

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF GAMING ENFORCEMENT
Statutory Authority: 29 Delaware Code, Section 4866 (29 Del.C. §4866)

FINAL

ORDER

301 Interactive Fantasy Sports Contests Regulations

The Delaware Division of Gaming Enforcement, pursuant to 29 **Del.C.** §4866, proposed to adopt the regulations governing the practice of interactive fantasy sports contests in the State of Delaware. As a newly regulated industry that first required licensure by virtue of legislation enacted July 26, 2017, these regulations are comprehensive, and all newly created.

Summary of the evidence and information submitted

The proposed regulations were published in the Delaware *Register of Regulations* on October 1, 2017 and a written comment period was held open for thirty days following this publication. No written comments were received by the Delaware Division of Gaming Enforcement during the written comment period.

Summary of the findings of fact

As the designee of the Governor, the Division of Gaming Enforcement is charged with the responsibility of creating regulations governing the practice of interactive fantasy sports contests. 29 **Del.C.** §4866. Beginning in August 2017, DGE began formulating regulations governing interactive fantasy sports contests in the State of Delaware. In so doing, DGE conducted an in-depth review of its statutory mandates, sought public comment, reviewed the governance of fantasy sports in other states to determine what has and has not worked, and sought and received input from companies in the industry to create the regulations published as proposed on October 1, 2017.

Decision of DGE

Having found that the proposed regulations are necessary as outlined herein, DGE finds that the regulations shall be adopted as final in the form as proposed. A copy of the final regulations are attached hereto as Exhibit A. These regulations will become effective ten days following publication of this order in the Delaware *Register of Regulations* on December 1, 2017.

IT IS SO ORDERED this 7th day of November, 2017 by the Division of Gaming Enforcement.

Gregory Nolt
Director
Division of Gaming Enforcement

301 Interactive Fantasy Sports Contests Regulations

1.0 Introduction: Role of the Division of Gaming Enforcement

These regulations are authorized pursuant to 29 **Del.C.** §4866. Registered interactive fantasy sports contests shall be regulated to safeguard the integrity of the games and participants to ensure accountability and the public trust. The Delaware Division of Gaming Enforcement (DGE) has been designated by the Governor to regulate Interactive Fantasy Contests through the powers delegated to the Director of DGE pursuant to Title 29 Section 4866 of the Delaware Code.

2.0 Definitions.

As used in these regulations the following terms shall have the following meanings:

"**Commission**" means the Delaware Division of Gaming Enforcement.

"**Director**" means the Director of the Delaware Division of Gaming Enforcement.

"**Operating fee**" means the fee established by 29 **Del.C.** §4868(a).

"Scripts" means commands that an interactive daily fantasy sports-related computer program can execute that are created by interactive daily fantasy sports players (or by third parties for the use of daily fantasy sports players) to automate processes on an interactive daily fantasy sports contest platform.

"Ultimate Equitable Owner" means a person who owns or controls any ownership interest of ten percent or more in a person or entity either directly or indirectly, regardless of whether the person or entity owns or controls the ownership interest through one or more other persons or proxies, powers of attorney, or other variances.

3.0 Application Requirements

- 3.1 Each person or entity desiring to register as an interactive fantasy sports registrant shall submit a registration application to the Commission on the form provided by the Commission. The registration application must include:
 - 3.1.1 The full name, principal and address of the applicant.
 - 3.1.2 Doing Business As/Trade As Name
 - 3.1.3 Date enterprise established
 - 3.1.4 Place enterprise established
 - 3.1.5 Website address
 - 3.1.6 The applicant must identify a person to be contacted regarding the application, and documentation designating such person as having the authority to act on the applicant's behalf if the applicant is a corporation or business entity.
 - 3.1.7 If applicant is a corporation, the name of the state in which incorporated and the full names, date of birth, addresses and percentage of ownership of any partner, officer, director, shareholders holding a ten percent or more equity, and ultimate equitable owners, as well as:
 - 3.1.7.1 A copy of a certificate of good standing issued by the state in which applicant is incorporated;
 - 3.1.7.2 A copy of applicant's articles of incorporation;
 - 3.1.7.3 A copy of applicant's by-laws or other documentation establishing the day to day operating rules of the applicant;
 - 3.1.7.4 A copy of the organizational chart, including job titles and names of persons holding such jobs; and
 - 3.1.7.5 A description of the nature, type, terms, conditions, rights and privileges of voting, non-voting, and other stock issued or to be issued by the applicant that exceed ten percent, including the number of shares of each class of stock authorized or to be authorized and the number of shares of each class of stock outstanding as of the date of the application. If the rights of holders of any class of stock may be modified other than by vote of a majority or more of the outstanding shares so affected, voting as a class, an explanation thereof.
 - 3.1.8 If applicant is a business entity other than a corporation, the full names and addresses of the principals, partners, members, and other types of equity owners holding five percent or more equity, and ultimate equitable owners, as well as:
 - 3.1.8.1 A copy of a certificate of good standing issued by the state in which applicant is operating;
 - 3.1.8.2 A copy of documents establishing the existence of applicant as a business entity, such as a partnership agreement or trust agreement;
 - 3.1.8.3 A copy of applicant's by-laws or other documentation establishing the day to day operating rules of the applicant; and
 - 3.1.8.4 A copy of applicant's organizational chart, including job titles and names of persons holding such positions.
 - 3.1.8.5 A description of the nature, type, terms, conditions, rights and privileges of voting, non-voting, and other ownership interests issued or to be issued by applicant that exceed ten percent.
 - 3.1.9 Provide documentation verifying applicant completed and remitted to the Division of Revenue the State of Delaware Form CRA (Combined Registration Application for State of Delaware Business License and/or Withholding Agent). This form can be found at the following link: http://revenue.delaware.gov/services/current_bt/cra.pdf.
 - 3.1.10 A statement indicating whether applicant files information and reports with the United States Securities and Exchange Commission as required by section thirteen (15 U.S.C. § 78m) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78qq, or whether the securities of applicant are regularly traded on an established securities market in the United States.

- 3.1.11 A statement of the type and estimated number of contests to be conducted by applicant annually. Also include a statement of the type and number of contests conducted by applicant for the previous three years.
- 3.1.12 Disclosure of every platform applicant will use.
- 3.1.13 List of all physical locations that are owned or leased by applicant and from which the applicant conducts business. For each location, please include the full corporate/subsidiary name, physical address, city state, zip code, country and a summary of what business is conducted at each of these locations.
- 3.1.14 Specify where applicant maintains its business and financial records.
- 3.1.15 Provide a list of all aliases/business names used by applicant to conduct business, provide time periods during which the aliases/business names were used by the enterprise and if applicable, the state of incorporation.
- 3.1.16 Provide the names and addresses of contractors and vendors used by applicant to conduct interactive fantasy sports contests.
- 3.1.17 Provide an explanation detailing the facts and circumstances if in the past ten years, applicant has been party to any material acquisition, reorganization, merger, consolidation, readjustment or succession of its business.
- 3.1.18 Identify applicant's designated agent in Delaware.
 - 3.1.18.1 If no such agent is designated, the applicant shall be deemed to have designated the Director of the Delaware Division of Gaming Enforcement.
- 3.1.19 A statement of the assets and liabilities of applicant, including:
 - 3.1.19.1 An audited financial statement that shall include an income statement, balance sheet, statement of cash flows, and all notes to such statements and related financial schedules for the fiscal year preceding the application.
 - 3.1.19.1.1 If applicant does not normally have its financial statement audited, all unaudited financial statements prepared in the three years preceding the application.
 - 3.1.19.2 Copies of all final reports submitted in the three years preceding the application by any independent auditor for applicant.
 - 3.1.19.3 Copies of all of the applicant's financial statements prepared in the three years preceding the application, and any exceptions taken to such statements, and any management response thereto.
 - 3.1.19.4 For each company in which the applicant holds stock, the name, address, type of stock held, purchase price per share, number of shares held, and whether the percentage of shares held constitutes 5% or more ownership in the company.
 - 3.1.19.5 For those liabilities exceeding \$100,000 the Director may, at his or her discretion, require applicant to provide the full names and addresses of the officers and directors of any creditor of the applicant, and of those stockholders, members, partners, or other equity holders who hold more than ten percent of the stock, interest, or equity of the creditor.
 - 3.1.19.6 Copies of all 1120 forms (U.S. Corporate Income Tax Return), 1120S forms (U.S. Income Tax Return for an S Corporation) or all 1065 forms (U.S. Partnership Return) for the three years preceding the application, including copies of all Schedules and Attachments.
 - 3.1.19.7 The Director may request additional financial information and/or additional financial documentation, within his or her discretion.
- 3.1.20 A statement of every other jurisdiction in which applicant is or has been licensed or registered to conduct interactive fantasy sports contests. For each jurisdiction in which applicant is currently licensed by an organization, a certificate of good standing or other such documentation from the jurisdiction verifying applicant's status must be included in the application.
 - 3.1.20.1 If applicant has been denied a license to conduct interactive fantasy sports contests or suspended from conducting interactive fantasy sports contests or otherwise sanctioned for the operating of interactive fantasy sports contests in any jurisdiction, state which jurisdiction and provide explanation.
 - 3.1.20.2 Applicant must execute a notarized release permitting any government agency who regulates interactive fantasy sports contests to release information to the Commission.
- 3.1.21 Disclosure of whether applicant has ever been delinquent in the payment of any debt or tax owed to a government agency in the past 10 years and if so, an explanation.

- 3.1.22 Disclosure of any judgment, order, consent decree, or consent order pertaining to any violation or alleged violation of the federal anti-trust, trade regulations, or securities law, or similar law of any state, province, or country, entered against applicant.
- 3.1.23 Disclosure of any civil lawsuits, excluding divorce or child custody proceedings, to which applicant or any person identified in the response to the information required by subsections 3.1.2 or 3.1.3 has been a defendant within the 10 years preceding the application, including the name and address of the court involved, the date, and disposition of such lawsuit.
- 3.1.24 Disclosure of any petition filed by applicant or any person identified in the response to the information required by subsections 3.1.2 or 3.1.3, or whether an applicant or any person identified in the response to the information required by subsections 3.1.2 or 3.1.3 has sought relief under, any provision of the federal Bankruptcy Act, or under any state insolvency law, filed by or against the applicant in the ten year period preceding the application.
- 3.1.25 Disclosure of any receiver, fiscal agent, trustee, reorganization trustee, or similar officer appointed by any court in the ten year period preceding the application for applicant or its parent, holding, intermediary, or subsidiary companies.

3.1.26 Applicant shall provide the following information and documents concerning operational compliance:

- 3.1.26.1 Applicant's policies for limiting each player to one continuous and active account.
- 3.1.26.2 Information regarding verification of identity. A copy of the policies adopted to verify the identity of players seeking to establish accounts.
- 3.1.26.3 Policies related to the prevention of minor participation in interactive fantasy sports contests.
- 3.1.26.4 Policies related to advertisements, including applicant's policies and procedures related to accurate representations concerning chances of winning and the number of persons winning.
- 3.1.26.5 Policies related to assistance available to those authorized players that exhibit compulsive play behavior.
- 3.1.26.6 Policies relating to implementation and enforcement of self-exclusions requested by authorized players.
- 3.1.26.7 Policies related to protection of authorized players' deposits, including the following:
 - 3.1.26.7.1 Prevention of unauthorized withdrawals from player accounts by registrant;
 - 3.1.26.7.2 Reporting and responding to complaints by an authorized player regarding the handling of the authorized player's account; and
 - 3.1.26.7.3 Closure of authorized player accounts.
- 3.1.26.8 Policies related to account monitoring to prevent misuse of accounts, including policies related to the following:
 - 3.1.26.8.1 Detection and prevention of misuse of proxy servers;
 - 3.1.26.8.2 Location verification; and
 - 3.1.26.8.3 Prevention of third-party scripts or scripting programs.
- 3.1.26.9 Policies related to the prevention of unauthorized play by prohibited players.
- 3.1.26.10 Information and documentation regarding either the current trust holding authorized players' funds or the current special purpose segregated account required by subsection 9.5.1.
- 3.1.26.11 Policies related to cybersecurity.

3.1.27 The application shall be signed by an officer or director, member, or partner, as applicable in accordance with the fantasy sports operator's business structure and must include an affirmation that the information submitted on this application is true and correct.

3.2 The Director may, at his or her discretion, waive the production of any documents required in Section 3.0 as long as it does not pose a threat to the effective regulation of interactive fantasy sports contests.

3.3 Application Review

3.3.1 An application may be denied, if the Director determines, after a hearing:

- 3.3.1.1 That an applicant has knowingly made a false statement of material fact or has deliberately failed to disclose any information required;
- 3.3.1.2 That an applicant had a registration or license to offer or conduct contests denied, suspended, or revoked in any other state or country for just cause;
- 3.3.1.3 That an applicant has legally defaulted in the payment of any obligation or debt due to any federal, state or municipality;
- 3.3.1.4 That an applicant knowingly fails to comply with any requirement of 29 Del.C. Ch. 48, Subchapter III, these regulations, or any other requirements of the Director; or

- 3.3.1.5 That the granting of such application would be inconsistent with the public trust or with the integrity of interactive fantasy sports generally.

4.0 Registrations

- 4.1 Every registration issued by the Director shall remain in effect for three years, so long as the annual licensing fee and the quarterly Operating Fee is paid pursuant to these regulations and the registrant has not engaged in any conduct that the Director determines, after a hearing, violates either Title 29, Chapter 48, Subchapter III or these regulations.
- 4.2 Upon receipt of the fees required by these regulations, a conditional registration may be granted to any operator that offered contests to persons located in Delaware prior to August 25, 2017. A conditional registration shall remain in effect as long as the operator submits an application pursuant to these regulations within 60 days of the application being made public and until operator's application for registration has been approved or denied in accordance with 29 Del.C. §4864 and the regulations herein.
- 4.3 Every registration may be renewed at the expiration of each three year term so long as:
- 4.3.1 All annual licensing fees and quarterly Operating Fees have been paid pursuant to these regulations.
- 4.3.2 Registrant has not engaged in any conduct that the Director determines, after a hearing, violates either Title 29, Chapter 48, Subchapter III or these regulations.
- 4.3.3 An updated application has been submitted to the Commission sixty days prior to the expiration of the registrant's current registration.

5.0 Amendment

Each registrant shall file within thirty days with the Commission an update explaining any new or changed facts or circumstances whenever any material new or changed fact or circumstance occurs with respect to any matter set forth in the interactive fantasy sports contests registration application.

6.0 Fees

- 6.1 Annual licensing fees must be paid to the Commission by all registrants on or before January 1 of upcoming calendar year for which the registration will be active. Licensing fees must be paid by check made payable to the "Division of Gaming Enforcement" at 655 South Bay Road, Suite 1A, Dover, Delaware 19904.
- 6.2 Any registration application received by the Commission must be accompanied by at least the pro-rated amount of the annual licensing fee for the remainder of the calendar year in which the application is received.
- 6.2.1 Any operator that offered contests to persons located in Delaware prior to August 25, 2017 may offer contests as a conditional registrant to persons located in Delaware from August 25, 2017 until sixty days after applications for registration are made available to the public by the Director so long as the pro-rated amount of the annual licensing fee for the remainder of the calendar year is received by the Commission.
- 6.3 The operating fee shall be 15.5% of a registrant's or conditional registrant's interactive fantasy sports gross revenue generated within the state during the preceding quarter, unless the Secretary of Finance adopts a different percentage pursuant to 29 Del.C. §4868(a).
- 6.3.1 If the Secretary of Finance determines that another state is imposing an operating fee percentage greater than that set pursuant to 29 Del.C. §4868, the Secretary of Finance shall, not later than December 1st, notify all registrants and conditional registrants, in writing, of the increased rate to be imposed on such registrant's interactive fantasy sports gross revenue generated within the State during the next succeeding calendar year.
- 6.3.2 The operating fee shall be paid to the State of Delaware utilizing a form prescribed by the Delaware Division of Revenue.
- 6.3.3 The Director may perform audits of the books and records of any registrant at such times and intervals as the Director deems appropriate for the purpose of determining the sufficiency of operating fee payments.
- 6.3.3.1 If the operating fee is not paid, or if the operating fee paid is determined by the Director to be incorrect or insufficient with or without an audit, the amount of operating fees shall be finally and irrevocably fixed by the Director.
- 6.3.3.2 The Director shall provide a registrant notice of an incorrect or insufficient operating fee, as well as the fixed operating fee determined by the Director.
- 6.3.3.2.1 The operating fee determined by the Director shall be final unless the registrant against whom it is assessed, within thirty days after receiving notice of such determination, requests a hearing.

7.0 Disciplinary Procedures

- 7.1 The Director may suspend or revoke any existing registration if it is determined, after a hearing, that a registrant has:
- 7.1.1 Knowingly made a false statement of material fact or has deliberately failed to disclose any information required;
 - 7.1.2 Had a registration or license to offer or conduct contests denied, suspended, or revoked in any other state or country for just cause;
 - 7.1.3 Legally defaulted in the payment of any obligation or debt due to any federal, state or municipality;
 - 7.1.4 Engaged in any conduct that constitutes a violation of 29 Del.C. Ch. 48, Subchapter III or these regulations; or
 - 7.1.5 Engaged in any conduct that is prejudicial to public confidence in the fairness or integrity of any interactive fantasy sports contest.

8.0 Hearings

All hearings contemplated in these regulations will be conducted pursuant to the Delaware Administrative Procedures Act.

9.0 Authorized Players' Accounts

- 9.1 Registrant shall limit each authorized player to one active and continuously used account, and prevent prohibited players from maintaining accounts or participating in any contest offered by such operator or registrant.
- 9.1.1 Identification of authorized players:
 - 9.1.1.1 Registrant shall take commercially and technologically reasonable measure to verify authorized players' true identities and shall use such information, at a minimum, to enforce subsection 9.1.
 - 9.1.2 Termination of authorized players that establish more than one account: registrant shall implement and prominently publish procedures to terminate all accounts of any authorized player that establishes or seeks to establish more than one username or more than one account, whether directly or by use of another person as proxy. Such procedures may allow an authorized player that establishes or seeks to establish more than one username or more than one account to retain one account provided that the registrant investigates and makes a good-faith determination that the authorized player's conduct was not intended to obtain a competitive advantage. An authorized player who has established more than one account will not be entitled to retain any winnings earned from any account during the time period that more than one account is active.
 - 9.1.2.1 No proxy servers:
 - 9.1.2.1.1 Registrant shall not allow authorized players to use a proxy server for the purpose of misrepresenting their location in order to engage in interactive fantasy sports contests.
 - 9.1.2.2 No proxy players:
 - 9.1.2.2.1 Registrant shall take commercially and technologically reasonable measures to prevent one authorized 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.
- 9.2 Registrant shall implement measures to protect the privacy and online security of authorized players and their accounts.
- 9.3 Registrant shall permit any authorized player to permanently close an account registered to such player, on any or all platforms supported by such operator or registrant, at any time and for any reason.
- 9.3.1 Registrant shall implement and prominently publish procedures that allow any authorized player to permanently close an account at any time and for any reason.
 - 9.3.2 Payments of prizes on closed accounts:
 - 9.3.2.1 If a prize is awarded to an authorized player with a closed account, that prize, to the extent it consists of funds, shall be distributed by the registrant within five business days, provided, however, if an account is closed based on the registrant's good faith belief, after investigation, that the authorized player has engaged in fraud or has attempted to engage in contest play that would put the registrant in violation of this regulation, such prize may be withheld, provided that the prize is then awarded to another participant in the contest who would have won the prize had that authorized player not participated.

- 9.4 Registrant shall offer all authorized players information regarding his or her account history and account details;
- 9.5 Registrant shall ensure authorized players' funds are protected upon deposit and segregated from the operating funds of such operator or registrant and otherwise protected from corporate insolvency, financial risk, or criminal or civil actions against such operator or registrant.
- 9.5.1 Funds in registrant's authorized players' accounts must either be held in trust for the authorized player in a segregated account or in a special purpose segregated account that is maintained and controlled by a properly constituted corporate entity that is not the registrant and whose governing board includes one or more corporate directors who are independent of the registrant and of any corporation related to or controlled by the registrant. Said corporate entity must require a unanimous vote of all corporate directors to file bankruptcy and must have articles of incorporation that prohibit commingling of funds with those of the registrant except as necessary to reconcile the accounts of authorized players with sums owed by those consumers to the registrant. Said special purpose corporate entity must also be:
- 9.5.1.1 Restricted from incurring debt other than to authorized players pursuant to the rules that govern their accounts as consumers of interactive daily fantasy sports contests;
- 9.5.1.2 Restricted from taking on obligations of the registrant other than obligations to authorized players pursuant to the rules that govern their accounts as consumers interactive daily fantasy sports contests; and
- 9.5.1.3 Prohibited from dissolving, merging or consolidating with another company (other than a special purpose corporate entity established by another registrant that meets the requirements of this section) while there are unsatisfied obligations to authorized players including, without limitation, to registrant consumers.
- 9.6 Registrant shall implement and prominently publish procedures that:
- 9.6.1 Prevent unauthorized withdrawals from authorized players' accounts by registrant or others;
- 9.6.2 Make clear that the funds in the segregated account do not belong to the registrants and are not available to creditors other than authorized players whose funds are being held;
- 9.6.3 Prevent commingling of funds in the segregated account with other funds including, without limitation, funds of the registrant; and
- 9.6.4 Establish a protocol by which authorized players can withdraw funds maintained in their accounts, whether such accounts are open or closed. Such requests for withdrawals must be honored by the later of five business days of the request or ten business days of submission of any tax reporting paperwork required by law, unless the registrant believes in good faith that the authorized player engaged in either fraudulent conduct or other conduct that would put the registrant in violation of this regulation, in which case the registrant may decline to honor the request for withdrawal for a reasonable investigatory period until its investigation is resolved if it provides notice of the nature of the investigation to the authorized player. For the purposes of this provision, a request for withdrawal will be considered honored if it is processed by the registrant but delayed by a payment processor, credit card issuer or by the custodian of a financial account.

10.0 Fairness of Interactive Fantasy Sports Contests

- 10.1 Registrant shall offer introductory procedures for authorized players that explain contest play and how to identify a highly experienced player.
- 10.2 Registrant shall identify all highly experienced players in any contest by a symbol attached to such players' usernames, or by other easily visible means, on all platforms supported by such operator or registrant.
- 10.3 Registrant shall promptly, accurately and regularly update the "fill rate" for any interactive fantasy sports contest it offers on each of its interactive fantasy sports contest platforms. For the purpose of this subsection, the term "fill rate" shall mean the number of entries that have been submitted for that interactive fantasy sports contest at a given time.
- 10.4 Registrant shall ensure the value of any prizes and awards offered to authorized players is established and made known to such players in advance of the contest.
- 10.5 Registrant shall ensure all winning outcomes reflect the relative knowledge and skill of the authorized players which shall be determined predominantly by accumulated statistical results of the performances of individuals in sports events.
- 10.6 Registrant shall ensure no winning outcome is based on the score, point spread, or performance of a single actual sports team, or any combination of such teams.
- 10.7 Registrant shall ensure no winning outcome is based solely on any single performance of an individual athlete in a single sport or athletic event.

- 10.8 Registrant shall disclose the number of entries that a single authorized player may submit to each contest.
- 10.9 Registrant shall disclose the maximum number of total entries allowed for each contest.
- 10.10 Restrictions on Number of Entries by Contest:
 - 10.10.1 Each registrant shall restrict the number of entries submitted to one entry by a single authorized player for a contest involving 12 entries or fewer.
 - 10.10.2 Each registrant shall restrict the number of entries submitted by a single authorized player to two entries for a contest involving 13-36 entries.
 - 10.10.3 Each registrant shall restrict the number of entries submitted by a single authorized player to three entries for a contest involving 37-100 entries.
 - 10.10.4 In any contest involving more than 100 entries, registrant shall restrict the number of entries submitted by a single authorized player to 3% of all entries or 150 entries, whichever is smaller.
- 10.11 Registrant may establish contests, representing less than 2% of the total number of contests it offers, in which there is no restriction on the number of entries by a single authorized player, provided that (i) the registrant clearly discloses that there are no limits on the number of entries by a single authorized player, and (ii) that the cost of participating in a contest with no restriction on the number of entries by a single authorized player is \$50 or more per entry.
- 10.12 Registrants shall not make representations or implications about average winnings from contests that are unfair or misleading. Average winnings representations shall include, at a minimum:
 - 10.12.1 The median and mean net winnings of all authorized players participating in contests offered by such registrant; and
 - 10.12.2 The percentage of winnings awarded by the registrant to highly experienced players participating in contests offered by such registrant within the preceding calendar year.
- 10.13 Registrant shall prohibit the use of third-party scripts or scripting programs for any contest and ensure that measures are in place to deter, detect and, to the extent reasonably possible, prevent cheating, including collusion, and use of cheating devices, including use of third party software programs that submit entry fees or adjust the athletes selected by an authorized player.
- 10.14 No employee, principal, officer, director, or contractor of the registrant may disclose proprietary or non-public information that may affect interactive fantasy sports contests to any person permitted to engage in interactive fantasy sports contests. Registrant shall make these restrictions known to all affected individuals and corporate entities.

11.0 Advertisements

- 11.1 When referencing the chances or likelihood of winning in advertisements or upon contest entry, make clear and conspicuous statements that are not inaccurate or misleading concerning the chances of winning and the number of winners.
 - 11.1.1 Any representation concerning winnings shall be capable of substantiation at the time the representation is made.
 - 11.1.2 Under this regulation, a registrant's advertisement is misleading if it makes representations about average winnings without equally prominently representing the average net winnings of all players.
- 11.2 For all advertised contests, the registrant shall prominently include information about the maximum number of entries that may be submitted by a single authorized player for that contest.
- 11.3 Advertisements for contests and prizes offered by a registrant shall not target prohibited participants, minors, or self-excluded persons.

12.0 Data Retention

- 12.1 Registrant shall maintain records of all accounts belonging to authorized players and retain such records for a minimum of five years unless otherwise required by law to maintain longer. Such records shall be made available to the Commission for the purpose of investigating any complaint from an authorized player or possible violation of Title 29, Chapter 48 or these regulations. Records to be maintained include:
 - 12.1.1 The name and classification of the authorized player, i.e. beginning or highly experienced;
 - 12.1.2 The date of each interactive fantasy sports contest played;
 - 12.1.3 The entry fee paid for each interactive fantasy sports contest played;
 - 12.1.4 The prize, if any, awarded for each interactive fantasy sports contest played; and
 - 12.1.5 All deposits and withdrawals made from each account;

- 12.2 Registrant shall retain copies of all advertisements for at least five years from the date of the last use of that advertisement and shall retain records sufficient to identify where such advertisements were placed. To the extent that an advertisement cannot be maintained in its original form (e.g., billboards), the advertising copy shall be retained.

13.0 Data Security

Each registrant shall establish a cybersecurity program designed to ensure the confidentiality, integrity and availability of information systems that perform cybersecurity functions. Functions include identification of cyber risks; implementation of policies and procedures to protect unauthorized access or use or other malicious acts; detection of cybersecurity events; responsiveness to identified cybersecurity events to mitigate any negative events and recovery from cybersecurity events and restoration of normal operation and services.

14.0 Gameplay by Minors Prohibited

- 14.1 Registrant shall prohibit minors from participating in any contest.
- 14.1.1 If a registrant becomes or is made aware that a minor has participated in one of its contests, such registrant shall promptly, within no more than two business days, refund any deposit received from the minor, whether or not the minor has engaged in or attempted to engage in a contest; provided, however, that any refund may be offset by any prizes already awarded.
- 14.1.2 Each registrant shall publish and facilitate parental control procedures to allow parents or guardians to exclude minors from access to any contest or platform.
- 14.1.3 Each registrant shall take appropriate steps to confirm that an individual opening an account is not a minor.
- 14.1.3.1 Such steps shall be commercially and technologically reasonable procedures to prevent access to interactive fantasy sports contests by minors on its fantasy sports platform, including but not limited to independent verification of age using information obtained from independent sources outside of the player seeking open an account. Third party services may be used to verify the age of a player.
- 14.1.4 Registrant shall clearly and conspicuously display, on web pages that are accessed prior to registering for an interactive fantasy sports contest, a statement that persons under the age of 18 are prohibited from engaging in interactive fantasy sports contests in Delaware.

15.0 Protections for Compulsive Play

- 15.1 Registrant shall list on each website, in a prominent place, information concerning assistance for compulsive play, including a toll-free number directing callers to reputable resources containing further information, which shall be free of charge.
- 15.2 Self Exclusion:
- 15.2.1 Registrant shall enable authorized players to exclude themselves from contests and take reasonable steps to prevent such players from entering a contest from which they have excluded themselves.
- 15.2.2 Registrant shall implement and prominently publish procedures for authorized players to self-exclude themselves.
- 15.2.3 Registrant shall not market a contest by phone or email, or by knowingly directing any form of individually targeted advertisement or marketing material to an interactive daily fantasy sports consumer if the player is self-excluded or otherwise barred from playing in that contest.
- 15.2.4 Self-excluded persons shall not collect any prizes or recover any losses arising as result of any prohibited participation in a registrant's interactive fantasy sports contests.
- 15.3 Registrant shall train employees on compulsive play. Such training shall include training on registrant's policies and best practices for identifying and assisting customers who may be exhibiting compulsive play behavior.

16.0 Authorized Players' Complaints

- 16.1 Registrants shall develop and prominently display procedures for the filing of a complaint by the authorized player against such registrant.
- 16.1.1 An initial response shall be given by such registrant to such player filing the complaint within forty-eight hours.
- 16.1.2 A complete response shall be given by such registrant to such player filing the complaint within ten business days.

16.1.2.1 If the response to a complaint is that more information is needed, the form and nature of the necessary information shall be specifically stated. When additional information is received, further response shall be required within seven days.

16.1.3 If the relief requested in the complaint by the authorized player will not be granted by registrant, the response to the complaint shall state the reasons with specificity.

16.1.4 Retention of Complaints:

16.1.4.1 All complaints received by a registrant from an authorized player and the registrant's responses to complaints shall be retained for at least three years and made available to the Commission within seven days of any request by the Commission.

16.1.4.2 For those complaints that require an adjustment to an authorized player's account in excess of \$500 registrant shall maintain the following records:

16.1.4.2.1 Name and address of the authorized player;

16.1.4.2.2 Purpose of the complaint;

16.1.4.2.3 The date the complaint was received by the registrant;

16.1.4.2.4 The complaint denial whenever a complaint is denied;

16.1.4.2.5 Copy of the complaint

16.1.4.2.6 All written communications between the registrant and the complainant.

16.1.4.2.7 All documents or telephone recordings created in connection with a complaint.

16.1.4.2.8 Any additional information used by the registrant in determining how to resolve the complaint; and

16.1.4.2.9 How the complaint was resolved by the registrant, including any adjustment to a customer's account.

16.1.5 The registrant shall also maintain a permanent record summarizing the number and nature of consumer complaints and the resolution or outcome of such complaints.

16.2 An authorized player may file a complaint alleging a violation of the provisions of 29 Del.C. Ch. 48, Subchapter III or these regulations with the Director.

16.2.1 The Commission will develop a complaint form, which shall require:

16.2.1.1 Name, address, phone number and email of complainant;

16.2.1.2 Purpose of the complaint; and

16.2.1.3 Whether the complainant filed a complaint with the registrant and if so, when the complaint was filed and how the complaint was resolved by the registrant

16.2.2 The Commission's complaint form will be available through its website or by contacting the Commission by phone or letter.

16.2.3 Upon receipt of a completed complaint form, the Commission shall initiate an investigation.

16.2.3.1 The Commission will attempt to mediate such complaints where appropriate.

16.2.3.2 If mediation is not appropriate or fails, the Director may suspend or revoke registrant's registration if it is determined, after a hearing, that the registrant engaged in any conduct that constitutes a violation of 29 Del.C. Ch. 48, Subchapter III or these regulations.

17.0 Prohibition of Extension of Credit

Registrant shall not extend credit to authorized players.

18.0 Tax Laws and Disclosures

18.1 Obligation to comply with applicable tax laws including disclosures:

18.1.1 Registrant shall comply with all applicable tax laws and regulations including, without limitation, laws and regulations applicable to withholding and laws and regulations applicable to providing information about winnings and withholdings to taxing authorities and to authorized players.

18.2 Disclosure of potential tax liabilities:

18.2.1 Registrant shall disclose potential tax liabilities to its authorized players in the on-boarding process and again at the time of award of any prize in excess of \$600. Such disclosures will include a statement that the obligation to pay applicable taxes on winnings is the responsibility of the authorized player and that failure to pay applicable tax liabilities may result in civil penalties and criminal liability.

19.0 Reports

19.1 No later than the thirtieth of June of each year, registrant shall submit an annual report for the Director. The annual report must include:

- 19.1.1 The number of accounts held by Delaware authorized players on all platforms offered by the registrant, and the number of accounts held by Delaware highly experienced players on all platforms offered by the registrant;
- 19.1.2 The total number of new Delaware accounts established in the preceding year, as well as the total number of Delaware accounts permanently closed in the preceding year;
- 19.1.3 The total number of entry fees received from Delaware authorized players;
- 19.1.4 The total number of prizes awarded to Delaware authorized players;
- 19.1.5 The total amount of interactive fantasy sports revenue received by the registrant;
- 19.1.6 The total number of Delaware authorized players that requested to exclude themselves from contests;
- 19.1.7 The total number of consumer complaints generated in Delaware received by registrant; and
- 19.1.8 The total number of accounts in which a Delaware player was identified as a minor and the action taken as a result.

20.0 Unclaimed Funds in Authorized Players' Accounts

- 20.1 Subject to the provisions of 12 Del.C. §1130, et seq., if the funds in an Authorized Player's Account remain unclaimed for five years after the balances are payable or deliverable to the Authorized Player, Registrant shall presume the account to be abandoned.
- 20.2 As required by 12 Del.C. §1142, Registrant shall report and deliver all funds then held in those Authorized Players' accounts that are presumed abandoned to the State Escheator.
- 20.3 Pursuant to 12 Del.C. §1148, not less than 60 days prior to filing the report contemplated in subsection b., above, Registrant shall provide notice to all Authorized Players whose accounts remain unclaimed, sent to each such Authorized Player's last known address and conduct due diligence to locate all such Authorized Players.

21.0 Severability

The sections and subsections of these rules and regulations shall be deemed severable. Should any section or subsection be deemed by judicial opinion or legislative enactment to be invalid, unconstitutional or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules and regulations and all other sections shall remain in full force and effect.

21 DE Reg. 499 (12/01/17) (Final)