exclusion on behalf of an individual. While we understand the concerns highlighted by the provisions of this section, we do not think it is best practice to have a third-party exclusion/limit system as the value of exclusion and player limits come from the player themselves making such a decision. If such a requirement is forced upon them by a third party, they are likely to attempt

to wager with illegal, unregulated sportsbooks. Thus, this section should be removed. To address this concern, we suggest the following edit:

Article 7, section 7.7(E):
"**~~[E. Exclusion and Limitation Requests from Third-Parties~~**
~~The operator shall develop procedures for reviewing requests made by third-party requestors to impose exclusions or set limitations for players. These procedures shall include provisions for:~~
~~1) Whom the requestor can provide documentary evidence of sole or joint financial responsibility for the source of any funds deposited with the operator for participating in Sports Betting, including proof:~~
~~a) That the requestor is jointly obligated on the credit or debit card associated with the player's account;~~
~~b) Of legal dependency of the player on the requestor under local or federal law; and~~
~~c) Of the existence of a court order that makes the requestor wholly or partially obligated for the debts of the person for whom exclusion or limitation is requested.~~
~~2) Exclusions or limitations in situations in which the requestor can establish the existence of a court order requiring the player to pay unmet child support obligations~~]"

- ***Issue 14 – Voluntary exclusion list.***

Article 9, section 9.2 provides the process by which a player may have their name added to the voluntary self-exclusion list and the requirements operators and the Commission must comply with while processing such a request. There are two concerns with the provisions of this section. First, section 9.2(M)(3) requires players to provide a statement that they identify as a "problem gamer" or have another reason why they wish to be added to the voluntary self-exclusion list. This requirement may deter individuals from self-excluding and it is in direct conflict with the provisions of section 9.2(L) which states that "A person does not have to admit they are a problem gamer when placing themselves on the Voluntary Exclusion List." As such, we suggest removal of this provision.

Second, section 9.2(O) provides the time periods for minimum length of self-exclusion as one year, eighteen months, three years, five years, and lifetime. Generally, one, three and five years are the specified time limits in other jurisdictions and thus we suggest removal of the eighteen month time period.

To address these concerns, we suggest the following edits:

Article 9, Section 9.2(M)(3):
"M. If the applicant has elected to seek services available within the Commonwealth, the Commission, or its designee, shall contact the designated coordinating organization for the provision of requested services. The Executive Director shall determine the information and forms

to be required of a person seeking placement on the Voluntary Exclusion List. Such information shall include, but not be limited to, the following:
1) Name, home address, email address, telephone number, date of birth, and Social Security number of the applicant;
2) A passport-style photo of the applicant;
3) **[~~A statement from the applicant that one or more of the following apply:~~**
~~a) They identify as a "problem gamer," meaning an individual who believes their gaming behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, or co-workers;~~
~~b) They feel that their gaming behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or~~
~~c) There is some other reason why they wish to add their name to the Voluntary Exclusion List~~
~~4)~~] Election of the duration of the exclusion in accordance with subsection (O) of this section;"

Article 9, Section 9.2(O):
"O. As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:
1) One (1) year;
2) **[~~Eighteen (18) months;~~**
~~3)~~] Three (3) years;
[4]3) Five (5) years; or
[~~5~~]4) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Voluntary Exclusion List for at least six (6) months)."

- ***Issue 15 – Involuntary exclusion list.***

Article 9, section 9.3 provides the process by which the Commission may add the names of certain individuals to the involuntary exclusion list and the process for sharing the information on these individuals. There are two concerns with the provisions of this section. First, is the inclusion of individuals on the involuntary exclusion list who have been convicted of any crime or offense involving "moral turpitude." This is a potentially subjective standard that may not directly relate to an individual's participation in sports betting. The Gaming Commission, and the public, would be best served by a clear standard, which prevents individuals who have been convicted of crimes specifically related to sports betting or gambling from participating in sports betting.

Second, the information provided for each involuntarily excluded individual, although significant, does not include their Social Security number. Inclusion of that information is important for operators to be able to properly identify individuals who are on the involuntary exclusion list and prevent them from participating in sports betting.

To address these concerns, we suggest the following edits:

Article 9, Section 9.3(A):
"A. The Commission shall maintain an Involuntary Exclusion List that consists of the names of people who the Executive Director determines meet any one of the following criteria:
1) Any person whose participation would be inimical to Sports Betting in the Commonwealth of Puerto Rico, including the following:
…
g) Any felon or person who has been convicted of any crime or offense involving **[~~moral turpitude~~] gambling or sports betting** and whose participation would be inimical to Sports Betting in the Commonwealth of Puerto Rico;…"

Article 9, Section 9.3(C):
"C. The Involuntary Exclusion List shall contain the following information, if known, for each excluded person:
1) The full name and all known aliases and the date of birth;
2) A physical description;
3) The date the person's name was placed on the Involuntary Exclusion List;
4) A photograph, if available;
5) **Social Security number, if available;**
6) The person's occupation and current home and business addresses; and
[~~6~~]7) Any other relevant information as deemed necessary by the Commission."

Part III – Sports Betting Operations – Secondary Issues

Subpart A – Recordkeeping, reporting and audit requirements:

- ***Issue 1 – Requirement for use of Puerto Rico licensed accountant.***

Article 3, section 3.3(A) and Article 3, section 3.4(C) require operators to utilize certified public accountants who are "registered or licensed in Puerto Rico." While we understand the desire to ensure that the independent accountants utilized by operators have the proper qualifications to complete their work, as many operators are headquartered elsewhere, they will have contracted with independent auditors who are based in other US jurisdictions. To address this issue, we suggest the following edits:

Article 3, Section 3.3(A):
"The operator shall submit a financial audit of the operator's financial operations and handling of player accounts and funds, prepared by an independent certified public accountant, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing, consistent with the attestation standards established by the American Institute of Certified Public Accountants

or the rules of the Securities and Exchange Commission, or both, to the extent applicable, pursuant to the Law and meet the following conditions:…"

Article 3, Section 3.4(C):
"Unless otherwise specified in this part, all other books, records, and documents shall be retained until such time as the accounting records have been audited by the Sports Betting operation's independent certified public accountants, registered or licensed in Puerto Rico**, or another jurisdiction in the United States,** in good standing. The term independent as used in this rule is consistent with definitions set forth by the American Institute of Certified Public Accountants or the rules of the Securities and Exchange Commission, or both, to the extent applicable."

- ***Issue 2 – Sharing of data with Gaming Commission:***

Article 5, section 5.10(A)(3) requires sports betting operators to provide the Commission with the ability to directly query and export data from the operator's sports betting system. Building this ability into the sports betting system and ensuring the security of the data as provided to the Commission would be a significant burden on operators. The better way to ensure the Commission is able to receive the information it needs is for operators to provide a mechanism for the Commission to request the information it needs and then for the operators to provide that information to the Commission. To address this concern, we suggest the following edit:

Article 5, Section 5.10(A)(3):
"3) The Sports Betting **[~~System~~]** **Operator** shall provide a mechanism for the Commission to **[~~query and to export,~~]** **request** in a format required by the Commission (e.g., CSV, XLS), all transactional data for the purposes of data analysis and auditing/verification."

- ***Issue 3 – Identifying and reporting fraud and suspicious conduct.***

Article 6, section 6.6(G) provides a number of requirements on sports betting operators in relation to reporting fraud and suspicious conduct. First, this section requires operators to report any violation or law, or Commission rule committed by the operator, their key persons, or their employees within 24 hours. Requiring operators to report such events on an overly abbreviated and rigid timeline would unnecessarily distract them from prioritizing analytical and remediation efforts, without providing any meaningful countervailing benefit. Instead, the provision should be revised to require "prompt" notification to the Commission following the operator's identification of any such violation.

Second, this section requires the Commission to report all of the same suspicious and concerning activity that they receive from operators to any sports team or sports governing body they deem appropriate. However, most of the information contained in this section does not directly relate to concerns about the integrity of the underlying sports events. As such, this section should be revised to ensure that only information which raises concern about the integrity of the underlying sports

events needs to be reported by the Commission to the appropriate sports team or sports governing body.

To address these concerns, we suggest the following edits:

Article 6, Section 6.6(G):
"**G. Identifying and Reporting Fraud and Suspicious Conduct**
The operator shall develop and implement an Integrity Monitoring System utilizing software **[~~to~~] for** monitoring and detecting events and/or irregularities in volume or swings in statistical data, odds/payouts or prices that could signal Unusual or Suspicious Activities as well as all changes to statistical data, odds/payouts or prices and/or suspensions throughout an event that should require further investigation
1) The operator shall take measures delineated in the internal controls to reduce the risk of collusion or fraud, including having procedures for:

a) Identifying and/or refusing to accept suspicious wagers which may indicate cheating, manipulation, interference with the regular conduct of an event, or violations of the integrity of any event on which wagers were made;

b) Reasonably detecting irregular patterns or series of wagers to prevent player collusion or the unauthorized use of scripts; and

2) The operator shall promptly**[~~, but no longer than 24 hours,~~]** report to the Commission any facts or circumstances which the operator has reasonable grounds to believe indicate a violation of law or Commission rule committed by the operator, their key persons, or their employees, including without limitation the performance of licensed activities different from those permitted under their license. The operator is also required to provide a detailed written report within 72 hours from the discovery for any of the following:

a) Criminal or disciplinary proceedings commenced against the operator or its employees in connection with the operator conducting Sports Betting;

b) Abnormal activity or patterns that may indicate a concern about the integrity of Sports Betting;

c) Any other conduct with the potential to corrupt an outcome of Sports Betting for purposes of financial gain, including but not limited to match fixing; and

d) Suspicious or illegal activities, including the use of funds derived from illegal activity, deposits of money to participate in Sports Betting to conceal or launder funds derived from illegal activity,

[~~e) T~~] the use of employees to participate in Sports Betting or use of false identification.

3) The Commission is required to share any information received pursuant to **[~~this paragraph~~] subparagraph 2(c) of this section** with the division of criminal investigation, any other law enforcement entity upon request, or any regulatory agency the Commission deems appropriate. The Commission shall promptly report any information received pursuant to this paragraph with any sports team or Sports Governing Body or equivalent as the Commission deems appropriate but shall not share any information that would interfere with an ongoing criminal investigation.

- ***Issue 4 – Suspicious Activity Reports.***

Article 6, Section 6.7 provides for requirements on operators in relation to filing suspicious activity reports. The provisions of this requirement appear similar to federal requirements for the filing of Suspicious Activity Reports; however, federal guidelines provide 30-60 days for the filing of such a report depending on the circumstances (12 CFR § 21.11(d)) whereas the provisions of this section require such a report to be filed within two business days. Since article 6, section 6.6 provides for a robust and timely reporting process of questionable activity to the Commission, we suggest removal of this section.

However, if the Commission wishes to keep this provision, we strongly suggest amending the timeframe for filing reports to match the timeframe provided in federal regulations.

Subpart B – Customer protections:

- ***Issue 1 – Reserve requirements and protection of player funds***

Article 6, sections 6.4 and 6.5 include provisions designed to protect the integrity of player account funds. While most of the provisions in sections are relatively standard, there are two significant concerns that arise from their provisions. The first is the requirement that, as written, sports betting operators must BOTH maintain a reserve equal to the amount of player funds on deposit (plus pending wagers and any winning wagers owed but unpaid) AND segregate player funds. This in effect will make sports betting operators reserve and segregate an amount double the amount of player funds on deposit. We strongly suggest that operators are given the option to either maintain a reserve or segregate player funds, or that the Commission choose one of these two options, but not both, for sports betting operators to comply with.

The second concern in relation to the reserve provisions is that section 6.4(D) requires operators to report any deficiency in their reserve "within 24 hours." In the unlikely event that such a shortfall occurs, the process of identifying and remediating the technical issue, accounting error, or other underlying cause may well take longer than 24 hours. Requiring operators to report such events on an overly abbreviated and rigid timeline would unnecessarily distract them from prioritizing analytical and remediation efforts, without providing any meaningful countervailing benefit. Instead, the provision should be revised to require "prompt" notification to the Commission following the operator's identification of any such deficiency. To address this concern, we suggest the following edit:

Article 6, Section 6.4(D):
"The operator shall calculate their reserve requirements each day. In the event the operator determines that their reserve is not sufficient to cover the calculated requirement, the operator must, **[~~within 24 hours~~]** **promptly**, notify the Commission of this fact and must also indicate the steps the operator has taken to remedy the deficiency.

- ***Issue 2 – Dormant accounts.***

Article 1, section 1.3 and Article 7, sections 7.1(C)(4)(g) and 7.5(A) provide for the determination of when player accounts are deemed "dormant" and how dormant accounts are to be treated. These sections require player accounts to be deemed dormant after one year of inactivity. This standard is too short, and we believe a three year standard would be more appropriate. We suggest the following edits to address this concern:

Article 1, Section 1.3:
"**Dormant Account**
A Player Account which has had no player-initiated activity for a period of **[~~one (1)~~]** **three (3)** year**s**."

Article 7, Section 7.1(C)(4)(g):
"C. The account registration process shall also include:
…
4) Availability and acceptance of a set of terms and conditions that are also readily accessible to the player before and after registration and noticed when materially updated (i.e. beyond any grammatical or other minor changes) that include, at a minimum, the following:
…
g) Statement that an account is declared dormant after it has had no player-initiated activity for a period of **[~~one (1)~~]** **three (3)** year**s**, and explain what actions will be undertaken on the account once this declaration is made…"

Article 7, Section 7.5(A):
"A Player Account is considered to be dormant after it has had no player-initiated activity, such as entering a contest, making an account deposit, or withdrawing funds for a period of **[~~one (1)~~]** **three (3)** year**s** as specified in the terms and conditions. Procedures shall be in place to:

1) Protect dormant accounts that contain funds from unauthorized access, changes or removal.
2) Deal with unclaimed funds from dormant accounts, including returning any remaining funds to the player where possible.
3) Close a Player Account if the player has not logged into the account for **six (6)** **[~~eighteen (18)~~]** consecutive months **after it has become dormant**; …"

- ***Issue 3 – Changes to player accounts.***

Article 7, section 7.3(G) requires sports betting operators to properly document changes to player accounts and ensure that the appropriate personnel are involved in the processing or authorization of such changes. The requirements in this section, however, require supervisory employees to perform or authorize all changes to player accounts that are not conducted automatically. This

standard is far too restrictive and should be adjusted to reduce the burden on operators and licensed employees. To address this concern, we suggest the following edit:

Article 7, Section 7.3(G):
"Changes to player accounts other than through an automated process related to actual play must be sufficiently documented (including substantiation of reasons for increases) and authorized or performed by **[~~supervisory~~]** employees. An addition, deletion, or change to **a** player account**[~~s~~] of $500 or more** must be authorized by **[~~supervisory~~] licensed** employees and documented and randomly verified by authorized personnel on a quarterly basis. All other changes to player accounts must be appropriately documented **and reviewed by a licensed employee on a quarterly basis**."

- ***Issue 4 – Player account suspensions.***

Article 7, section 7.7(D) regulates when and how sports betting operators must suspend the accounts of players. There are two concerns with the provisions of this section. First, is the requirement to suspend a player's account "after failed ACH deposit attempts." We agree that multiple failed ACH deposit attempts within a short period of time can be suspicious conduct that should be investigated. However, as written, this section provides no minimum number of attempts and no time constraint. We suggest that five (5) failed ACH deposit attempts in a twenty-four hour period is a proper standard to trigger suspension of a player account for further analysis.

Second, this section requires that the Commission be immediately notified of all "indefinite" suspensions of player accounts. We routinely "indefinitely" but temporarily suspend a player's account when investigating a customer issue and many times quickly reinstate the account once the issue has been resolved. To notify the Commission each time this takes place would be onerous and wasteful of the time and resources of both operators and the Commission. We suggest instead that sports betting operators be required to promptly notify the Commission of any permanent account suspensions. To address these concerns, we suggest the following edits:

Article 7, Section 7.7(D)(1) and (D)(4):
"1) The operator must be capable of suspending a player from participating in Sports Betting:
a) When required by the Commission;
b) Upon a determination that a player is a Prohibited Player; or
c) When initiated by the operator that has evidence that indicates illegal activity, a negative account balance, after **five (5)** failed ACH deposit attempts **in a twenty-four (24) hour period**, **or** a violation of the terms and conditions has taken place on a player account.
…
4) All **[~~indefinite~~] permanent** suspensions must be **[~~immediately~~] promptly** notified to the Commission for their review, and addition to their Involuntary Exclusion List as covered in Section 9.3 of these Regulations."

- ***Issue 5 – Account information access.***

Article 7, section 7.8 provides the information that must be made available to players about activity that has taken place in their account. Most of the information required by this section is standard, however, there is the requirement for sports betting operators to provide players with information about "time spent." For sports betting, as opposed to other products like online casino gaming, time spent does not directly correlate to the number of wagers a player participates in, or how much money a player spends. For example, a player may spend a significant amount of time developing and editing a parlay wager selection. Additionally, a player may spend a significant amount of time checking the status of the underlying sports events but not placing any additional wagers during that time. As such, the "time spent" by a player logged into their account is a relatively irrelevant piece of information and should be removed from this section. To address these concerns, we suggest the following edits:

Article 7, Section 7.8:
"Section 7.8. Account Information Access
A. The player must be able to access information listing the time and date of the following player activity that have taken place in their account over the last thirty (30) days. In addition, the operator shall, upon request, be capable of providing to a player a summary statement of the following player activity during the past year:

1) Account details including all deposits amounts, withdrawal amounts and bonus or promotional information including how much is left on any pending bonus or promotional offer and how much has been released to the player, restrictions such as exclusion events and limits, and net outcomes including total won or lost.
2) Play history including wagers made, amounts won, **[~~time and~~]** money spent, and net wins/losses.

B. The player must have the ability to receive updates during play about **[~~time and~~]** money spent on wagers for confirmed events and account balances in currency as well as the amount available (if any) of pending bonus or promotional offer. In addition, the player must have the ability to receive updates during play about wagers for future events."

- ***Issue 6 – Permanent account closure***

Article 7, section 7.9 provides a requirement for sports betting operators to implement processes and procedures to allow a player to permanently close their account. Among these provisions is a requirement that operators must return all unrestricted player funds from a closed account to the player within five (5) business days. However, this provision does not acknowledge the potential for delays by third party payment service processors or the financial institution of the player themselves. To address this concern, we suggest the following edit:

Article 7, Section 7.9:

"The operator shall implement processes and procedures that allow any player to permanently close an account at any time and for any reason. The procedures will allow for cancellation by any means including, without limitation, by a player on any Mobile App or Site used by that player to make deposits into a player account. The operator shall return all unrestricted player funds from a closed account to the player within five (5) business days. Closure of the Player Account will render participation in a bonus or promotional offer void and the value of restricted player funds remaining will be removed from the Player Account. **For the purposes of this regulation the return of all unrestricted player funds shall be deemed timely if it is processed by the operator within five (5) business days of account closure but is delayed by a payment service provider, credit card issuer or by the custodian of a financial account.**"

- ***Issue 7 – Customer complaint process.***

Article 10 of the Proposed Regulations provides the processes by which sports betting operators must process complaints by players. There are three concerns with the provisions of this section. First, there is a requirement in article 10, section 10.1 that players may file a complaint "on a 24/7 basis." Sports betting operators may provide multiple mechanisms for players to file complaints, not all of which may be feasible to have available on a 24/7 basis. Further, there may be times when a particular mechanism may be unavailable due to issues beyond the control of an operator (extreme weather conditions, acts of God, etc.). Since sports betting operators must submit their procedures for receiving complaints for approval as part of their internal controls, we suggest removal of the 24/7 requirement and instead have operators to work with the Commission to develop procedures that ensure players are able to file a complaint in a timely fashion.

Second, there are a number of provisions in article 10 which provide timelines for submission of information and record retention. The timeline in article 10, section 10.5 for an operator to provide complaint information to the Commission is slightly different then the timeline for operator response to a complaint. We suggest setting both timelines at within ten business days for the sake of conformity.

Third, article 10, section 10.7 provides that the Commission may compel a mediation process, overseen by the Commission to address customer complaints. While mediation can serve a significant role in complaint resolution, a Commission mandated mediation process may not desired by all parties in every potential situation. Further, sports betting operator terms and conditions have provisions that address dispute resolution and often provide for alternative dispute resolution procedures. We suggest amending this provision to allow for Commission mediation when approved by all parties to the complaint.

To address these concerns, we suggest the following edits:

Article 10, Sections 10.1, 10.5, and 10.7:
"**Section 10.1. Opportunities for Player Complaints**

The Sports Betting Operator shall develop and maintain procedures delineated in the internal controls on the complaint reporting and resolution process. A player may file a complaint with the operator about any aspect of a Sports Betting operation **[~~on a 24/7 basis~~]**.

…

Section 10.5. Reporting to Commission of Complaints

All complaints received by the operator from a player and the operator's responses to complaints shall made available to the Commission within **[~~seven~~]** **ten business** days of any request by the Commission.

…

Section 10.7. Mediation Hearing

A. In order to encourage the informal resolution of complaints related to Sports Betting in the most rapid, fair and economical way for the parties, **upon the approval of all parties to the complaint,** the Commission may hold a mediation hearing to encourage the parties to reach an agreement without the need to bring carry out further procedures…"

Part IV – Corrections to Definitions and Minor edits

- ***Issue 1 – Definition of Fantasy Contest or Contest.***

Section 1.3 provides a definition of "Fantasy Contest or Contest" which is not in line with the definition of this term as provided by chapter 4.1(3) of the Gaming Commission Act of the Government of Puerto Rico. As such, we suggest amending this definition in regulation to match the definition found in statute. To address this concern, we suggest the following edits:

Article 1, Section 1.3:

"**Fantasy Contest or Contest**

[~~A Special Event involving any game or contest or simulation in which:~~

~~(a)One or more players compete against each other by grouping virtual rosters of real athletes or participants belonging to professional Sports Events or Special Events.~~

~~(b)These teams compete against each other based on cumulative statistical results of the performance of athletes or participants in real Sports Events or Special Events for a specific period. (c)The winning outcomes reflect the skills and relative knowledge of the players and are mostly determined by the cumulative statistical results of the performance of athletes or participants in real Sports Events or other Special Events.~~]

Any game or Fantasy Contest or simulation in which one or more players compete against one another and victories reflect the relative skills and knowledge of the players of the Fantasy Contest and are largely determined by the cumulative statistical results of the persons' performance, including athletes in the case of sports events."

- ***Issue 2 – Information on responsible play in advertisements.***

Article 4, section 4.5 requires information be made available on responsible participation in sports betting in advertisements, when feasible. In section 4.5(A) it appears the word "provide" is missing from this provision. To address this concern, we suggest the following edit:

Article 4, Section 4.5:
"**Section 4.5. Advertisements to Include Information to Promote Responsible Play**
Advertisements shall, where feasible, clearly and conspicuously disclose information concerning assistance available to problem gamers, including information directing problem gamers to reputable resources containing further information. Such information shall be available free of charge and shall include Addiction and Mental Health Services Administration (ASSMCA) helpline number that persons may use to seek assistance. In addition:
A. All messages placed in digital media, including Internet and mobile sites, emails, text messages, social networks and downloadable content must **provide** information concerning resources for problem gamers.
B. When information concerning resources for problem gamers cannot be presented in the advertisement itself, the information shall be clearly and conspicuously disclosed on the website to which the advertisement directs players, and be visible before the player is directed to establish an account, otherwise register with the operator, or log-in to an existing account."

- ***Issue 3 System Integrity and Risk Assessment***

Article 5, section 5.2(D) provides a requirement for operators to annually conduct a system integrity and risk assessment. In this section the context makes it appear that the word "Commission" should be replaced with the word "company." To address this concern, we suggest the following edit:

Article 5, Section 5.2(D)(2)(b):
"**D. System Integrity and Security Risk Assessment**
A system integrity and security risk assessment shall be performed annually on the Sports Betting System and its components to verify compliance with the Technical Security Controls of GLI-33, the Law and these Regulations. The Executive Director will review the qualifications and experience of the independent professional organization who performs this assessment and determine whether to recognize that entity as an approved provider.
…
2) Results from the risk assessment shall be submitted to the operator and/or Commission no later than thirty (30) days after the assessment is conducted, which shall include:
a) Scope of review;
b) Name and **[~~Commission~~]** **company** affiliation of the individual(s) who conducted the assessment;
c) The date of the assessment;
d) Findings;
e) Recommended corrective action, if applicable; and

f) The operator's response to the findings and recommended corrective action."

- ***Issue 4 – Requirement for all times shown to be in Eastern Time.***

Article 5, section 5.3(B)(2) requires that all times shown to customers in the sports betting system are "Eastern Time (ET) unless otherwise stated." As the time zone for Puerto Rico is Atlantic Time, this requirement is likely to be confusing to customers. To address this concern, we suggest either of the two following edits to change to Atlantic Time or remove the requirement entirely:

Article 5, Section 5.3(B)(2):
"2) All times shown are **[~~Eastern Time (ET)~~]** **Atlantic Time (AT)** unless otherwise stated"
OR
Article 5, Section 5.3(B)(2):
"2) **[~~All times shown are Eastern Time (ET) unless otherwise stated~~]**"

- ***Issue 5 – Involuntary and voluntary self-exclusion lists.***

Article 9, section 9.1(D) appears to be missing the word "excluded" and should be edited to address this concern.

Article 9, section 9.1(D):
"**Section 9.1. Purpose**
Programs and policies created by this section are intended to prevent compulsive play, treat problem gamers and promote responsible play. The sole remedy for failure to comply with this section shall be disciplinary actions imposed by the Commission. The Commission, and its Licensees, or employees thereof will not be liable for damages in any civil action, which is based on the following:
A. Compliance or noncompliance with this section or a plan adopted pursuant to this section;
B. An action or failure to take action under this section or a plan adopted under this section;
C. Failure to withhold participation privileges from an individual; or
D. Permitting an **excluded** individual to play."

****

We appreciate your time and consideration of our comments and would be happy to discuss at your convenience.

Sincerely,

Cory Fox
Government Affairs and Product Counsel Vice President

Asbury Royale

April 5, 2021

Mr. Orlando Rivera Carrión
Executive Director
Puerto Rico Gaming Commission
San Juan, Puerto Rico

RE: PUERTO RICO SPORTS BETTING REGULATIONS

I. Introduction

The Puerto Rico Gaming Commission (PRGC) has published its revised Puerto Rico Sports Betting Regulations for public comment pursuant to Act 38-2017. We have read and analyzed the proposed regulations and we respectfully submit these comments for the PRGC's review and consideration.

Asbury Royale, LLC, is a local company, striving to provide our customers with the most complete experience in the sports betting industry. For Puerto Rico's emerging market, we will focus on executing marketing strategies to enhance consumer product development, to refine the customer experience and to passionately engage with the consumer. Furthermore, Asbury Royale has prior experience in building a sports betting algorithm. Also, this will be a fully local operation, with the potential to provide numerous jobs in a delicate Puerto Rico economy.

This extensive background and expertise between allow us to enter the market as a serious and ready to go platform, with working capital to allow consumers in Puerto Rico to have a rich and trustworthy experience with sports betting. Because of our commitment and belief in the strong economic opportunities that the island provides, we intend to enter the Puerto Rico sports betting market, developing a venture, that can potentially create close to 50 local jobs, as well as bringing much needed revenue to the State.

It has been almost two years since Act 81-2019 was signed into law. Furthermore, the amendments passed by the Puerto Rico Legislature in December of 2020 pushed back the opening of the licensing process. It has been a long and winding road for investors, who were anxiously in the waiting for this regulation to go into effect in order to finally complete the process of legalizing sports betting in Puerto Rico. We applaud the effort of the PRGC and its new Executive Director to move forward with the regulation without any more delays, hence allowing this growing industry to enter the Island. We also recognize the hands-on approach taken by the Governor's Office, recognizing the potential this industry has in Puerto Rico's economy.

As participants in the industry, we are aware that sports betting will be a highly regulated business and that its regulation will be treated similarly to casinos and horse racing. However, after analyzing the proposed regulation, there are some aspects that we believe should be taken into consideration while the latter stages of the regulation process continue.

II. Employee Licensing:

The proposed regulation includes thorough licensing requirements. However, there are some aspects of licensing that must be addressed. Section 2.1 requires certain employees to hold licenses. We believe that this requirement is accurate for physical venues, but not so much in an online platform. In such a model, most employees work from a location that don't necessarily interact with players. Furthermore, you can have specific employees working outside of Puerto Rico or even from home, depending on their functions. Our main concern with such ambitious employee licensing requirement, is that it can result in more work for the PRGC, possibly delaying the opening of sports books. Furthermore, these jobs have the potential to have a high turnover. Having an operator invest in employee licenses, only to have the employee resign for a better job opportunity, is an unnecessary burden. We suggest you evaluate the need for employee licenses or only requiring them for certain essential employees.

Also, due to underfunding and understaffing, you should look into provisional licenses for employees, as set forth in the regulation. That way, the industry can begin operating while you finish background checks, subject to final compliance with the PRGC's requirements. There will be a great amount of applications that will have to be reviewed by the PRGC, and this should not delay the opening of the market.

III. Enterprise Licenses

The proposed regulation defines operator licenses in a manner inconsistent with Act 81-2019, as amended. Article 1.3 (16) of Act 81 defines the term "Operator" as the following:

> "(16) Operator- means an entity with an authorized franchise by a license issued by the Commission to accept and pay sports bets, albeit physically within an authorized venue or through a mobile sports betting platform, within the territorial limits of Puerto Rico, in compliance with the federal and state legal framework. The term Operator will also include: (a) the Principal Operator that, through a Sports Betting Administration Agreement, can offer services to other license holders to operate as Satellites; and, (b) Internet Betting Operators that, through a license issued by the Commission, is authorized to accept and pay Internet Sports Bets, in compliance with the federal and state legal framework. The Commission, through regulation, shall determine the limit of portals that an Operator may offer." (Unofficial Translation)

Section 2.2 of the proposed Regulation defines the Enterprise License Types. Said definition limits Operator Licenses to casinos and racetracks. Note that nothing on Act 81 limits Principal Operators to casinos and racetracks. On the contrary, Act 168-2020 amended Act 81 to require physical registration of authorized players, as well requiring Internet Betting Operators to maintain a space licensed as a Principal Operator to receive physical bets. This means that, pursuant to the amendments to Article 3.3 made by Act 168, an Internet Betting Operator must have an Principal Operator license to receive physical bets.

According to these amendments, an authorized player must register physically in an authorized venue with an Operator License. However, there is a discrepancy between Article 1.3 (15) and Article 3.9. Article 1.3 states that an authorized player must register physically in a venue with an Operator License. However, Article 3.9 states that players must register physically in a Principal Operator.

This discrepancy must be corrected in the regulation. The Legislature's intent was to protect illegal players from joining, hence making prospective players register physically. Article 1.3(15) correctly assumes that physical registration must be done in a venue that is authorized by the Commission. This means that any licensed venue that can accept a physical bet can register a new player. The statement in Article 3.9 that players must register physically with a Principal Operator is inconsistent with the definition of an "authorized player" under Act 81 as amended. Making a prospective player register only in a casino or in a racetrack will have a negative effect on the sports betting market in the island, reducing the amount of authorized players and the revenues for the State. Point of sales or Satellites go through the screening process of the PRGC and are licensed, as well as the Principal Operator's. Hence, they should be able to register players, in compliance with Article 3.9 of Act 81, as amended by Act 168-2020.

Regarding Satellites or Point of Sale licenses, the regulation should clear up certain cases in which a Satellite or Point of Sale can be composed of several stores or locations. For example, if Principal Operator X is providing a Satellite or Point of Sale License to Company A, the regulations are not clear regarding the licensing requisites of stores or franchises, under Company A. We respectfully believe that the Satellite license of the parent company should suffice for all stores or venues operating under the same company name.

Section 2.2(A)(1)(b) limits Satellites or Point of Sale Licenses only to hotels without casinos, inns, horse betting agencies and cockpits. Again we must stress that this is not the spirit of Act 81. As proposed in the regulation, venues such as restaurants, sports bars, entertainment complexes, or even sports betting stand-alone venues would not be able to function as a satellite or point of sale. Furthermore, this language is inconsistent with Section 8.1 of the proposed regulations, which correctly state that "[s]ports betting may be carried out by Sports Betting Operators physically in casinos, hotels without casinos, inns, racetracks, horse betting agencies, cockpits and **any other venue approved by the Commission**". We suggest revising this language to be consistent with Act 81, not limiting the type of venue, as stated in Section 8.1. Remember that the PRGC ultimately authorizes and licenses these venues.

IV. Service Providers and Vendor Registration

We believe that Section 2.2(B) of the proposed regulations can be interpreted too broadly. As discussed in the regulation, any company that provides any service to an operator will need a service provider license. The requisites for these services providers are not clear enough and it is open to interpretation. We suggest that you list the specific services that need a license.

V. Licensing Fees

The policy behind Act 81 was to make the island attractive for sports betting operations. This is why the minimum licensing fees for operators in the law are very competitive in comparison to other jurisdictions. Because this is a new business in Puerto Rico, we suggest setting the operator fees at the

minimum that the law indicates. Once the operation is up and running, the PRGC can review its fees, subject to market analysis.

Also, fees are set at a minimum of $50,000 a year, as stated in Act 81. We respectfully suggest that the licensing fee for operators is specifically set in the regulation. That way, possible investors may have a clear vision and stability regarding licensing costs. If included in the regulation, it can only be increased by amending said regulation, making it a more transparent process. We suggest the same for Point of Sale of Satellite Operators.

VI. Provisional Licenses

We noticed that Section 2.6 of the Puerto Rico Sports Betting and Fantasy Contest Regulations published in 2020 is stricken in this version. This section allowed for provisional licenses for operators, subject to further scrutiny and compliance with PRGC regulations. This should be reconsidered. As we stated before, the PRGC is understaffed and underfunded. This means that once the market opens, the PRGC will not have enough means to undergo the very extensive and detailed application and background check process. Furthermore, the text of Section 2.6 that is moved to be stricken in this version of the regulations is inconsistent with Governor Pedro R. Pierluisi's public policy regarding permitting and licensing. He believes that permits or licenses should be issued first if the proponent complies with minimal requirements, subject to the final review by the permitting or licensing authorities. His policy can apply to this issue as well. If provisional licenses are not allowed, this will bring an unnecessary burden on the PRGC. Also, this burden can result in the issuing of licenses at different times, resulting in an unfair advantage to those who the PRGC license first. We believe that the playing field should be leveled, so that the different operators can have the same opportunities to solidify their customer base.

VII. Application Process

1) **Initial License Application (Sections 2.6-2.10)**
   a. Since the regulations have yet to be approved, we cannot analyze the initial license application documents, such as the Business Entity License Application (Section 2.17), the Multijurisdictional Personal History (Section 2.18) and its supplement. The approach that the PRGC takes is vital, so that employees analyzing a checklist of required documents don't deny an application, only because an applicant does not comply with the submittal of a document that is not applicable to his business.
2) **License Application Form (Section 2.17)**
   The license Application Form includes over 30 items that shall be provided by the corporation applying. However, consistent with our request to take into consideration newly formed local businesses, some of these requirements should be clarified. That way, if information requested to the applicant does not apply because of the type of business, the PRGC can forego said requirements. Some of these requirements are:
   a. Description of current business carried out (if it is a new corporation, this should not apply)
   b. Stock information of the company;
   c. Information regarding shareholders;
   d. Information regarding other key executives and personnel;
   e. Diagram that illustrates the ownership interest;
   f. Name, last known address, position and former directors (this should not apply)

g. Annual compensation of partners, officers, directors and trustees (in the beginning, this should not apply);
h. Information of employees expected to receive an annual compensation of more than $50,000 (this should be cleared up by the Commission)
i. Description of company benefits to be offered (retirement plans, profit sharing, bonuses, etc.)
j. Description of debt or payment obligations;
k. Description of securities options;
l. Description of Contracts of more than $25,000;
m. Name and address of companies in which the enterprise holds shares;
n. Annual reports for the last 5 years. This should be cleared up and say **"if applicable", in order that a company of recent creation can apply for a license.** Also, for future reports, it should be clarified if the annual reports need to be audited or not.
o. Annual reports for the last 5 years on Form 10k of the US Securities and Exchange Act (see comment above (n);
p. Audited Financial Statements for last fiscal year (see comment above (p));
q. Financial statements for past 5 years; (see comment above (n));
r. Most recent quarterly unaudited financial statement (see comment above (n));
s. Reports prepared due to change in control of the enterprise, if applicable;
t. The regulation asks for other financial statement documents, if applicable;
u. Organizational chart of the enterprise, including description of positions and the people holding them.

As you can see, some of these requirements can lead an emerging company to be disqualified for failure to comply with them. This is why we insist on modifying the requirements to take into account the individual situation of applicants, in order that they are not excluded from entering the market for not being able to fill a checkbox on a list.

As an example, Section 2.17 requires applicants to provide annual reports for the last 5 years, audited financial statements for past 5 years, amongst others. We suggest including the wording "if applicable" in those instances in which a newly formed company cannot meet these requirements.

VIII. Conclusion

As we stated before, Act 81 sought to make sports betting widely available, both online and in physical venues. However, we are concerned on the excessive regulation and requirements that have been proposed by the PRGC. As discussed, we are aware that this will be a highly regulated industry, because of the potential hazard that gambling can have. However, the policy behind Act 81, and for the government as a whole, is that Puerto Rico is open for business.

The Puerto Rico Sports Betting Regulations should not be a deterrent for possible investors to enter the market, making way only for big companies that have been in business for years. The PRGC must help promote local businesses from entering the market, allowing for serious platforms to provide players with sports betting experiences. This is why we insist that the PRGC must ultimately evaluate all licensing application on a case by case basis, as well as all operation requirements. While they should strictly adhere to the requirements set forth in the regulations, some flexibility must be present in order to accommodate the different types of methods in which sports betting can proliferate,

especially in such an emerging business. The PRGC should allow for sports betting and eSports to become an economic tool that can help the island's economy, especially in the difficult times that we are living in.

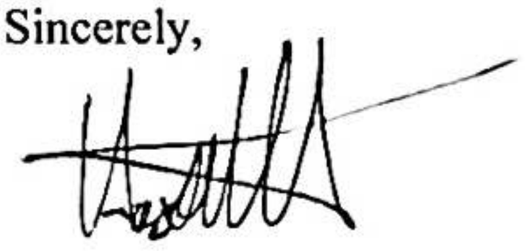
In conclusion, these comments are all lined up into three general categories of suggestions. First, the regulation must allow for local start-up operators to get into the market, so that they can participate in providing players with a platform that can compete with multi-national sports betting companies. After all, most of these multi-national companies started providing local services.

Also, the regulation must take into consideration that these start-ups are newly formed companies or affiliates that may not necessarily comply with all the requirements set forth by the Commission. Respectfully, our main concern lies in that government bureaucracy can factor into the application process, and lack of clear regulations and policies have the potential to negatively impact the application process.

Finally, the PRGC should correct the aspects of the regulations that are inconsistent with the spirit of Act 81, as discussed in this document.

We appreciate the opportunity to submit these comments and hope that you will take them into consideration. We are available to answer any further questions that you may have during your evaluation.

Sincerely,



Hayden Holland
CEO