

MARYLAND REGISTER

**Emergency Action on Regulations**

<b>TO BE COMPLETED BY AELR COMMITTEE</b>	<b>EMERGENCY</b> <b>Transmittal Sheet</b>	<b>TO BE COMPLETED BY DSD</b>
Date Received by AELR Committee		Date Filed with Division of State Documents
11/29/2021		Document Number
Emergency Status Approved		Date of Publication in MD Register
_ -Yes _ -No		
Emergency Status Begins On		
Emergency Status Ends On		
Name of AELR Committee Counsel		

**1. COMAR Codification**

Title	Subtitle	Chapter	Regulation
36	01	03	01-.08
36	09	01	01 and .02
36	09	02	01-.04
36	09	03	01-.07
36	09	04	01-.06
36	09	05	01-.03

**2. Name of Promulgating Authority**

Maryland State Lottery and Gaming Control Agency

**3. Name of Regulations Coordinator**      **Telephone Number**  
 James B Butler      410-230-8781

**Mailing Address**

1800 Washington Blvd., Ste. 330

**City**      **State**      **Zip Code**  
 Baltimore      MD      21230

**Email**

jbutler@maryland.gov

**4. Name of Person to Call About this Document**

James B. Butler

**Telephone No.**

(410) 230-8781

**Email Address**

jbutler@maryland.gov

**5. Check applicable items:**

- New Regulations

- Amendments to Existing Regulations

- Repeal of Existing Regulations

- Incorporation by Reference of Documents Requiring DSD Approval

**6. Date Requested for Emergency Status to Begin:** 12/8/2021

**Date Requested for Emergency Status to Expire:** 6/3/2022

**7. Agency Will Take the Following Action on These Regulations**

- Promulgate them in accordance with State Government Article, §§ 10-101 -- 10-126

- Allow them to expire

**8. Is there proposed text which is identical to emergency text:**

- Yes - No

If yes, corresponding proposed text published in:

- same issue

- future issue

- previous issue; it appeared in

: Md. R

(vol.) (issue) (page no's) (date)

Under Maryland register docket no.: --E.

**9. Check the following item if it is included in the attached document:**

- Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

**10. Reason for Request for Emergency Status**

These proposed amendments would update the Agency's Voluntary Exclusion and Responsible Gaming programs to include sports wagering and fantasy competitions regulations. The Agency hopes to incorporate changes made by passage of HB 940 with respect to the fantasy competition program, which launched on May 18, 2021. In addition, it is anticipated that five (5) sportsbooks will open by the end of December 2021, and both the fantasy competition operators and the sports wagering facility licensees need to implement these required operational changes.

**11. Certificate of Authorized Officer**

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Holly K. Citko, Assistant Attorney General, (telephone #(410) 230-8780) on November 18, 2021. A signed copy of the approval is on file at this agency.

**Name of Authorized Officer**

John Martin

**Title**

Director

**Telephone No.**

(410) 230-8790

**Date**

November 27, 2021

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

**Subtitle 01 GENERAL PROVISIONS**

**36.01.03 Voluntary Exclusion and Responsible Gaming**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**36.09.01 General**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**36.09.02 Registration**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**36.09.03 General Standards and Prohibitions**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**36.09.04 Financial Standards**

**Subtitle 09 ONLINE FANTASY COMPETITION**

**36.09.05 Responsible Gaming**

Authority: 36.03.02: State Government Article, §§9-1A-04(d), 9-1A-07(c), and 9-1A-14, Annotated Code of Maryland; 36.01.03: Criminal Law Article, §§12-301.1 and 12-308; State Government Article, §§9-110, [and] 9-1A-24(e), 9-1D-05, 9-1E-04, 9-1E-11, Annotated Code of Maryland; 36.09.01: State Government Article, [§] §§9-1D-01, 9-1D-02, 9-1D-03, and 9-1D-05, Annotated Code of Maryland; and Ch. 853, Acts of 2018; 36.09.02: State Government Article, §§9-1D-01, 9-1D-03, 9-1D-04, and 9-1D-05, Annotated Code of Maryland; and Ch. 853, Acts of 2018; 36.09.03: State Government Article, §§9-1D-01, 9-1D-03, 9-1D-04, and 9-1D-05, Annotated Code of Maryland; and Ch. 853, Acts of 2018; 36.09.04: State Government Article,

§§9-1D-01, 9-1D-02, 9-1D-03, and 9-1D-05, Annotated Code of Maryland; and Ch. 853, Acts of 2018; Ch. 853, Acts of 2018; and 36.09.05: State Government Article, §§9-1D-01, 9-1D-02, 9-1D-03, and 9-1D-05, Annotated Code of Maryland; Ch. 853, Acts of 2018; and Ch. 853, Acts of 2018.

### **Notice of Emergency Action**

[]

The Joint Committee on Administrative, Executive, and Legislative Review has granted emergency status to Maryland Lottery and Gaming Control Agency to:

- (1) Amend Regulations .01 and .02, adopt new Regulation .03, amend and recodify existing Regulations .03 —.07 to be Regulations .04 —.08 under COMAR 36.01.03 Voluntary Exclusion and Responsible Gaming;
- (2) Adopt new Regulation .01, and amend and recodify existing Regulation .01 to be Regulation .02 under COMAR 36.09.01 General;
- (3) Amend and recodify existing Regulation .12 to be Regulation .01, and adopt new Regulations .02—.04 under COMAR 36.09.02 Registration;
- (4) Amend and recodify existing Regulations .02—.05, .10, .09, and .15 to be Regulations .01—.04, .05—.07 under COMAR 36.09.03 General Standards and Prohibitions;
- (5) Amend and recodify existing Regulations .07—.08, .11, and .13 to be Regulations .01—.04, and adopt new Regulations .05 and .06 under COMAR 36.09.04 Financial Standards; and
- (6) Amend and recodify existing Regulation .06 to be Regulation .01, and adopt new Regulations .02 and .03 under COMAR 36.09.05 Responsible Gaming.

**Emergency status began:**

**Emergency status expires:**

### **Comparison to Federal Standards**

There is no corresponding federal standard to this emergency action.

### **Estimate of Economic Impact**

#### **I. Summary of Economic Impact.**

With the creation of a registration process for fantasy competition operators, to include a \$100 registration fee, along with the incorporation of a 15% tax on proceeds to be paid to the Commission, and a requirement that a fantasy competition operator report prize payout larger than \$600 to the Comptroller of Maryland and the IRS and issue 1099 MISC. tax forms, there could be some positive economic impact for the State but the Maryland Lottery and Gaming Control Agency is unable to quantify an exact amount (indeterminable).

Revenue (R+/R-)

<b>II. Types of Economic Impact.</b>	Expenditure (E+/E-)	Magnitude
A. On issuing agency:		
Staff Costs	(E+)	Minor
B. On other State agencies:		
Revenue	(R+)	Minimal
C. On local governments:	NONE	
	Benefit (+) Cost (-)	Magnitude
D. On regulated industries or trade groups:		
Fantasy Competition Operators	(-)	Minor
E. On other industries or trade groups:	NONE	
F. Direct and indirect effects on public:		
Blueprint for Maryland's Future Fund (BMFF)	(+)	Minimal

**III. Assumptions.** (Identified by Impact Letter and Number from Section II.)

- A. There will be additional staff costs to implement and regulate the Fantasy Competition Program, but an exact amount is unknown at this time.
- B. As a result of the requirement that a fantasy competition operator report prize payout larger than \$600 to the Comptroller of Maryland and the IRS and issue 1099 MISC. tax forms, there could be some positive economic impact for the State.
- D. Fantasy competition operators will be required to pay a \$100 registration fee each year. In addition, fantasy competition operators will submit 15% of their proceeds from competitions to the Commission for distribution to the BMFF.
- F. Maryland residents will continue to have the ability to participate in fantasy competitions. In addition, fantasy competition operators will submit 15% of their proceeds from competitions to the Commission for distribution to the BMFF. Additional proceeds from fantasy competitions will be sent to the BMFF.

**Economic Impact on Small Businesses**

The emergency action has minimal or no economic impact on small businesses.

**Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 2022

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:  
Gaming (Special Gaming Proceeds)

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

These proposed amendments would update the Voluntary Exclusion and Responsible Gaming (“VE and RG”) chapters our existing regulations to include sports wagering and fantasy competitions. In addition, these amendments would merely incorporate changes made by passage of HB 940 and capture some best practices for the registration of fantasy competition operators, which other states have adopted.

G. Response to small business worksheet:

## Attached Document:

---

(November 22, 2021)

### **36.01.03 Voluntary Exclusion and Responsible Gaming**

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

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

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

(1)—(2) (text unchanged)

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

(4) *Participating in fantasy competitions offered by fantasy competition operators registered under Subtitle .09 of this title;*

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

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

*B. Definitions. Unless context or the individual regulation dictates otherwise, for purposes of this chapter the following terms have these meanings.*

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

(2) *“Direct exclusion” means the ability of a person to make a request directly to a fantasy sports competition operator or a sports wagering licensee for exclusion from their web-based services.*

(3) *“Sports wagering licensee” means:*

(a) *Sports wagering facility licensee;*

(b) *Mobile sports wagering licensee;*

(c) *Sports wagering facility operator licensee; and*

(d) *Online sports wagering operator licensee.*

[B.] C. The Commission shall:

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

(a) [video] *Video lottery facilities*[,] ;

(b) [lottery] *Lottery play in the State* [, and] ;

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

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

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

(2) (text unchanged)

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

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

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

(2) (text unchanged)

(3) The [Agency’s offices] *Agency*.

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

(1) *Each licensed video lottery facility;*

(2) *Each registered fantasy competition operator;*

(3) *Each sports wagering licensee;*

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

(5) *The Agency.*

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

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

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

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

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

(a)—(d) (text unchanged)

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

[(e)](f)—[(g)](h) (text unchanged)

[(h)](i) *Signature, which may include by a Commission approved secure electronic means; and*

[(i)](j) (text unchanged)

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

(a)—(b) (text unchanged)

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

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

[(4)] (5) (text unchanged)

(a)—(b) (text unchanged)

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

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

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

- (ii) Commission will maintain as sociological information under General Provisions Article, §4-330, Annotated Code of Maryland; *and*
- (iii) *Commission or its licensees may share with entities as provided in Regulation .05 of this chapter.*
- (e) Authorizes the release of information to the persons specified in Regulation [.06] .07 of this chapter;
- (f) Acknowledges that the individual will be, for the entire term of the requested period of exclusion:
  - (i) Prohibited from entering a video lottery facility [or] *and* playing table games or a video lottery terminal [in the State];
    - (ii) (text unchanged)
    - (iii) Prohibited from playing an instant bingo machine at an instant bingo facility with more than 10 instant bingo machines; [or]
    - (iv) *Prohibited from participating in a fantasy competition offered by a fantasy competition operator registered under Subtitle .09 of this title;*
    - (v) *Prohibited from participating in sports wagering offered by a sports wagering licensee under Subtitle .10 of this title; or*
      - [(iv)] (vi) Any combination of the [three] five;
  - (g) Acknowledges that if the requested period of placement on the [voluntary exclusion list] *Commission's Voluntary Exclusion List* was 2 years, the individual will not be removed from the [voluntary exclusion list] *Commission's Voluntary Exclusion List* unless the Commission grants the individual's request for removal under Regulation [.05] .06 of this chapter;
    - (h) (text unchanged)
    - (i) *Acknowledges that the individual may be, for the entire term of the requested period of exclusion:*
      - (i) *Banned by a video lottery facility from any of its affiliated facilities in Maryland or other jurisdictions;*
      - (ii) *Removed or precluded from utilizing a video lottery facility's associated sports wagering platform;*
      - (iii) *Banned from video lottery facilities that offer sports wagering;*
      - (iv) *Even if accessed from a different state, removed or precluded from joining or participating in a fantasy competition operator's online platform;*
      - (v) *Banned by a sports wagering facility from any of its affiliated facilities in Maryland or other jurisdictions;*
      - (vi) *Even if accessed from a different state, removed or precluded from joining or participating in a mobile sports wagering licensee's online platform; or*
    - [(i)] (j) Otherwise acknowledges that the individual understands the individual's responsibilities and possible consequences associated with being placed on the [State's voluntary exclusion list] *Commission's Voluntary Exclusion List*; and
    - [(j)] (k) Is voluntarily applying.

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

- (1) Interview the individual in order to ascertain that the individual:
  - (a) (text unchanged);
  - (b) *Is sober and informed;*
  - [(b)] (c) (text unchanged)
  - [(c)] (d) Is fully informed of the consequences of being placed on the [voluntary exclusion list] *Commission's Voluntary Exclusion List.*
- (2) Decide whether to [grant] *accept* the request for [voluntary exclusion] *placement on the Commission's Voluntary Exclusion List and place the individual on the Commission's Voluntary Exclusion List;* and
- (3) Deliver to the individual by regular U.S. mail a written notice of:
  - (a) Placement on the [voluntary exclusion list] *Commission's Voluntary Exclusion List;* or
  - (b) Denial of the [request for voluntary exclusion] *application requesting placement on the Commission's Voluntary Exclusion List.*

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

- (1) The Agency's notice [of] *to an [individual's] individual of placement on the [voluntary exclusion list] Commission's Voluntary Exclusion List for video lottery facilities, shall include:*
  - [(1)] (a) A statement from each video lottery facility informing the individual not to enter the video lottery facility; [and]
  - [(2)] (b) Notice that, if the individual enters a video lottery facility, the individual [shall] *may* be subject to [a] criminal [trespass charge.] *charges;*
  - (c) *Notice that the individual may be banned by a video lottery facility from any of its affiliated facilities in Maryland or other jurisdictions;*
  - (d) *Notice that the individual may be unable to participate in sports wagering offered by a sports wagering facility operator or online sports wagering operator affiliated with a video lottery facility.*
- (2) *The Agency's notice of an individual's placement on the Commission's Voluntary Exclusion List for exclusion from participating in fantasy competitions in the State shall include notice that the individual may be excluded from participating in fantasy competitions offered by fantasy competition operators in another jurisdiction;*



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

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

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

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

**.03 Direct Exclusion**

A. *Registered Fantasy Competition Operator.*

(1) *A registered fantasy competition operator may directly exclude an individual from participating in fantasy competitions through its platform.*

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

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

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

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

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

B. *Mobile Sports Wagering Licensee.*

(1) *A mobile sports wagering license though its sports wagering platform or its online sports wagering operator's platform may directly exclude an individual from participating in sports wagering on its platform.*

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

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

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

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

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

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

A. *(text unchanged)*

B. *Term Defined. "Unredeemed item":*

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

(a)—(d) *(text unchanged)*

(e) *Won by participating in a fantasy competition offered by a fantasy competition operator registered under Subtitle .09 of this title;*

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

(g) *Won by participating in sports wagering;*

(h) *Inserted into sports wagering equipment;*

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

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

[(f)] (k) *(text unchanged)*

(2) *Does not [mean] include cash.*

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

(1) *Redeem or liquidate an unredeemed item with monetary value that the individual has received since being placed on the [voluntary exclusion list] Commission's Voluntary Exclusion List; and*

(2) *(text unchanged)*

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

The Commission shall:

A. *Establish and maintain a list of individuals:*

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

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

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

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

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

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

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

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

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

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

(1) Completed:

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

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

[(c)] (b) (text unchanged)

(2) (text unchanged)

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

C. (text unchanged)

D. If the Commission:

(1) Grants the request, it shall:

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

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

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

(a) (text unchanged)

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

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

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

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

**[.07].08 Responsible Gaming Program.** (text unchanged)

## **36.09.01 General**

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

**.01 Scope.**

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

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

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

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

B. Terms Defined.

(1) (text unchanged)

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

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

(a) (text unchanged)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iv) *Suspend a fantasy competition;*

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

(vi) *Set any configurable parameters.*

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

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

(a) (text unchanged)

(b) Has regular access to:

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

(ii)—(iii) (text unchanged)

[(6)] Fantasy Competition Operator.

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

(i) The Internet;

(ii) A smart phone application; or

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

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

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

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

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

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

(8) (text unchanged)

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

[(9)] (10) “Minor” means any individual younger than 18 years old.

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

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

(a) *Employees of a fantasy competition operator; and*

(b) *Immediate family members of an employee of a fantasy competition operator.*

[(11)] (13) (text unchanged)

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

[(12)] (15)—[(13)] (16) (text unchanged)

## **36.09.02 Registration**

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

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

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

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

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

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

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

(1)—(4) (text unchanged)

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

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

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

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

(9) A plan that describes how the fantasy competition operator will maintain compliance with Chapter .04 of this subtitle;

(10) A responsible gaming plan required under Chapter .05 of this subtitle; and

(11) Any additional information required by the Commission.

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

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

[C.] G. — [D.] H. (text unchanged)

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

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

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

C. Minor variations of a fantasy competition include:

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

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

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

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

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

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

(7) Adjustments to a scoring system; and

(8) Adjustments to a salary cap.

### **.03 Fees.**

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

B. The fees paid under this regulation are nonrefundable.

### **.04 Renewal Requirements.**

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

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

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

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

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

### **36.09.03 General Standards and Prohibitions**

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

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

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

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

B.—D. (text unchanged)

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

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

[Fantasy competition operators may not permit players to enter a competition using a kiosk or machine physically located within a retail business location] *Fantasy competitions may not be offered through a kiosk or machine physically located in the State.*

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

A. (text unchanged)

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

(1) *Participation is for testing purposes and:*

[(1)] (a)—[(4)] (d) (text unchanged)

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

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

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

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

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

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

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

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

A. Fantasy Competition Scripts.

(1) (text unchanged)

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

(a) (text unchanged)

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

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

[(c)] (d) (text unchanged)

(3) (text unchanged)

B.—C. (text unchanged)

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

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

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

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

#### **[.15].07 Advertising.**

### **36.09.04 Financial Standards**

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

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

- A. A fantasy competition operator shall hold a fantasy competition player's funds:
- (1) (text unchanged)
  - (2) In a special-purpose, segregated account that is maintained and controlled by a properly constituted corporate entity that:
    - (a)—(c)
    - (d) Has articles of incorporation that prohibit commingling of *fantasy competition* player funds with those of the *fantasy competition* operator, except as necessary to reconcile the accounts of *fantasy competition* players with sums owed to the *fantasy competition* operator by those *fantasy competition* players;
    - (e) Is restricted from incurring debt other than to *fantasy competition* players pursuant to the *fantasy competition* operator's rules governing the accounts of its *fantasy competition* players;
    - (f) Is restricted from taking on obligations of the *fantasy competition* operator other than obligations to its *fantasy competition* players pursuant to the *fantasy competition* operator's rules governing the accounts of its *fantasy competition* players; and
    - (g) Other than a special purpose corporate entity established by another *fantasy competition* operator that meets the requirements of this subtitle, may not dissolve, merge, or consolidate with another company while there are unsatisfied obligations to *fantasy competition* players.
- B. (text unchanged)

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

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

**[.13] .04 Financial Auditing.**

- A. A fantasy competition operator that conducts competitions that require an entry fee and that generates gross annual revenues of \$250,000 or more *in Maryland* shall [have] *ensure that* a financial audit is performed annually by a certified public accountant.
- B. The certified public accounting firm that conducts the financial audit shall:
- (1) (text unchanged)
  - (2) Submit the financial audit report to the Commission within 180 days of the *fantasy competition* operator's fiscal year end.
- C. (text unchanged)
- D. Auditor Exception.
- (1) The same certified public accountant may not perform more than three consecutive financial audits for a fantasy competition operator unless:
    - (a) The *fantasy competition* operator requests and obtains preapproval of the Commission; and
    - (b) (text unchanged)
  - (2) If a different audit partner cannot be assigned, a fantasy competition operator shall advise the Agency prior to *the* beginning of the audit.
- E. (text unchanged)

**.05 Taxation.**

- A. A *fantasy competition* operator shall retain 85% of its proceeds from players in Maryland.
- B. A *fantasy competition* operator shall pay 15% of its Maryland player proceeds to the Commission.

**.06 Reporting.**

- A. *Fantasy competition* operators shall report fantasy competition prize payouts larger than \$600 to the Comptroller of Maryland and the Internal Revenue Service in accordance with applicable tax laws.
- B. A *fantasy competition* operator shall provide a 1099 MISC. tax form to players that receive a prize payout larger than \$600.

**36.09.05 Responsible Gaming**

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

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

- A. An individual may request exclusion from entering a fantasy competition by submitting to the fantasy competition operator a self-exclusion request using a self-exclusion tool provided by the *fantasy competition* operator on its website.
- B. [If an individual requests exclusion, the fantasy competition operator shall take reasonable measures to prevent that individual from entering a fantasy competition] *A fantasy competition operator shall implement and prominently publish procedures for players to self-exclude themselves.*
- C. *Self-excluded persons shall not collect any prizes or recover any losses arising as result of any prohibited participation in a fantasy competition operator's fantasy competition.*

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

- (1) Is not an application for voluntary exclusion through the Commission under COMAR 36.01.03;*
- (2) Will not result in inclusion on the Commission's Voluntary Exclusion List; and*
- (3) Is not administered or maintained by the Commission.*

**.02 Responsible Gaming Plan.**

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

- (1) Goals;*
- (2) Procedures and deadlines for implementation;*
- (3) Identification of personnel responsible for implementation;*
- (4) Responsibilities of personnel identified as responsible for implementation;*
- (5) Training for personnel on problem gambling and identifying compulsive play;*
- (6) Means of educating fantasy competition players about:
  - (a) Problem gambling including compulsive play; and*
  - (b) Problem gambling treatment resources, including treatment and prevention programs;**
- (7) Placement of responsible gambling awareness materials on the fantasy competition platform; and*
- (8) Any other element required by the Commission.*

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

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

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

**.03 Fantasy Competition Operator Responsibilities.**

*A. A fantasy competition operator shall:*

- (1) Prevent the participation in fantasy competitions by individuals who have self-excluded themselves from entering fantasy competitions;*
- (2) Prevent fantasy competition players from entering more than the maximum number of allowed fantasy competitions; and*
- (3) Train employees on compulsive play.*

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